FASTER, CHEAPER & AS SATISFYING
AN EVALUATION OF ALASKA'S EARLY RESOLUTION TRIAGE PROGRAM

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AN EVALUATION OF ALASKA'S EARLY RESOLUTION TRIAGE PROGRAM

Stacey Marz

Abstract

The Alaska Court System created the Early Resolution Program (ERP) to address many issues with which courts across the country are grappling: how to manage divorce and custody cases involving self-represented litigants (SRLs) efficiently and effectively, and how to triage cases to the appropriate resolution approach. This paper reported on an evaluation of the Anchorage ERP. It found different outcomes for ERP cases that settled than comparable cases that proceeded on the regular trial process track with respect to the following outcomes:

- time to disposition,
- cost per case, and
- number of motions to modify filed within two years of the disposition.

In ERP, a staff attorney conducts a triage process with every newly filed contested divorce and custody case involving two SRLs. The attorney screens the case to determine suitability for the program and if accepted, assigns the appropriate legal resource – volunteer unbundled attorney, mediator or settlement judge - to help resolve the case. Up to eight cases are scheduled for the same hearing time and the parties work at the courthouse with the assigned legal resource to try to resolve the case. Approximately 80 percent of the parties leave the courtroom with all issues resolved and final paperwork in hand.

There was an abundance of information collected for ERP cases since the program began in December 2010, including the time to disposition, ERP hearing

outcomes, and the numbers of motions to modify filed within two years of disposition. This evaluation looked at 299 ERP cases that resolved by settlement from 2011-2013.

Much of the research for this paper involved determining a control group against which to compare the different relevant outcome measures. It was not possible to create a control group from cases that occurred during the same time period as the ERP cases because they would not be comparable. The cases from 2011-2013 that were not accepted into ERP were rejected because they had disqualifying characteristics. To find a group of cases in which to compare the relevant outcomes, a random sample of divorce and custody cases from 2007-2009, prior to ERP implementation, was screened using the same screening methodology as ERP cases. The screening looked at the documents in the file until the answer[1] filing date and ignored everything filed after that date. In addition, a search of the court's electronic case management system occurred for each party to the case using a name search to determine each of their court case histories until the date of the answer. From that group of 392 screened cases, 228 would have been "accepted" into ERP, had it existed at the time.

This evaluation compared two outcome measures between the 2011-13 ERP cases and the cases that would be suitable for ERP had the program existed from 2007-2009. The time to disposition from the answer filing date varied significantly between the cases that settled in ERP compared to those in the control group that resolved before the assigned judge. The mean time to disposition from the answer filing

[1] In a contested divorce and custody case, the plaintiff starts the case by filing a complaint and other required documents and serving the documents on the defendant. The defendant has twenty days to file an answer to the complaint, responding to each of the plaintiff's requests and also including counterclaims that assert his or her own requests. If the defendant does not file an answer within twenty days, the plaintiff may file an application for a default judgment.

date for ERP cases was 50 days and 172 days for the control group, a statistically significant difference. ERP cases resolved three to four times faster than the control group cases. This difference can be attributed to the ERP process that screens cases as soon as the answer is filed and subsequently schedules a hearing a few weeks later, at which most cases resolve by agreement.

There was also a difference in the number of motions to modify filed within two years of the disposition. This outcome was chosen as a proxy for litigant satisfaction based on the belief that dissatisfied litigants file motions to modify soon after the disposition, essentially as a way to express buyer's remorse to a settlement. ERP cases had .18 motions and the control group cases had .22 motions. There was not a statistically significant difference between the two outcomes. The very low number of motions to modify in both groups indicates that filing one was a relatively rare occurrence and most cases did not include a post-judgment motion in the two-year time frame. This result suggests that ERP cases, which resolved significantly quicker than typical divorce and custody cases, did not result in more dissatisfaction. In other words, any concerns that the ERP process is too quick and parties do not have enough time to think about the issues, is not reflected in additional post-judgment motion activity and fewer motions result.

The costs varied significantly between ERP cases and typical divorce and custody cases. From filing to disposition, the weighted average cost of a typical ERP case that resolved by settlement was $235.00. A typical non-ERP divorce or custody case had a weighted average cost of $1,591.32. An ERP case is six to seven times less costly than a typical divorce or custody case. The ERP process is more efficient

than the typical case processing for two main reasons. First, once the ERP staff screens and accepts a case into ERP, the file stays with the attorney, eliminating many case processing steps that occur in typical cases. Second, there are great efficiencies in scheduling multiple cases during the same ERP hearing block, especially when most cases resolve in one court event.

The Early Resolution Program addresses many issues – self-representation in family law cases, triaging to determine the appropriate resolution approach, the importance of early intervention and the desire to use a simplified process and a problem-solving approach. This evaluation showed that ERP has been an effective and efficient way to resolve newly filed contested divorce and custody involving two self-represented parties. It resulted in much faster resolutions at substantially lower costs than similarly situated cases that are resolved in the typical adversarial fashion.

Introduction

Many courts are grappling with how to manage divorce and custody cases involving self-represented litigants efficiently and effectively. Some are exploring how to triage the case to determine the appropriate resolution approach. Some are implementing processes in which the litigants avoid contentious litigation and resolve the issues as quickly as possible. The Alaska Court System created the Early Resolution Program (ERP) that involves triage of newly filed contested divorce and custody cases involving two self-represented litigants and a non-adversarial process shortly after the case is filed. This paper evaluates whether cases that resolve in ERP result in different outcomes than similarly situated cases that proceeded on the regular trial process track before ERP began.

To understand the difference between a case that has an ERP hearing and a case that takes the usual adversarial case approach, it is helpful to consider the situation with the fictitious couple, Ms. Wifemother (Ms. W) and Mr. Husbandfather (Mr. H). They have been married for 14 years. They have two children, aged 10 and 12. They split up 4 months ago after deciding their marriage was over. They own a home with a mortgage in which Mr. H has been living since they separated. Ms. W rented an apartment 15 minutes from the marital home. The children have been living with each parent week on / week off. Ms. W is a teacher and has vested in the school district's pension. Mr. H, is a manager in a home improvement store and has no retirement account. Their debts are medical bills, credit cards and Ms. W's student loans.

Mr. H filed a divorce complaint in the Anchorage court on May 16, 2014, asking for shared decision-making regarding the children, a parenting schedule with the

children living with him Monday – Friday and with Ms. W. Friday - Monday. He wants an even split of the marital property and debts. Ms. W filed an answer on June 2, 2014. She asks for shared decision-making regarding the children, a parenting schedule of weekly rotations between each parent. She wants Mr. H to keep the house and pay her one-half the equity and split the debts. She wants to keep her pension. The case management system randomly assigned Judge Iamwise as the judge for their case.

This case could take two different courses. One course would result in the divorce being done within eight weeks of filing after one uncontested hearing, no post-judgment motions, and a low cost per case. Another course would result in the divorce taking six months to resolve after a trial, a post-judgment motion to modify, and a higher cost per case.

Course 1 - Early Resolution Program

If their case took the first course, within one day after Ms. W filed the answer, the file would be routed to the Family Law Self-Help Center. That day, a staff attorney would review the file to determine if it met the criteria for the Early Resolution Program (ERP). First, he would determine whether the case involved two self-represented litigants. If so, he would triage the case to determine if it is suitable for ERP because there are no factors that would exclude it from the program (see Appendix 1. ERP Triage for ERP Screening Factors). If appropriate, the attorney would schedule the case for an ERP hearing before a settlement judge in approximately three weeks along with up to seven other cases. He would send a notice of Early Resolution hearing immediately after the triage was completed and case accepted, notifying the parties about the special opportunity to resolve their case quickly by working with legal

professionals at the courthouse. The notice would also include useful information to bring to court and the staff attorney's direct phone number for questions. Two days before the hearing, the staff attorney would call each party to remind them about the hearing, explain how ERP works and explain the factors the judge uses to decide parenting issues and division of marital property and debt. He would also suggest information to gather to make the hearing process go more quickly, encourage the parties to think about workable solutions specific to the issues in the case and to discuss the issues before coming to court if possible, answering any questions.

Depending on the issues in the case, the parties may be assigned two volunteer unbundled attorneys or a court mediator to help them try to resolve the issues with a settlement at the hearing (see Appendix 1. ERP Triage for ERP Triage Level 2: Which Legal Resource is Appropriate?). If the case is similar to the approximately 80% of the cases that are heard in ERP, they would reach a settlement in one hearing after working together for up to three hours. The parties would go into the courtroom with their volunteer attorneys for the hearing where a judge would hear the terms of the agreement, asking any necessary questions. A staff attorney would finalize the final documents – findings of fact, conclusions of law, parenting plan, divorce decree and child support order – in the courtroom during the hearing. The judge would review and sign all documents which would then be copied and distributed in the courtroom. The parties would leave the courtroom with all documents in hand and be divorced. The case would be docketed in the case management system the next day and the case closed.

Course 2 - Adversarial Case Approach

Alternatively, the case could take a different course if there was no ERP. After Ms. W filed the answer on June 2, 2014, the judge would set a 15-minute trial setting conference for July 21, 2014, at which both self-represented parties would appear. During the conference, the judge would schedule a trial for February 27, 2015. Afterward, the judicial assistant would type up a Trial Scheduling Order that includes the trial date and time, noting the requirement to file trial briefs and witness lists and to exchange exhibits 45 days before trial.

On November 14, 2014, Ms. W would file a motion requesting to take the children to Hawaii for winter break because Mr. H told her she could not take the children on vacation because he had different plans for them on winter break. She also would file a supporting affidavit and proposed order. However, Ms. W would fail to fill out the certificate of service section on the form indicating she provided Mr. H a copy of her filing so on November 20, the court's civil department would mail her a written deficiency notice alerting her that she needed to serve Mr. H again and file a completed certificate of service. On November 27, Ms. W would send Mr. H a copy of the filing and file a certificate of service that day. On December 9, Mr. H would file an Opposition to Ms. W's motion, along with an affidavit and proposed order, stating he did not want the children to go to Hawaii because their 95 year old grandmother (his mother) was going to be visiting Anchorage over the holidays. On December 15, Ms. W would file an expedited motion, affidavit and proposed order, and underlying motion, affidavit and proposed order, asking the court to schedule a hearing on the vacation matter as soon

as possible because she had already purchased the Hawaii plane tickets, rented a condo on Maui for ten days and they were supposed to depart on December 20.

The court would schedule a hearing on December 19 for 30 minutes. After hearing each side's arguments, the judge would rule from the bench and allow Ms. W to take the children to Hawaii. After the hearing, the judge would listen to the electronic recording, write up a two page order and gave it to his judicial assistant. She would docket the order in the electronic case management system, make two copies to mail to each party and put the original order in the file.

By mid-January, the parties would follow the trial scheduling order and each file the trial brief, witness list and exchanged exhibits. On February 12, the parties would appear at a 15-minute pre-trial hearing where the judge would tell them the trial will happen on the scheduled date. On February 27, the trial occurs over the course of four hours. At the trial's end, the judge takes the matter under advisement. On March 10, the judge reviews the notes he took during the trial and listens to parts of the testimony of the parties and some of their witnesses. After two and a half hours, he would reach a decision and draft up the required final documents. His judicial assistant makes the distribution copies, dockets the documents in the case management system, files the originals and mails copies to the parties.

The implications for litigants and the court system are different depending on which course the case takes. A case that moves through course 1 is there specifically because the triage screening process found the case suitable for ERP. The ERP process is geared toward helping parties settle their dispute without trial. The case gets into court quickly and likely resolves in one hearing. Cases that go the course 2 route

usually result in multiple appearances and a longer time until the case is over. No systemic screening process is involved and cases are treated generally as if they are destined for trial regardless of the issues or characteristics of an individual case. Elongating the parties' interaction with each other and the court system is problematic, particularly when the majority of family law cases involve self-represented individuals.

Prevalence of Self-representation in Anchorage Divorce and Custody Cases

"A traditional hallmark of civil litigation is the presence of competent attorneys zealously representing both parties." (Hannaford-Agor, et al., 2016, p. iv). "The idealized picture of an adversarial system in which both parties are represented by competent attorneys who can assert all legitimate claims and defenses is an illusion." (Hannaford-Agor, et al., 2016, p. vi). It is widely believed that at least 75% of cases handled by civil courts nationally involve at least one self-represented litigant. (SRLN 2015). In the Anchorage court, the majority of contested divorce and custody cases involve at least one self-represented party, with the percentage ranging between 67-72% between 2010 and 2014. The percentage of cases with two self-represented parties has increased from 38% to 45% over this five year period.

Table 1. Representation Rates in Anchorage Divorce and Custody Cases

Year	N	% w/ 2 attorneys	% w/ 1 attorney	% w/ 2 SRLs	% w/ 1-2 SRLs
2010	756	33	29	38	67
2011	783	28	29	43	72
2012	714	30	29	41	70
2013	700	33	26	41	67
2014	686	30	25	45	70

SRLs pose challenges for the court. They may be unfamiliar with the court procedures so they may make mistakes regarding the documents they file and may not

know how to conduct themselves during hearings or trials. Judges may feel tension between instructing SRLs about proper procedures that Alaska Supreme court case law permits, and not giving them legal advice that is clearly prohibited to maintain judicial neutrality.

In 2009, Anchorage Superior Court Judge Stephanie Joannides wanted to manage her family law cases involving self-represented parties (SRLs) differently. She wanted to be more efficient in explaining how she would conduct hearings and explain the statutory guidelines she was required to follow to decide child custody, child support and marital property and debt division issues. Judge Joannides partnered with the court's Family Law Self-Help Center (FLSHC) to create a new program called ERP to manage divorce and custody cases with two SRLs. The FLSHC is a department that provides free statewide assistance to SRLs through a toll-free telephone helpline and detailed website. Based in Anchorage, the FLSHC does not provide legal advice, but through the website and the toll-free helpline, individuals can receive legal information about procedures, as well as plain language forms and educational materials. (http://courts.alaska.gov/selfhelp.htm). In its initial iteration, the judge mass calendared several cases that she thought had the potential to settle with her assistance to a single three hour hearing session. After experimenting with cases with different issues, the case screening process was refined and many cases settled on these mass calendars.

Early Resolution Program

In addition to the judge's desire to manage more efficiently her cases involving two SRLs, Katherine Alteneder who was working at the Alaska Pro Bono Program

(APBP)[2] offered to bring unbundled volunteer attorneys into the program and to help figure out the case screening process. The unbundled volunteer attorneys would advise and represent SRLs at the ERP hearings and negotiate with the other party's volunteer attorney in the spirit of settlement. This unbundled representation would be for the ERP hearing only and extensive training materials and limited scope representation agreements were developed to facilitate this limited scope work. In addition to partnering with APBP, Wendy Lyford, the court's mediation program coordinator, offered to include mediators from the court's Child Custody Visitation and Mediation program to provide mediators as appropriate to parents needing assistance with parenting plans at the ERP hearings.

The court system anticipated that early intervention in the case process and the help of legal professionals would encourage parties to settle their issues rather than go through a protracted court trial. The result would be faster resolutions in which the parties created their own solutions after benefitting from legal advice, mediation or a settlement conference, and a lessening of workload for the courts.

In ERP, a FLSHC staff attorney conducts a triage process with every newly filed contested divorce and custody case involving two SRLs. (The next section describes this process in more detail.) The attorney screens the case to determine suitability for the program and if suitable, assigns the appropriate legal resource – volunteer unbundled attorney, mediator or settlement judge - to help resolve the case. Once the FLSHC attorney accepts the case for ERP, he sends each party a plain language scheduling notice to appear at an ERP hearing that includes information about the

[2] The volunteer attorney component of ERP transitioned later to be under the auspices of Alaska Legal Services Corporation.

program. Attendance at the hearing is required, but the case is usually removed from ERP if one or both parties hire an attorney.[3] Up to eight cases are placed on the court calendar for the same hearing timeslot. There is no cost to the parties for attorney or mediator assistance. The process is swift, and the parties often leave the courtroom with all issues resolved and signed copies of all the necessary final paperwork.

After a six-month pilot, in mid-2011, the program became institutionalized in the Anchorage court. As of January 2016, over 742 cases have been heard in Anchorage ERP. Three other court locations also run ERP calendars. After screening, over half of the eligible cases are suitable for ERP and therefore included in the program. Approximately 80% resolve by agreement.

ERP Triage

Effectively triaging divorce and custody cases involving SRLs to determine the appropriate resolution approach is a hot topic in family law.[4] The ERP triage is a fairly simple process using readily available information. A FLSHC staff attorney does a two-level triage process with every newly filed contested divorce and custody cases involving two SRLs. The premise of the triage process is that all cases can benefit from a non-adversarial resolution approach. However, not all cases are appropriate so the first level uses several screening factors to determine if the case should be excluded from ERP. (See the Literature Review Triage discussion for more detail about the screening process). The FLSHC staff attorney reviews every newly filed contested

[3] Occasionally if one party hires an attorney, that attorney and client agree to participate in ERP and work toward a settlement with a volunteer attorney representing the other side.

[4] In 2013, the State Justice Institute funded a project to identify case triage strategies for case types with high numbers of SRLs. (Clarke, Zorza & Alteneder, 2013). More recently, Tom Clarke (2015) provided the business and technical requirements for building a litigant portal as a vehicle for case triage. Also in *Reimagining Courts* (2015), Victor Flango and Tom Clarke devote the majority of the book to discussing triage.

divorce and custody case file involving two self-represented parties. He also reviews each party's individual court case history to determine if the participants have been involved in domestic violence cases, or any other cases that might indicate criminal problems, drug or alcohol issues, child abuse and neglect, financial problems or instability as shown by multiple evictions. The goal is to get as complete a picture as possible of any allegations and the disposition or rulings in other cases related to the parties. For information about the screening process, see Appendix 1. ERP Triage, Level 1: ERP Screening Factors.

The second level determines what is the appropriate legal resource for the individual case. There are three tracks for assignment of cases: to volunteer unbundled attorneys, a mediator, or a settlement judge. Assignment depends on several considerations including the issues involved and how close the parties' positions are to the realistic range of possible outcomes given the facts of the case and the legal framework. For information about how the program determines which legal resource to assign a case, see Appendix 1. ERP Triage, Level 2: Which Legal Resource is Appropriate?

If the staff attorney determines that the parties would benefit from legal advice, there is known or alleged domestic violence or a party seems particularly indecisive, a free volunteer unbundled attorney is provided to each litigant for the hearing. The volunteer attorneys provide limited scope representation, advising their client for the ERP hearing only and negotiating with the opposing party's volunteer attorney to see if any agreements can be reached. Sometimes, due to the issues in the case such as a long marriage with no minor children but many items of marital property to address, a

volunteer attorney may function as a neutral, not advising either party, but acting as a mediator to help facilitate communication. Also, if there are not enough volunteer attorneys to be assigned to each party at a particular hearing, one attorney may work as a neutral to see if any issues can be resolved.

Cases involving parties with children are often assigned a mediator from the court's Child Custody Visitation and Mediation Program if it is determined they could benefit from talking through the details of a parenting plan or need assistance communicating. Young parents of babies are particularly suited for mediation because they have many years to co-parent during a child's minority. Also, parents of teenagers are good candidates for mediation; the teen's preference is often strongly indicative of what the final parenting arrangement will be to avoid runaway situations when teens do not want a certain living arrangement.

Some cases are not assigned attorneys or mediators if there is nothing in dispute or relatively few or simple issues need to be decided. At every hearing, there are usually one or two cases in which the parties had short marriages, no children, and agree there is no property or debt to be divided. The settlement judge can finalize such cases very quickly. In other cases involving few disputed issues, the ERP judge acts as a settlement judge at the hearing and works directly with the parties to help resolve the case. In some cases, it is determined that the "black robe effect" will be helpful to educate parties about the reality of their proposed positions.

FLSHC staff is at the hearings and available to assist attorneys, mediators, and the settlement judge in preparing final documents and calculating child support. If the parties reach an agreement, the ERP judge makes sure it meets the legal requirements

and the parties memorialize it on the record. FLSHC staff draft the final orders based on the agreement that the judge signs at the hearing's conclusion and distributes to the parties in the courtroom.

Evaluation Focus

This evaluation will look at whether there are differences between ERP cases and cases that proceed through the typical adversarial process with respect to the following outcomes:

- time to disposition
- cost per case, and
- number of motions to modify filed within two years of the case disposition.

Shorter time to disposition and lower cost-per-case provide evidence of enhanced case processing efficiency and cost-effectiveness, respectively. In addition, fewer motions to modify may reflect that parties are more satisfied with ERP outcomes compared to cases that went through normal case processing and provide additional evidence of cost-effectiveness.

Literature Review

This section will discuss the background information about self-representation including the trend of self-representation in divorce and custody cases, reasons why and challenges it causes for the courts. It will discuss using a problem-solving approach instead of an adversarial approach to resolving family law cases.

It will also discuss the importance of caseflow management, including early intervention in cases to provide meaningful opportunities to resolve the issues. Next, it will discuss the importance of differentiated case management and what triage means.

Finally, it will discuss performance measurement and specifically time to disposition, cost per case as representative of efficiency metrics and the number of motions to modify as indicative of the parties' satisfaction with case outcome.

Self-representation

In recent years, one of the most significant changes in courts across the country is the rise of people representing themselves in litigation. "The ever-rising tide of self-represented litigants is a national phenomenon, a growing national crisis for state courts. . ." (Broderick Jr., 2010, p. 62). The majority of cases in many case types involve self-represented litigants, including divorce and custody, domestic violence, small claims, evictions and traffic (California Administrative Office of the Courts, 2007, p. xii). National estimates reveal that between 60-80% of cases arising from separation and divorce proceed with at least one party and frequently both parties representing themselves (Kourlis, Taylor, Schepard, & Pruett, 2013, p. 357). People represent themselves for a variety of reasons. Many low income, even middle income people and small businesses cannot afford to pay for attorneys. Others believe they can handle the matter themselves or want control over their cases (California AOC, 2007, p. 1-3). The ready availability of information in books and online has fostered the perception that the legal process can be navigated without an attorney (COSCA, 2000, p.1). "[G]rowing numbers of people who use family courts simply do not want or trust lawyers to serve their best interests even when they can afford them" (Schepard, 2002, p. 6). These reasons for not hiring an attorney "reflect economic and social trends and are not likely to change in the near future" (California AOC, 2007, p. 1-2).

Whatever the reason, the increase in self-representation means that more people "are navigating an intricate and adversarial legal process without the guidance and perspective provided by counsel" (Kourlis et al., 2013, p. 357). "Most judges now spend a significant portion of their judicial career handling cases in which at least one party is self-represented" (California AOC, 2007, p. xi). According to the Conference of State Court Administrators (2000, p. 1),

> [t]he impact of increasing self-representation on the courts - on court management and the administration of justice - cannot be overstated. For court managers, it manifests itself in additional demands on already limited employee time and resources, and less efficient case management. For judges, the increase represents more protracted and delayed proceedings, in addition to the fundamental dilemma of how to treat all parties fairly where one or more may be untrained in the law and court procedure. The potential impact on the public is diminished confidence in the courts, as self-represented litigants face real and perceived barriers in the pursuit of justice.

Self-represented litigants can pose challenges for the courts because they may have difficulty preparing documents that comply with filing requirements, following procedural requirements, and arguing their cases in court proceedings (California AOC, 2007, p. xi). In recognition of these issues, the Conference of Chief Justices and the Conference of State Court Administrators (2002, p. 2) passed a resolution that urged court leaders

> to take a leadership role in their respective jurisdictions to encourage the expansion of successful pro se assistance programs, to identify and develop programs to address unmet needs, and to coordinate the delivery of program services effectively and efficiently; and
>
> support the establishment of court rules and policies that encourage the participation of judges, court staff, legal services agencies, state and local bar associations, and community organizations in the implementation and operation of assistance programs for self-represented litigants.

“Courtroom-based services, integrated with the flow of the case, can help litigants focus on what is needed to move the case forward and provide the additional information needed by the court” (Zorza, 2012c, p. 58).

A Problem-Solving Approach in Family Law Cases

American courts use an adversarial system as the primary method of resolving legal disputes. The adversarial system relies on the court and the litigants engaging in a rational fact-finding process to reach legally appropriate and final decisions for legal disputes. Court rules provide the procedures for opposing parties to make their respective arguments and introduce supporting evidence so the judge is able to issue an impartial final decision. In many types of civil cases such as personal injury, employment or monetary disputes, this approach results successfully in fact-finding and finality.

Courts generally use the adversarial model to resolve divorce and custody cases. The adversarial model, however, is not suited to resolve family law disputes. “Although adversary procedures are rooted in due process of law and perform essential social functions, they do not meet the needs of many reorganizing families who look to the courts for solution” (Kourlis, et al., p. 6). “As family law scholars repeatedly explain, adversarial procedures are uniquely costly and counterproductive in resolving custody disputes” (Aviel, 2014, p. 1107). The process “bears with it significant emotional and financial cost” (Kourlis, et al., p. 354). It facilitates one parent alleging that the other parent engages in bad behavior and deficient parenting to elevate his or her position, exacerbating existing hostility and engendering long-term mutual distrust. As one critic characterized it, "the formal nature of the courts pits the parties against one another like

two scorpions in a bottle, at a time when they are most angry and hostile toward one another" (Weinstein, 1997, p. 132-33).

The Conference of State Court Administrators (2002, p. 3) recognized the ill fit between the adversarial model and resolving family law cases:

> in family cases a rational fact-finding process promoting a “final” resolution is difficult to attain. . . . More than in any other type of case, the “truth” in family cases is defined less by rational and empirical fact-finding and more by perception, emotion, conflict, anger and anxiety. As courts and litigants repeatedly experience, few family cases – particularly those involving children – are resolved with “finality” the first or even second time around. In addition, as the percentage of pro se litigants involved in family cases grows, approaches traditionally used by courts to promote rational fact-finding become even more difficult to apply. Thus, in far too many cases “finality” is eventually reached through the operation of law (emancipation of a minor) or the exhaustion of personal funds, not by a court aiding the parties in reaching a just resolution.

Too often, this approach contributes to the “revolving door” experience, “whereby the parties return to the courthouse repeatedly to revisit and attempt to re-settle the issues between them” (COSCA, 2002, p. 3).

It makes sense that the adversarial model may contribute to conflict in divorces and child custody disputes by facilitating parties to adopt fighting postures and get entrenched in their positions. Murphy and Singer (2015, p. 26) note that though settlement of parenting disputes may be the norm even under an adversary regime, “the hostile and competitive attitude which prospective litigation creates pervades the entire process of negotiating a settlement.” (quoting Recommendation of the Law Revision Commission to the 1985 Legislature Relating to the Child Custody Decision-Making Process,” Columbia Journal of Law and Social Problems 19 (1985): 120).

Jane Murphy and Jana Singer (2015, chapter 2) write extensively about how the adversary process used in family dispute resolution harms children, parents, families,

the judicial system, lawyers and confidence in the legal system. Participation in litigation or adversary negotiations impels parents toward antagonistic positions that imperil children and prolong litigation (Kourlis, et al., 2013, p. 354). Research shows that "[h]igh conflict divorces – which are characterized by ongoing legal battles, an inability of the parents to coordinate childrearing practices after the divorce, hostile family environments, and children witnessing overt verbal and physical aggression – put children at a greater risk for developing psychological and behavioral problems" (Huntington, C., 2014, p. 33) (citing Johnston, 1994, p. 166). "Social scientists observe that a child's adjustment to divorce and separation depends significantly on their parents' behavior during and after the separation: children exposed to high levels of parental conflict experience the most negative effects of family dissolution" (Aviel, 2014, p. 1108). Interestingly, litigants tend to express dissatisfaction with the adversary process, even when they prevail at trial (Kourlis, et al., 2013, p. 360). "There is a profound consensus that the emotional costs of adversarial custody proceedings are intolerably high" (Aviel, 2014, p. 1108).

Reform efforts in domestic relations courts reflect this understanding. As Professor Singer observes, courts are undergoing a "paradigm shift" away from a "law-oriented and judge-focused adversary model" toward "a more collaborative, interdisciplinary, and forward-looking family dispute resolution regime" (as cited in Aviel, 2014, p. 1108).

Many courts have adopted a problem-solving, restorative approach for some criminal matters with the creation of drug courts, mental health courts and veteran's courts. These problem-solving courts recognize that the adversarial process "may not

produce the best results in some cases because it can accentuate differences and amplify the conflict" (COSCA 2002). Recognizing that family disputes are not well served by the adversarial system, the Conference of State Court Administrators (2002, p. 1-2) issued a white paper that called upon court leaders to consider a problem-solving approach to family cases:

> To aid litigants in reaching acceptable outcomes to these very personal disputes, court leaders must examine the management of family cases and the underlying system used to resolve these cases. If courts are to help families fashion outcomes that are both legally appropriate and practically workable, court leaders must de-emphasize the adversarial model of dispute resolution and place greater weight on a "problem-solving" approach to family cases. Court leaders must ask what the current system does – through its processes, procedures, attitudes, and lack of resources and services – to aggravate the problems seen in family cases[.]
>
> Many courts are seeking new ways to better manage and resolve difficult, emotionally-charged divorce and custody cases to more appropriately meet the needs of individual families. COSCA (2002, p. 6) called for
>
> creating a judicial environment that identifies and minimizes the wide-ranging negative effect that these cases can have on the parties, both during the court process and afterwards. To the extent that courts can soften the adversarial nature of family proceedings by encouraging restorative, problem-solving resolution processes, they will help the litigants reach outcomes that are more acceptable to everyone.

In resolving family law disputes, the court system's role "as adjudicator is compatible with being a convener, mediator, facilitator, service provider, and case manager" (COSCA, 2002, p. 5). A problem-solving approach to family cases envisions the judge and court staff viewing "their roles and actions as defined by both the law and the unique needs of each family" (COSCA, 2002, p. 6).

Research suggests that attempts by courts to formulate problem solving focused alternatives to the adversary process for separating and divorcing parents have yielded positive results (Kourlis, et al., 2013, p. 362).

Caseflow Management – Early Intervention

In creating a problem-solving approach to family cases, it is critical to think carefully about caseflow management. "Effective caseflow management is the process through which courts move all cases from filing to disposition. Judicial branch supervision and management is imperative to manage the time and events involved in the life of a case" (National Judicial College, 2009, p. 4).

A basic principle of caseflow management is that the court should control the progress of cases, with no unreasonable interruption in its procedural progress from initiation through disposition (Steelman, 2008, p. 7). Courts should give attention to civil cases at the earliest possible point, resulting in earlier settlements because parties and lawyers are more prepared (Steelman, Goerdt & McMillan, 2004, p. 25). In civil cases, early court control is clearly correlated with shorter times to disposition (Goerdt, Lomvardias & Gallas 1991, p. 55). Steelman et al., (2004, p. 3) provides:

> The objectives of early intervention are to make the point of case resolution happen as early in the case process as is reasonable, and to reduce the costs for the parties and the court of getting to case resolution. This reflects recognition that most cases are resolved by negotiated settlement or plea, while only a small percentage of cases are actually resolved by the binding decision of a judge or jury after a trial.

There are three elements of early court control: (1) measurement of case progress from the time of filing against applicable time standards; (2) monitoring of case progress during the pleadings stage; and (3) holding early case conferences (Steelman et al., 2004, p. 25).

It is important to avoid delay in family cases because the adjudication style can be distinguished from other criminal and civil case types. "Instead, family cases are dominated by what has been called 'diagnostic adjudication'" (Steelman et al., 2004, p. 43).

> [T]he objective of diagnostic adjudication is to identify the problems which are the source of the dispute before the court or require court action for the protection of both the persons before the court and the broader societal interests at stake. The key characteristic of diagnostic adjudication is, therefore, its focus on the proactive role of the court in defining the issues and fashioning appropriate remedies (Steelman et al., 2004, p. 43).

Specific caseflow management techniques recommended for divorce cases to promote more prompt justice as outlined in Steelman, et al., (2004, p. 49-51) include:

- Recognize emotional issues
- Adopt and follow time standards
- Adopt appropriate measures for self-represented litigants because the majority of cases are likely to have one or both parties representing themselves
- Exercise control over the scheduling of case events
- Develop simplified procedures to expedite uncontested cases
- Screen cases early for assignment to differentiated case management tracks
- Give careful attention in divorce decrees to property, custody, visitation and support questions
- Give management attention to contested post-disposition matters.

As Richard Zorza's (2012a, p. 859-60) article on the need for court simplification to enhance civil access and justice transformation provides:

> Speedy resolution, while not the only goal, is important to litigants. Speed is also closely related to total cost. For poor and middle-income people, each hearing or step may represent lost wages, or even the threat of a lost job, as well as

incidental travel and childcare expenses. To the extent that advocacy costs are being incurred, those also increase with longer case processing time. Finally, extra time adds complexity and, thus, other costs. Several decades of caseflow management data give us the tools to assess this criterion and a history of attempts to control timelines.

Differentiated Case Management

Many courts have recognized the value of differentiated case management (DCM) to control case progress, to reduce the time to resolution and to reduce costs for litigants. DCM is "a technique courts can use to tailor the case management process to the requirements of individual cases" (Bureau of Justice Assistance, 1993b, p. 1). Central to the DCM approach is recognition that many cases should proceed through the court system at a faster pace than other cases if appropriate pathways are provided. Cases should not "wait for disposition simply on the basis of the chronological order of their filing" (Bureau of Justice Assistance, 1993a, p. 1).

Over twenty years ago, the Bureau of Justice Assistance provided two goals of DCM that are relevant today: "[t]imely and just disposition of all cases consistent with their preparation and case management needs [and] [i]mproved use of judicial system resources by tailoring their application to the dispositional requirements of each case" (1993a, p. 3). Bureau of Justice Assistance also provided four objectives for a DCM program to achieve those goals:

- Creation of multiple tracks or paths for case disposition, with differing procedural requirements and timeframes geared to the processing requirements of the cases that will be assigned to that track.
- Provision for court screening of each case shortly after filing so that each will be assigned to the proper track according to defined criteria.
- Continuous court monitoring of case progress within each track to ensure that it adheres to track deadlines and requirements.
- Procedures for changing the track assignment in the event the management characteristics of a case change during the pretrial process (Bureau of Justice Assistance (1993a, p. 3).

There are different ways to differentiate cases. Some courts differentiate on the seriousness of the case, characteristics of the claims and defenses asserted. Some estimate the amount of time to prepare and dispose of a cases based on a variety of factors. Other courts differentiate simply based on case type (Bureau of Justice Assistance, 1993a, p. 3).

The National Center for State Courts explains that DCM

> is a more refined approach than the distinctions that may provide a basis for the allocation of jurisdiction between a general- and a limited- or special-jurisdiction trial court (as between a traffic case and a felony, or between a small claims case and a civil case in which more than $25,000 is at issue).
>
> In its simplest terms, a DCM plan might thus operate to put cases into three categories:
>
> - cases that proceed quickly with only a modest need for court oversight;
> - those that have contested issues calling for conferences with the judge or court hearings, but that otherwise do not present great difficulties; or
> - matters that call for ongoing and extensive judge involvement, whether because of the size and complexity of the estate involved, the number of attorneys and other participants, or the difficulty or novelty of legal issues presented.
>
> Through an early screening process involving court-counsel communications soon after case filing, cases falling into these three categories would be divided into three "tracks" reflecting their respective case management requirements. First, there would be an *expedited* track, for cases that move quickly with little or no judge involvement. Next would be a *standard* track for those that do require conferences and hearings, but are otherwise not exceptional. Finally, there would be a *complex* track, for those requiring special attention.
>
> Within an overall set of time standards, the court would establish different overall time expectations for each track. If the three-track model described above were applied to general civil cases, for example, the time from case initiation to disposition might be six months for cases assigned to the expedited track, 12 or 18 months for those in the standard track, and 24 months for the small number in the complex track (Steelman, 2008, p. 23-24).

The benefits of DCM include:

- more efficient use of judicial and staff resources; early screening identifies the expected level of preparation and judicial intervention for a particular case.
- reduction of the overall time to disposition, particularly in cases that do not require a trial.
- improving the quality of the case process from many perspectives. Early case screening promotes better attorney preparation and more informed discussion of disputed issues at each court proceeding. DCM provides litigants greater certainty that their cases will receive the necessary time and attention for a timely disposition. In theory, DCM results in greater certainty that events will happen when scheduled so everyone need only prepare once for each proceeding.
- reduction of litigation costs. Earlier deadlines for completing important activities such as discovery should result in fewer motions and quicker disposition. In addition, discovery limitations for cases in certain tracks should reduce costs. Continuances as well as events that do not meaningfully contribute to the case disposition should significantly decrease.
- improving the court's public image by having efficient and predictable case management (Bureau of Justice Assistance, 1993a, p. 4-5).

Triage

Since the creation of DCM, many things have changed which require an updating of the DCM concept to promote higher levels of case processing productivity and increase the litigants' satisfaction with the court process. First, courts now process

more cases with fewer staff (Clarke, & Flango, 2011, p. 147). Second, the variety of cases and the number of case-processing alternatives have grown significantly including diversion, mediation and alternative dispute resolution programs. Third, the number of SRLs has increased as well as the existence of problem-solving courts.

The next step in the evolution of case management beyond DCM is a "more refined triage based upon issues raised rather than case type" (Clarke & Flango, 2011, p. 146). Triage is a word used in the medical field to prioritize patients on the basis of the severity of their condition (Flango, & Clarke, 2014, p. 36). In the context of courts, case triage is a more aggressive form of case management that identifies the appropriate resolution approach for a specific case based on its issues and characteristics. Some have defined triage as

> a process of rational distribution of resources based on litigant need and case complexity to assure all litigants have equal access to justice. In other words, triage should be designed to sort resources and people to enable the most just, accurate and efficient result for all[5] (Clarke, Zorza & Alteneder, 2013, p. 1).

Currently, many courts only use case types to schedule their cases. Some courts use aspects of DCM to separate cases into different tracts, often based on complexity or whether a case is contested or uncontested (Clarke, 2010, p. 19). "Triage is necessary to match the right issues with the right adjudicatory processes" (Flango & Clarke, 2011, p. 12). As such, four cases of the same case type might go into four different tracks; one may receive a problem-solving approach of a settlement calendar; one may receive mediation services; one may be in the early neutral evaluation track and one may receive the full adversarial treatment processing for a trial.

[5] For a comprehensive discussion of legal triage, see Zorza (2012b).

Flango and Clarke (2015, p. 37) provide that triage "be done earlier in the process, be done more effectively and transparently, and be focused on issues raised rather than types of cases filed." Also, recognizing that judges are the most expensive court resource, when designing triage processes, "courts should do everything they can to maximize non-judge staff resources to perform appropriate tasks, including analyzing the issues in a case and managing the case-processing tracks" (Clarke and Flango, 2011, p. 148).

Typically, courts process family cases similarly with each case moving through the same set of steps beginning with the initial filing, moving to parent education classes, mediation, judicial settlement conferences and trial if all else failed (Ostrom, Roth & Davis, 2014, p. 3). Commonly, in divorce cases:

> services are traditionally offered in a linear or tiered fashion, where families begin with the least intrusive and least time consuming service and, if the dispute is not resolved, proceed to the next available process, which is typically more intrusive and directive than the preceding one. Under a tiered service model, virtually all parents participate in mediation and in many jurisdictions are required by statute or administrative rule to do so (Salem, 2009, p. 371).

When courts require the same linear steps for every family law case, it assumes everyone needs to go through the same steps regardless of the fit to their particular issues. Janet Johnston, however, posed the following provocative questions: "Do some families have to fail successively at each level of service before they get the kind of help they really need? Are there more efficient and less painful ways of matching families to the most effective kind of service?" (Johnston, 1999, p. 466). Peter Salem (2009, p. 388) argues against the continued approach of courts using the tiered service model. Instead, he suggests that "[w]ith triage, on the other hand, there is potential to reallocate resources, avoid duplication of services, and create a more efficient service

delivery system" (Salem, 2009, p. 388). Specifically, he contends that in addition to a more efficient process, triage will result in reducing the burden on families (Salem, 2009, p. 381-382).

Numerous stakeholders, including court administrators, judicial officers and legal service providers, increasingly recognize the importance of triage within the legal system (Clarke, Zorza & Alteneder, 2013, p. 1). Identifying the most appropriate process at the outset has three significant benefits: it may save parties from repeated visits for multiple family court service processes, avoid delays and reduce the escalating polarization and associated entrenchment of positions that can accompany repeated failed settlement attempts through multiple processes. As noted by the National Center for State Courts, many court leaders believe courts can apply triage processes to resolve a majority of divorce cases in an expedited fashion:

> Courts that effectively triage domestic relations cases commonly screen cases to distinguish parties ready for resolution from those that may require greater court involvement and services. The purpose of screening is to grant a judgment of divorce at the earliest opportunity that best meets the needs of each individual family, while also ensuring parties receive the level of oversight and support necessary for a fair outcome (Ostrom, Roth & Davis, 2014, p. 6).

Screening criteria is needed as well as a consistent methodology that could be used by different staff members to arrive at the same resolution track despite who is doing the screening. Different courts and organizations have embarked on developing screening tools.[6]

[6] See Saini, M. (2014) for a presentation of triage in the family court area. The presentation presents examples of growing work in this area around the world, in Canada, New Zealand and Australia. In addition, Rechtwijzer 2.0 is an interactive online justice application from the Netherlands that is part triage (getting consumers to legal resources) and part dispute resolution. "Through the platform, people can learn about their legal options while receiving rich support for an interest-based dialogue between the people involved. When they need more than this, Rechtwijzer 2.0 provides mediation, adjudication, and a neutral review of all agreements. In this way, Rechtwijzer 2.0 truly is a user-friendly interface for dispute resolution processes." (http://www.hiil.org/project/rechtwijzer, accessed January 4, 2016).

The National Center for State Courts developed a model case screening tool for divorce cases, with the primary focus on early identification of uncontested divorce cases (Ostrom, Roth & Davis, 2014). This model applies the principles of the High Performance Court Framework[7] to develop and implement a triage process that meaningfully differentiates cases given a court's unique situation. The goal is to identify litigants who are ready to complete the divorce process uncontested and to make sure they do not get lost in the system or forced into services they do not want or need. The point of this triage is to preserve limited court staff time and resources for contested cases and families needing greater attention. The model screening tool includes questions that a court could ask to identify the cases that:

- are ready for early resolution and require little to no court assistance,
- the parties agree on the majority of the issues but have a few remaining concerns, and
- need help with the required paperwork and understanding the process (Ostrom et al., 2014, p. 7-9).

The Connecticut Judicial Branch Court Support Services Division pioneered a combination of an intake process, the Family Civil Intake Screen, and a menu of services that include mediation, a conflict resolution conference (CRC),[8] a brief issue-

[7] The High Performance Court Framework includes a quality cycle which is a set of flexible steps a court can take to integrate and implement performance improvement in its ongoing operations. It consists of five steps: (1) clearly stating the problem, data collection, data analysis, taking action, and evaluating the results (Ostrom et al., 2014, p. 11).

[8] The CRC blends mediation and negotiation processes with the primary goal of helping the parties reach a resolution. If the parties cannot reach a resolution, a court counselor may direct the process, obtain collateral information relevant to the case, and offer suggestions as well as recommendations. Attorneys are usually present during the CRC.

focused evaluation (IFE),[9] and a full evaluation (Pruett & Durell, 2009). The Family Civil Intake Screen was designed to "streamline families into appropriate services by paving more efficient and appropriate paths through the family court system based on each family's needs" (Pruett & Durell, 2009, p. 4). The screen includes questions that address level of conflict, communication and cooperation, complexity of issues and level of dangerousness (Salem, Kulak & Deutsch, 2006, p. 758-61).

An evaluation of the Connecticut screening process against a control group for whom only mediation or comprehensive evaluation was available showed that many positive outcomes accrued to parents and the court system by adding the new assessment and service alternatives. It revealed increased agreement rates, reduced rates of return for a second service (after participating in an initial service), a reduced number of child-related motions filed with the court, and an overall decrease in the number of services provided (Pruett & Durell, 2009, p. 27-28). Kourlis et al. (2013, p. 366) summarized some of these positive results:

- Agreement rates improved significantly, both overall (7%) and for mediation (12%).
- Rates of Return to Court for additional services dropped 10% overall and 14% for mediating couples, indicating that the new services offered alternatives to mediation which assisted in lowering the return rate.
- Motions Filed are an indicator of the emotional and economic costs to the family and to the courts. There were no group differences in the number of cases overall in which motions were filed or the average number of motions filed per case, suggesting that having available services alone does not change the culture of litigation. However, in individual cases, there was a 5% reduction in custody motions for the group exposed to the new services. A small, significant reduction in child-related therapy orders was also found.[10] This decrease may

[9] The IFE is a non-confidential process of evaluating a limited issue impacting a family and/or a parenting plan. The goal is to define and explore the issue causing difficulties for the family, gather information regarding only this issue, and to provide a recommendation to the parents and the court regarding a resolution to the dispute. It is limited in scope, involvement and duration.

[10] In this exact quote, it appears that the authors were intending to convey that there were no differences in the number of motions filed regardless of what service was involved with a specific case - mediation, a

indicate that issues potentially requiring therapy are being better addressed in services than they had been previously. Notably, the group differences that were found for custody and access motions pertained to those motions that required *a judge's involvement*. Thus, in a modest way, the screen and new services may have contributed to fewer motions being filed that pertain to major child-related issues: where they live, who they live with, and where they go to school. In addition, court time and costs, measured by judges' time and input, were also favorably impacted.

- Court Costs were significantly reduced. Real cost savings to the court were $110,000 dollars in the first year, with that difference expanding to $440,000 or nearly a $500,000 by the following year.
- Marital Status. Agreement rates were higher for families receiving the new services regardless of their marital status (once married or never married couples), and across legal representation categories (represented or pro se). Return rates were lower for families receiving services across marital status, as well. Since the implementation of the screen and new services, dual self-represented couples were more likely to complete mediation in a shorter period. Therefore, service provision was equally effective across marital status and representation groups.

The author is not aware of any other evaluations of family court triage processes in the United States.

The Alaska ERP screens cases to determine if the case could resolve by agreement with the assistance of volunteer attorneys, mediators and/or a settlement judge soon after the case is filed. The program's goals are to help parties avoid protracted adversarial processes and to save time and money for the court system. The screening starts with the assumption that most cases can resolve without a trial and can benefit from legal advice, mediation, and a settlement judge. The triage reviews the court file after the answer is filed. This typically includes the complaint and answer that provides information about the marital property and debt in a divorce and the parties' positions on parenting plans for children of the relationship (how decisions about the children should be made, what living schedules should the children have with each

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conflict resolution conference, a brief issue-focused evaluation or a full evaluation. At the case-level, however, they note that there was a reduction in custody motions filed and child-related therapy orders.

parent, who should apply for the Alaska Permanent Fund dividend on behalf of the children and who should claim the children as exemptions for federal taxes), information about each party's earnings and tax return(s)). The triage also reviews the court case management system information about all cases with which the parties have been involved, including domestic violence, criminal, child protection, mental commitments, small claims, evictions and other divorce or custody case with different partners. In a limited number of cases, the screener may review these other files or listen to hearings to understand what the allegations involved.

Importantly, the screening process does not weigh heavily the level of conflict between the parties or their positions on the issues because the adversarial process likely contributes to the parties' conflict. Moreover, ERP staff attorneys have observed that the parties' positions are not necessarily reliable indicators of what they really want or expect to happen when the case is decided. It appears and some parties have reported that their positions represent what they think they should ask for, are the result of posturing, or are based on a misunderstanding of what the legal terms – legal and physical custody actually mean. Instead, the screener looks for reasons to exclude a case from ERP, believing that most cases could benefit from a settlement process if provided appropriate resources. Some factors that may cause a case to be screened out as inappropriate for ERP include current and serious domestic violence incidents, especially if there are minor children involved[11]; issues requiring evidentiary findings

[11] Alaska Statute 25.24.150(g) includes a rebuttable presumption that a parent with a history of domestic violence cannot get anything more than supervised visitation, unless specific conditions are met. A history of domestic violence is defined as more than one domestic violence incident or a domestic violence incident resulting in serious physical injury (AS 25.24.150(h)). If it is clear that the presumption applies in a divorce with children or a custody case between unmarried parents, the case is excluded from ERP. The rationale is that there is nothing the parents can negotiate to resolve the custody issue,

such as a challenge to the court's jurisdiction or disputed valuation of marital property; a non-parent has asserted that he or she should be considered a psychological parent and be awarded custody; or a pending child abuse or neglect case.

Regardless of whether the parties agree on any issues, the case will be included in ERP if a workable solution seems obvious (e.g., disputes regarding legal decision-making authority, living schedule issues that do not involve contested relocation, low value assets/debts, although division of marital homes and retirement accounts are common). In addition, cases are included if the parties do not agree on anything, but one party's position is within the realistic range of options given the legal framework. In addition, important factors are the length of marriage and separation, the age of the children and whether the list of marital property and debt is similar, even if the values or proposed allocation are different (see Appendix 1 for a list of ERP Screening Factors).

Outcome Measures

Once a triage tool or screening process is implemented, it is important to track the outcomes of the cases to determine if the tool meets its intended objectives. To determine if time is saved by using the triage method and associated processes, time to disposition can be measured. Time to disposition is the "percentage of cases disposed or otherwise resolved within established timeframes" (Ostrom, Hall, Schauffler & Kauder, 2005). This fundamental management tool assesses how long a court takes to process cases. It is critical to use consistently the same events in each case as beginning and end posts between which to measure. The start date can vary (for example, from the complaint filing date or the answer filing date) but the end date is the

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except for the parent with the domestic violence history agreeing to have supervised visitation and completing the required programs.

entry of judgment, the court's final determination of the rights and obligations of the parties to a case. The mean and median time-to-disposition can be calculated.

To determine how cost effective the triage tool and associated processes are, cost per case can be determined. Cost per case is the average cost of processing a single case, by case type (Ostrom et al., 2005). Calculating the cost per case

> provides a practical means to evaluate existing case processing practices and to improve court operations. Cost per case forges a direct connection between how much is spent and what is accomplished. This measure can be used to assess return on investment in new technologies, reengineering of business practices, staff training, or the adoption of "best practices." It also helps determine where court operations may be slack, including inefficient procedures or underutilized staff (Ostrom et al., 2005).

Cost per case is calculated primarily by allocating personnel costs across case types.

> The vast majority of court expenditures are personnel related, and courts generally allocate their judicial and staff resources rationally to accommodate their workload. Total costs by case type are then divided by the total number of cases in each relevant case type to obtain the cost of a single case (Ostrom et al., 2005).

It is critically important to analyze the costs to process cases to decide how to allocate funds within the court and to understand the link between costs and outcomes. It is helpful to compare the costs of two different case processing methods, particularly when other outcomes such as time to disposition also can be compared. It would be notable if one method results in a shorter time to disposition and has lower costs.

To determine if litigants are satisfied enough with the case resolution, the number and timing of any post-judgment motions to modify can be reviewed. The assumption is that parties file motions to modify soon after the final judgment if they are not happy with the outcome. However, sometimes there are other reasons other than dissatisfaction to file a motion to modify according to the legal framework. For example, one parent may

unexpectedly have a job transfer, requiring relocation to another state or community making it impossible to follow the court-ordered or stipulated parenting plan. Or a parent may commit a crime that results in incarceration and unavailability to follow the parenting plan. Reviewing the number of motions to modify can be useful when comparing two different case processing methods, particularly when one process emphasizes quick disposition. If the quick disposition method results in the same or fewer motions to modify than the typical processing track, it can indicate that parties do not feel rushed into less satisfying dispositions with faster processing.

Methods

The goal of the research was to determine whether ERP cases that resolve by settlement have better outcomes than similarly situated cases that do not go through ERP. Since ERP began in Anchorage, program administrators have collected data about each case in an Excel spreadsheet, including the time to disposition from the answer filing date and the numbers of motions to modify within two years of disposition. Much of the research for this paper involved determining a group against which to compare the different relevant outcome measures.

Existing Available Data

The Anchorage ERP has existed since December 2010, reviewing all newly filed divorce and custody cases involving two self-represented litigants. The number of cases screened has been collected since July 12, 2011. From that date through December 2015, 1,280 cases were reviewed and of those cases, 652 were accepted into ERP (51%). The screening process reviews all information in the court file, which usually includes the complaint, answer, financial information about the parties' earnings

as shown in pay stubs and tax returns and the marital estate through a list of property and debt. In addition, the screener reviews the court's electronic case management system to understand the parties' court case history, including domestic violence, criminal, child abuse and neglect, evictions, small claims, mental commitments and other domestic relations cases with other parties or children from a different partner. A spreadsheet contains data from the screening process, including demographic information about the parties and their children, the parties' positions on the relevant issues as stated in their pleadings, and whether the case was accepted into ERP and if rejected, the reason why. Also collected are ERP case outcomes and the number of post-judgment motions to modify. This evaluation looked at all ERP cases that resolved by settlement from 2011-2013. There were 299 cases that settled in ERP during this time period (see Appendix 2 for the list of ERP Cases from 2011-2013).

Comparison Case Group

It was not possible to create a control group from cases that occurred during the same time period as the ERP cases because they would not be comparable. The cases from 2011-2013 that were not accepted into ERP were rejected because they had disqualifying characteristics. These included active or pending domestic violence protective orders, allegations of domestic violence history often corroborated with a domestic violence court case history, pending criminal charges that could result in incarceration, pending child abuse and neglect charges, jurisdictional disputes, or incarceration making participation in an ERP hearing logistically impossible. To find a group of cases with which to compare the relevant outcomes, divorce and custody cases from 2007-2009 were screened using the same screening methodology as ERP

cases use; this time period was immediately before when ERP began in the Anchorage court.

To determine the universe of eligible cases, a data analyst from the court's administrative office ran a report from Courtview, the court's electronic case management system, which included all contested divorce and custody cases involving two self-represented parties with the defendant filing an answer from January 2007 through 2009. The report revealed 1,174 cases, a number too large to review all cases within the evaluation project timeline. The report included the time to disposition from the answer filing date[12] for these cases as well as the number of motions to modify that were filed within two years of the disposition. It was necessary to determine the sample size needed so a power analysis[13] was conducted that considered the standard deviations for both the range of numbers in the time to disposition data set and the numbers of motions to modify data set. The power analysis revealed that at least 100 cases were required to be in the control group to arrive at a valid comparison for the time to disposition, but 200 cases were required to be in the control group to arrive at a valid comparison for the number of motions to modify. Based on the historical screening acceptance rate of 50-60% for cases found suitable for inclusion in ERP, close to 400 cases needed to be screened to arrive at a control group of at least 200 cases. Uncertain as to whether it would be possible to review that many cases in the project research time period, initially 197 cases were randomly selected with the idea that at least 100 cases would be in the control group and another random selection of

[12] Time to disposition from the answer filing date, instead of the complaint filing date, was chosen because the answer filing is the triggering event for the ERP case review.
[13] A power analysis determines the sample size required to detect an effect of a given size with a given degree of confidence.

additional cases would occur if time permitted. In September – mid-October 2015, the author reviewed the first 197 cases. As there was time to review additional cases, another 195 cases were randomly selected from the remaining cases in the original list. The author reviewed these cases from mid-October to November 23, 2015. The staff at the Family Law Self-Help Center assisted with electronic case management review of the parties' court case history.

A total of 392 cases were screened using the same methodology to select current ERP cases. The screening looked at the documents in the file until the date the answer was filed and ignored everything filed after that date. The relevant documents generally included:

- Complaint
- Answer
- Child Custody Jurisdiction Affidavits filed by each parent for cases involving child custody
- Child Support Guidelines Affidavit filed by each parent for cases involving child custody
- Property and Debt Worksheets for divorces with property and / or debt filed by one or both spouses; or lists of property and debt generally included in the complaint and answer
- Pay stubs filed by one or both spouses
- Tax returns and possibly W-2s filed by one or both spouses

In addition, a search of the court's electronic case management system occurred for each party to the case using a name search to determine each of their court case histories until the date of the answer.

From these documents and the court case history, the following information was collected during the screening process for the potential control group cases:

- Case number
- Case type (divorce with children, divorce without children, custody between unmarried parents)
- Court case history regarding domestic violence, including domestic violence protective orders and criminal cases involving domestic violence
- Other court case history, specifically noting other domestic relations cases for each party, child abuse and neglect cases, non-domestic violence criminal cases, mental commitment cases
- Parties' positions on the parenting arrangement (legal custody (decision-making) and physical custody (living schedule)), division of marital property and debt
- Whether to "accept" or "reject" the case for ERP and the reason for rejection.

From that group of screened cases, 228 were "accepted" into ERP, had it existed at the time, a 58% acceptance rate (see Appendix 3 for a list of Control Group Cases from 2007-2009).

Outcome Measure Comparison

This evaluation compared two outcome measures between the 2011-13 ERP cases and the cases that would be suitable for ERP had the program existed from 2007-2009:

- time to disposition from the answer filing date, and
- number of post-judgment motions to modify.

In addition, the current cost per case between a typical ERP case and a typical divorce or custody case that proceeds through the usual trial track process was calculated and compared.

Time to Disposition and Number of Post-Judgment Motions to Modify.

The court's electronic case management system generated the following reports:

- time to disposition from the answer filing date for all ERP cases that settled
- time to disposition from the answer filing date of all cases in the control group
- number of post-judgment motions to modify filed within two years of the ERP case settlement date
- number of post-judgment motions to modify filed within two years of the control group disposition date.

The outcome measures were compared between the ERP cases and those in the control group to determine whether they were different.

Cost per Case.

The cost per case was determined by identifying all of the steps in processing a case and identifying the cost per step and adding all of the costs together for a total cost to process a case in ERP and in a typical divorce or custody case. It was not possible to calculate the precise cost per case for each of the cases in the ERP group and the control group because the actual amount of time involved in every step from those cases was not measured. As such, a proxy of the average case's current processing

steps was determined for ERP and for cases that proceed through the typical process before the assigned judge.

ERP case processing steps are relatively uniform (see Appendix 7. ERP Process Flow Chart). There are slight variations depending on whether a case is a divorce with or without children and with or without property. For example, divorce and custody cases involving children require preparation of a parenting plan, calculation of child support and preparation of a child support order. Divorce cases with marital property and debt to be allocated may involve preparation of a joint property and debt spreadsheet showing what each spouse identifies as marital property and debt and the associated values. Non-ERP cases can vary depending on the issues in the case and the judge hearing the case, but the typical divorce or custody case often follows a similar case processing pathway (see Appendix 8. Typical Divorce and Custody Flow Chart). For purposes of this analysis, the case processing steps for the typical divorce and custody group involve the following three courtroom events:

- an initial status conference / trial scheduling conference
- a trial call / pre-trial hearing
- trial / settlement conference.

In addition, if a party files a motion that results in a hearing, there is an additional cost for that courtroom event. Motion hearings of different lengths are included as possible additional costs.

For ERP and typical divorce and custody cases, every step to process a case was identified. This involved tracking a case file from initiation to closing. To calculate the cost per case, the following steps occurred:

- Identifying the court staff members involved with processing a file for the respective processes (ERP case and typical divorce and custody case) from initiation to disposition.
- Identifying the specific tasks that employees perform in processing a case (see Appendix 7. ERP Process Flow Chart an Appendix 8. Typical Divorce and Custody Flow Chart).
- Determining the average amount of time in minutes each staff member spends per task in an average case. The average amount of time was determined by a Family Law Self-Help Center facilitator observing over a two-week period in October 2015 clerks assisting customers to open and process cases, clerks working with files and clerks physically pulling paper files from shelves and moving them to desired locations around the courthouse. In addition, when opportunities were not available to observe staff members performing the various steps, staff members self-reported the amount of time different tasks take to complete. Finally, in November 2015, the author surveyed all Anchorage judges who hear divorce and custody cases, as well as two recently retired judges who heard family law cases for many years, to understand how much time each spends to prepare outside the courtroom, hear cases in the courtroom and issue final orders at the case's conclusion (see Appendix 4. Table of Costs Per Step in ERP Case Process and Appendix 5. Table of Costs Per Step in Divorce and Custody Cases That Use Typical Case Flow Process). If a judge provided a range of time to conduct a court hearing or trial, the average time was calculated per judge. The average time for all judges was calculated by adding each

judge's average time spent on a court event and dividing by the number of judges[14] (see Appendix 10. Table of Amount of Judicial Time for Typical Divorce and Custody Cases).

- Determining the average annual personnel costs for each position who performs case processing tasks. In December 2015, the Alaska Court System's chief financial officer provided the total personnel cost of each employee who performs a specific task by adding their annual salary plus their annual fringe costs (health insurance cost plus retirement benefit contributions). To arrive at an average cost per position that performs specific tasks, all personnel costs for employees who do the same job were added and divided by the number of those employees.
- Determining the average cost per minute by dividing the average personnel cost divided by 1950 hours (the number of hours worked in a year) and divided again by 60 minutes.
- Determining the cost per task by multiplying the number of minutes to perform the task by the cost per minute.
- Determining total personnel cost per case by adding up all costs per task.

Once the costs for both the ERP case and the typical divorce or custody case were totaled, the cost for an ERP case was compared to a typical divorce or custody case. The hearing time for an ERP case assumes six cases are scheduled for an ERP hearing.

[14] The author sent email requests to the nine current Superior Court judges in Anchorage and two recently retired Anchorage judges who have or had family law caseloads. Seven current judges and both retired judges responded in a timely fashion (see Appendix 11 for the questions asked about the time spent on hearings, trial and preparation / document drafting). The judges responded by email, but some also spoke directly to the author.

To determine the weighted average cost per case for ERP cases that settled and for typical divorce and custody cases, the cases were disaggregated by the type of issue they presented (see the bottom half of Table 2). The proportion of cases with particular issues was determined from all ERP cases that settled in 2014 and 2015 and from all divorce and custody cases filed in 2014 and 2015. Those proportions were multiplied by the cost of a case with the specified issues for both groups. The products were then added together to arrive at weighted average cost per case (see Table 5. Weighted Average Cost Per ERP Case and Table 6. Weighted Average Cost Per Typical Divorce and Custody Case).

Findings

The research revealed variation between ERP cases and the control group cases that would have been included in ERP had it existed at the time regarding the time to disposition from the answer filing date. There was no significant difference in the numbers of motions to modify filed within two years of the case disposition. There was a difference in the cost per case between an ERP case and a typical divorce or custody case.

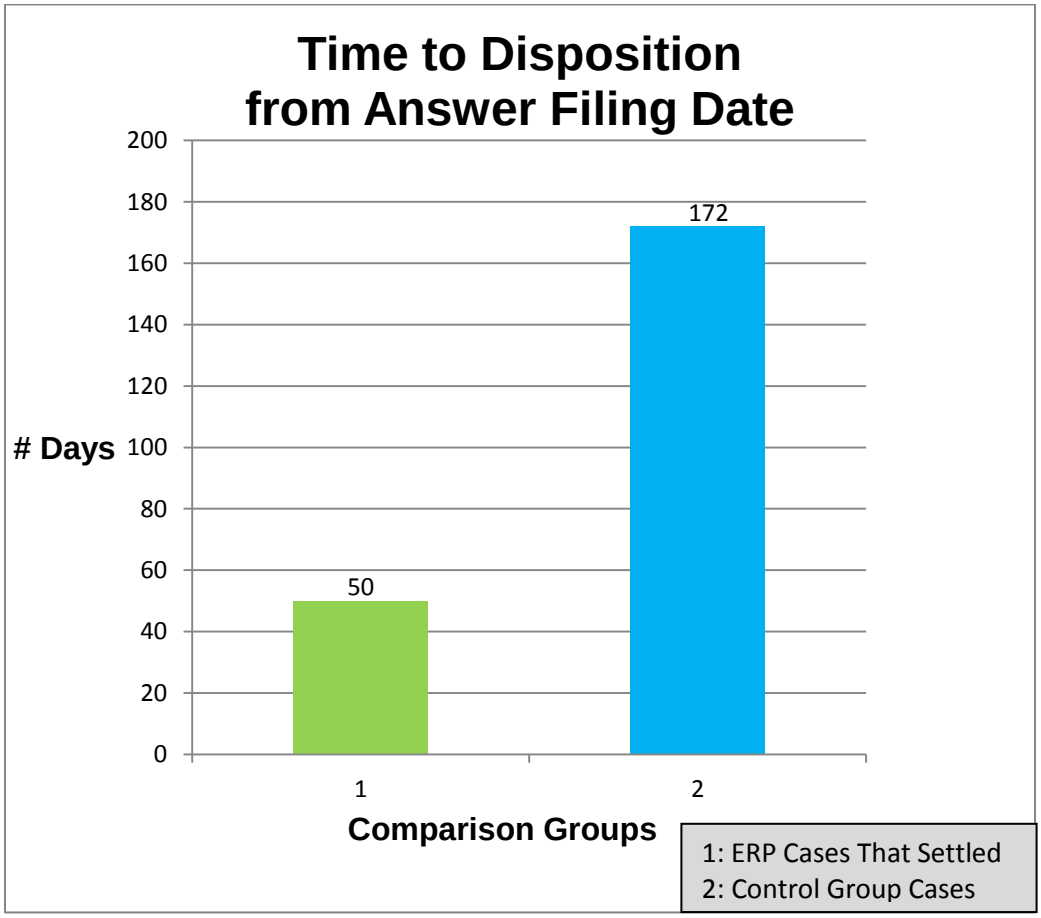
Table 2. Overview of Findings

	ERP cases	**Control Group**
Time to Disposition – Mean	50 days	172 days
Time to Disposition – Median	42 days	104 days
Time to Disposition Standard Deviation	33	199
# of Motions to Modify	.25	.25
# of Motions to Modify – Standard Deviation	.51	.61
	ERP case	**Typical Divorce or Custody case**
Cost / case - Divorce w/o children (may have property / debt to divide)	$215.65	$1,581.59
Divorce w/ children (and no property / debt) and Custody between unmarried parents	$248.85	$1,590.41
Divorce w/ children and property / debt to divide	$254.15	
Weighted average cost of a divorce or custody case	$235.00	$1,591.38

FINDING 1: THE MEAN TIME TO DISPOSITION WAS 3-4 TIMES SHORTER FOR ERP CASES THAN CONTROL GROUP CASES.

The time to disposition from the answer filing date varied significantly between the cases that settled in ERP compared to those in the control group that resolved before the assigned judge. ERP cases had a mean time to disposition of 50 days from the answer filing date; control group cases had a mean time to disposition of 172 days from the answer filing date. The median time to disposition for ERP cases was 42 days and for the control group was 104 days.

Figure 1. Time to Disposition from Answer Filing Date.



The standard deviation was extremely variable; ERP cases was 33 and the control group was 199. A two-sample t-test was conducted to assess whether the means of the ERP group and the control group have statistically significant different average values. This analysis is appropriate to compare the means of two independent samples and to determine whether the difference between the two means could have been caused by chance alone.[15]

[15] A statistically significant t-test result is determined by the size of the difference between the group means, the sample size, and the standard deviations of the groups. For practical purposes, statistical significance suggests that the two populations from which we sample are "actually" different. A difference is more likely to be meaningful and not due to chance if:
(1) the difference between the averages is large,

Table 3. T-Test Results for Time to Disposition

Sample	N	Mean	St. Dev.	T-statistic	df	p-value[16]
Control Group	228	172	199			
ERP Group	299	50	33	9.161526	525	0.0000

The t-test result provides that there is a highly significant difference in the time to disposition from the answer filing date to the resolution date in an ERP case compared to a control group case. The rule of thumb in social science research is that a p-value of .05 or less shows a statistically significant difference in the outcomes between two samples. In this evaluation, the p-value of .0000 demonstrates that there is less than 1 in 10,000 odds that the difference is due to chance.

Variables in ERP Group and Control Group.

It is important to identify the variables that exist between the ERP group and the control group. First, the two groups existed in different time periods; the ERP cases were filed from 2011-2013 and the control group cases were filed from 2007-2009. However, there does not appear to be any significant difference between these two time

(2) the sample size is large, and
(3) responses are consistently close to the average values and not widely spread out (the standard deviation is low).

[16] The p-value is used to quantify the idea of statistical significance of evidence. In technical terms, a p-value is defined as the probability of obtaining an effect at least as extreme as the one in your sample data, assuming the truth of the null hypothesis. A null hypothesis is the lack of a difference between two groups; it is essentially the position a devil's advocate would take when evaluating the results of an experiment. P-values evaluate how well the sample data support the devil's advocate argument that the null hypothesis is true. It measures how compatible your data are with the null hypothesis. How likely is the effect observed in your sample data if the null hypothesis is true? High p-values indicate that your data are likely with a true null. Low p-values indicate that your data are unlikely with a true null. A low p-value suggests that your sample provides enough evidence that you can reject the null hypothesis for the entire population.

In this evaluation, the null hypothesis is that there is no difference between the ERP case group and the control group. An extremely low p-value of .0000 indicates that the hypothesis can be rejected and there is a statistically significant difference between the ERP group and the control group regarding the time to disposition outcome.

periods. While the great recession occurred in much of the United States, Alaska was not impacted and did not experience an increase in unemployment, reduction in home values or an increase in foreclosures.

Second, there were differences in who heard the cases between the two groups and there were some different judicial officers on the bench during the different time periods. Generally, judges and magistrate judges are chosen specifically to hear ERP cases because they possess specific qualities to manage the special calendars. These include the following:

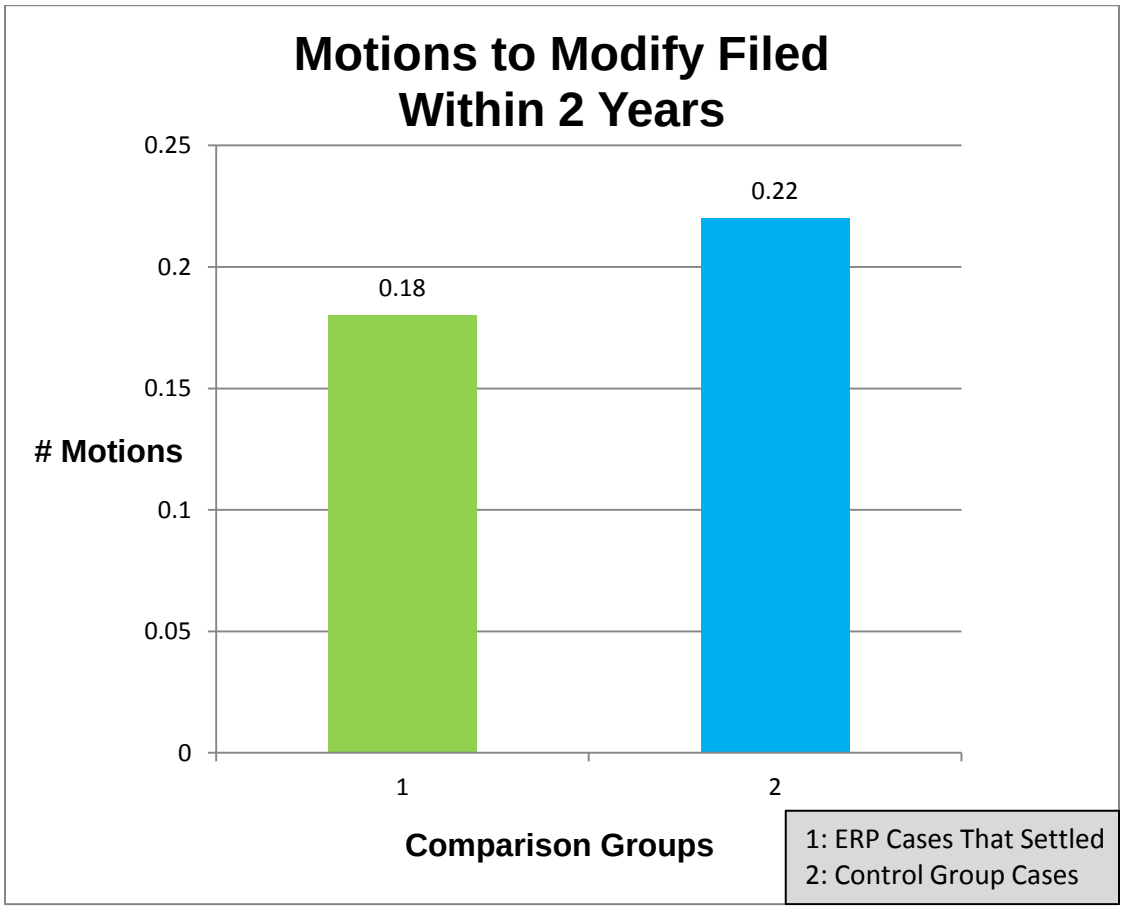
- They are experienced in family law so readily see different options for resolution.
- They are experienced in settling cases so successfully use techniques to help parties break through impasses.
- They are not flustered at having multiple cases occurring during the same hearing block, with lots of moving parts and informality happening in the courtroom.
- They demonstrate patient, calm and helpful demeanors that facilitate self-represented parties to feel like they have been heard.
- They are pleasant to work with ERP staff, volunteer attorneys and court mediators.

In contrast, control group cases were heard by the judge randomly assigned to the case by the electronic case management system. Judges have different levels of experience with family law and settlement abilities. In addition, ERP cases have the FLSHC staff attorney in the courtroom sitting adjacent to the judge, sometimes passing notes that flag issues to be addressed.

FINDING 2: THERE WAS NO SIGNIFICANT DIFFERENCE IN THE NUMBER OF MOTIONS TO MODIFY.

The average number of motions to modify filed within two years of the disposition varied slightly between the ERP group and the control group. The ERP cases had .18 motions to modify filed and the control group had .22 motions to modify filed.

Figure 2. Motions to Modify Filed Within 2 Years



The standard deviation varied with the ERP cases having a .51 and the control group having a .80. The t-test does not reveal a statistically significant difference between these results.

Table 4. T-Test Results for Number of Motions to Modify

Sample	N	Mean	St. Dev.	T-statistic	df	p-value
Control Group	228	.22	.80			
ERP Group	299	.18	.51	0.659657	525	0.5098

FINDING 3: ERP CASES WERE 6-7 TIMES LESS COSTLY THAN TYPICAL DIVORCE AND CUSTODY CASES.

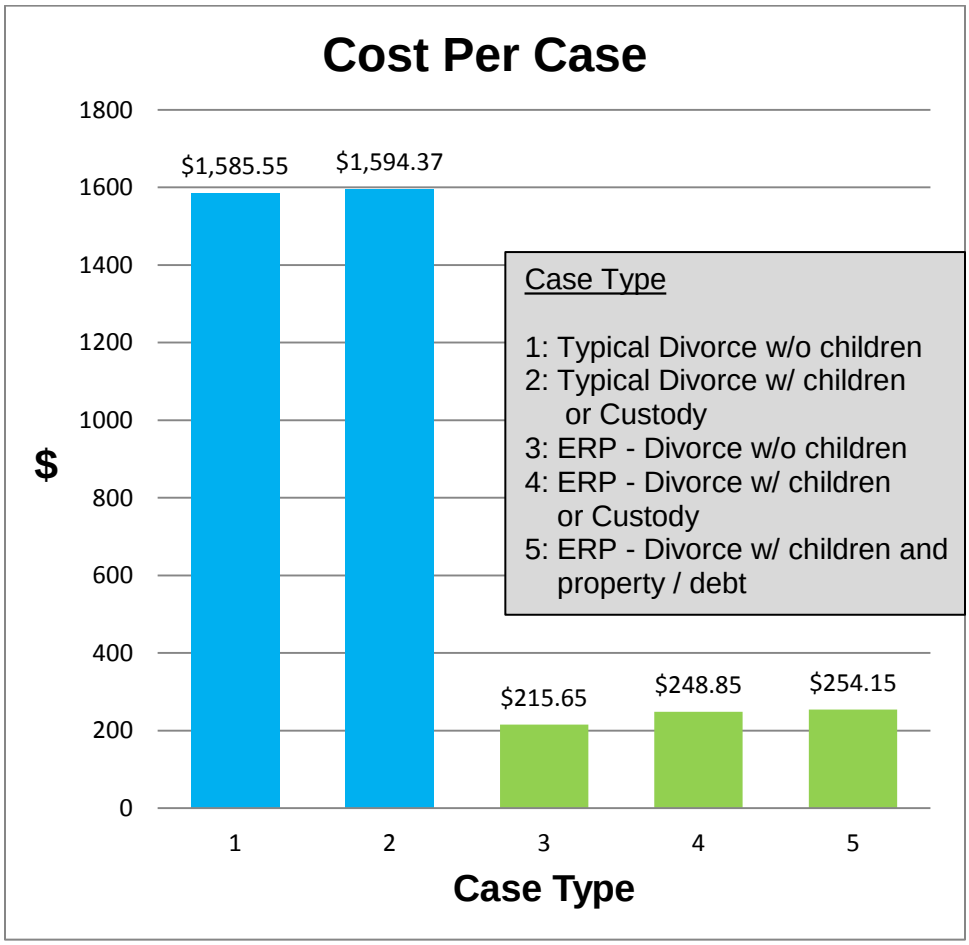
This analysis compared the current cost of processing a "typical" divorce or custody case that resolves by a judicial decision or a settlement and an ERP case that settles. The assumption is that a typical case involves three courtroom proceedings: an initial status conference, pre-trial hearing and a trial or final settlement event. It also assumes six ERP cases are scheduled per ERP session.

The costs vary significantly between typical cases and ERP cases, with cases that settled in ERP costing six to seven times less than typical cases. The costs also differ within the ERP case category and the typical divorce and custody case category depending on the issues within a case.[17] A case that settles in ERP costs $215.65 to $254.15 with the differences largely attributed to how much time the FLSHC staff attorney time needs to prepare final paperwork depending on the issues in the case. A typical non-ERP divorce or custody case costs between $1,581.59 and $1,590.41 with

[17] More data has been collected about what kind of issues ERP cases include than typical divorce and custody cases. ERP cases can be divided into three categories: (1) divorce without children; (2) divorce with children and marital property / debt; (3) divorce with children and no property / debt, and custody between unmarried parents. Typical divorce and custody cases can be divided into two categories: (1) divorce without children, and (2) divorce with children, and custody between unmarried parents.

the difference attributed to additional court clerk time to process additional filings for cases involving child custody and child support matters.[18]

Figure 3. Cost Per Case



ERP cases that involved parties divorcing without children who did not need to divide marital property and / or debt are the least costly at $215.65 per case. Cases that involve divorcing parents and unmarried parents who need parenting plans and child support orders cost $248.85. Cases that involved parties divorcing who need parenting plans, child support orders and orders dividing their marital property and/or

[18] It is important to note that the judges did not report their time based on specific issues in a case, but provided estimates for all divorce and custody cases. It would be logical to assume that similar to ERP cases, typical cases involving more issues (parenting plans, child support and division of marital property and debt) would require more judicial time and thus be more costly than a case involving just division of marital property and debt.

debt cost the most at $254.15. Using information from ERP cases that settled in calendar years 2014 and 2015, the weighted average cost per case is $235.00.

Table 5. Weighted Average Cost Per ERP Case in CY 2014 and 2015

ERP case type	# cases	Percentage of total ERP cases	Cost / case	Proportional cost
Divorce without children	111	44.3%	$215.65	$97.69
Divorce w/ children and no property/debt, and Custody between unmarried parents	79	32.3%	$248.85	$80.38
Divorce w/ children and property and/or debt to divide	55	22.3%	$254.15	$56.93
	N = 245		**Weighted average cost / case**	**$235.00**

Typical divorce and custody cases can be divided into only two categories based on their case types in the case management system: (1) divorce without children, and (2) divorce with children, and custody between unmarried parents. In typical cases, there is no distinction between whether a divorce with children includes property and debt issues. A divorce without children costs $1,585.55 and a divorce with children and child custody case between unmarried parents costs $1,594.37. Using information from calendar year 2014 and 2015, the weighted average cost per case is $1,591.38.

Table 6. Weighted Average Cost Per Typical Divorce or Custody Case in CY 2014 and 2015

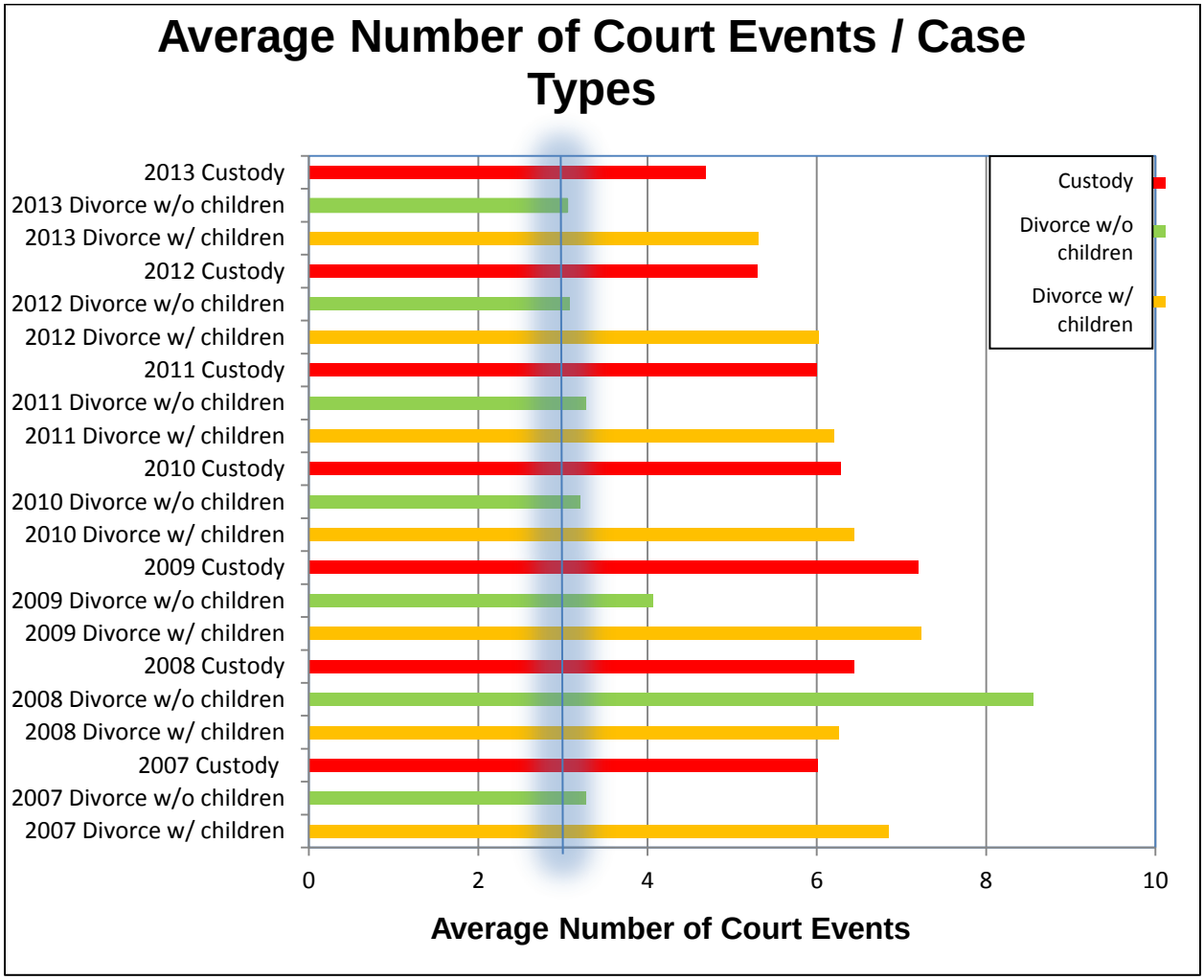
Case type	# cases	Percentage of total typical divorce and custody cases	Cost / case	Proportional cost
Divorce without children	930	33.9%	$1,585.55	$537.50
Divorce w/ children and Custody between unmarried parents	1,812	66.1%	$1,594.37	$1,053.88
	N = 2,742		**Weighted average cost / case**	**$1,591.38**

Variables in Typical Divorce and Custody Cases.

It is important to recognize that several variables can lengthen or shorten the steps involved in a typical case and consequently the cost of the case. Cases can involve more courtroom events if a party files a motion that results in a hearing. In addition, a particular judge may choose to have additional hearings based on the issues in a case or the judge's style in resolving the disputes. For example, at least two judges who provided information about the time spent on different court events shared that they routinely hold three to five thirty-minute interim hearings to address issues in the case, issue interim orders and then have a final court event to finalize issues that have already been addressed during the interim hearings.

Analysis from 2007-2013 of the number of courtroom events in all divorce and custody cases reveal that the average number of events exceeded the three events used in the cost per case analysis for a typical case.

Figure 4. Average Number of Court Events / Case Types



Also, the analysis for the typical case processing does not include the following events that would enlarge the steps involved:

- A defendant files a non-conforming answer that would be routed to the judge for review and a decision whether to accept or send a deficiency notice with instructions on how to remedy the problems with the filing.

- A defendant files a late filed answer with a motion to set aside a previously entered default judgment; the plaintiff may also file a responsive filing and then the judge makes a decision.
- Either party files a petition for a domestic violence protective order that would be reassigned to the judge hearing the divorce or custody case, involving at least one additional hearing and the issuance of paperwork either granting or denying the request.
- Either party files a motion requesting the judge order something in the divorce or custody case that is likely followed by a responsive filing from the non-movant, a reply from the moving party, a hearing before the judge and an order either granting or denying the request (see Appendix 9. Motion Process Flow Chart).
- Either party requests an interim parenting arrangement or the judge orders an interim arrangement with a specific duration. For example, the judge orders a parenting schedule that involves graduated increases in time for one of the parents to become reintroduced to a child.
- Either party files an expedited motion with an underlying motion; a judge holds a hearing on the motion in an expedited fashion or denies the expedited motion. The non-movant possibly files a responsive filing with a possible reply from the moving party, a hearing before the judge and an order either granting or denying the request.
- The judge could appoint a custody investigator to evaluate all or some aspects of the legal and physical custody arrangement proposed by one or both parties. Custody evaluations often take six months to complete.

- The judge appoints a mediator to work with the parties regarding child custody matters and they do not resolve the issues. The average time spent by CCVMP mediators in non-ERP cases statewide was 6.52 hours in 2014. The average cost was $489.

Conversely, a case could resolve much quicker if:

- The parties come to court for their first or second event and have an agreement they created out of court; a judge could hear the agreement and the case could be completed in one or two events.
- The judge could realize at the first or second event that the case could be decided summarily because there are no or few minor issues to resolve. This could be the situation in a divorce without children with a marriage of short duration and no marital property or debt to divide.
- The judge appoints a mediator to work with the parties regarding child custody matters and they reach a settlement and avoid a lengthy trial event.

Variables in ERP Cases.

There are variables in ERP cases that can alter the average length of time to disposition and thus the cost per case. These include:

- Scheduling fewer or more than six cases per ERP calendar. Fewer cases will increase the average cost and more cases will reduce the cost.
- Continuing an ERP case to another ERP calendar because the parties agree to an interim order and want to return to finalize after seeing how the situation works in practice.

- Continuing an ERP case to another ERP calendar because the parties have not resolved the issues but feel they are making progress and want more time to work on a resolution.
- Continuing an ERP case to another ERP calendar because the parties need to collect information important to resolving the case, such as the value of a retirement account to calculate a fair and equitable allocation of the marital estate, or paystubs from a job that just started necessary for a child support calculation. Sometimes another ERP hearing is necessary for a party to prepare a Qualified Domestic Relations Order necessary to divide a retirement account.

In addition, parties with a child custody issue in ERP may work with a mediator from the court's Child Custody Visitation Mediation Program, in which the court system pays contract mediators $75/hour. The average time spent by CCVMP mediators in ERP cases in all ERP programs in 2014 was 3.82 hours. At that rate, using CCVMP mediators increases the cost in an ERP case by $286.50.

Conclusions and Recommendations

The Early Resolution Program was designed to address many issues of interest to the Alaska Court System – self-representation in family law cases, the need to triage to determine the appropriate resolution approach, the importance of early intervention and the desire to use a simplified process and a problem-solving approach. This evaluation shows that ERP has been an effective way to resolve newly filed contested divorce and custody involving two self-represented parties. It results in much faster resolutions at substantially lower costs than similarly situated cases that are resolved by the assigned judges in the typical fashion. ERP cases have no lower levels of

satisfaction than typical divorce and custody cases as represented by the number of motions to modify filed within two years of disposition.

CONCLUSION 1: THE ERP PROCESS RESULTS IN SIGNIFICANTLY SHORTER TIME TO DISPOSITION THAN TYPICAL DIVORCE AND CUSTODY CASES.

The time to disposition differences between ERP cases and the control group is significant with ERP cases that settled resolving three to four times faster than the control group cases. This difference can be attributed to the ERP process that screens cases as soon as the answer is filed which is very early in the case. The screening effectively triages the cases on two levels: first, to decide if it is appropriate for the program; and second, to determine the most suitable resolution approach – an unbundled volunteer attorney for each party, a mediator or the settlement judge.

Suitable cases are scheduled quickly for an ERP hearing that occurs usually within weeks. Early intervention fends off the need for parties to file motions to obtain desired relief because they know they will be in court shortly. Also important is the personal attention provided by the FLSHC staff attorney in advance of the ERP hearing. While it takes a mere one to five minutes per case, the FLSHC staff attorney calls all parties to:

- remind them of the upcoming ERP hearing date, time and location,
- explain the ERP process,
- prepare them about the value of settlement versus turning the decision over to the judge at trial,
- encourage the parties to talk in advance if possible and productive,
- suggest they each think about possible ways to address their concerns about the other parent or the dispute about property and debt division,

- suggest they come prepared with information necessary to finalize the case such as pay stubs, recent values of home, retirement accounts and loans, or talk to third party creditors in advance of the hearing (such as a mortgage company) to see if a refinance is possible when the names on a title need to be changed.

These calls are important because almost all parties appear at ERP hearings so continuances are not necessary which lengthen the time to disposition. In addition, parties come prepared and ready to work to resolve their disputes, motivated by the knowledge that they could be done with the case at the end of the hearing. Unlike the control group cases, ERP cases that resolve by settlement have their final paperwork prepared, signed and distributed in the courtroom. This also contributes to the shorter time to disposition.

RECOMMENDATION 1: INVESTIGATE FACTORS CONTRIBUTING TO TIME TO DISPOSITION FOR ERP CASES, INCLUDING THE NUMBER OF ERP HEARINGS PER CASE.

While significantly shorter than the time to disposition for a typical case, the 50 day average time to disposition for ERP cases is longer than expected. Cases are scheduled for an ERP hearing usually within three weeks of screening so the time to disposition from the answer date should have been closer to 21 days. It would be helpful to understand why that average time is not shorter. The author suspects the average time was increased by parties agreeing to interim orders and wanting to return to a later ERP hearing after 30, 60 or 180 days to finalize after “trying out” the interim arrangement. In addition, the FLSHC attorney at the time could have delayed scheduling cases so hearing dates were slightly later. It would be worth researching

both possible explanations because such data exists, although it would be tedious to evaluate.

CONCLUSION 2: THE ERP PROCESS RESULTS IN SUBSTANTIALLY LESS COST PER CASE THAN A TYPICAL DIVORCE OR CUSTODY CASE.

The current cost of a typical ERP case is substantially less than the cost of a typical divorce or custody case; they are six to seven times less costly. The ERP process is more efficient than the typical case processing for two main reasons. First, once the case is screened and accepted into ERP, the file stays with the ERP staff attorney, eliminating many case processing steps that occur in typical cases. In effect, there are significantly fewer touches on the file and no need to move it around the courthouse through the hands of different employees. The analysis likely underestimates the average cost per case of typical divorce or custody cases because it assumes three events occurred. Most cases handled 2007-2013 averaged more than three court events, likely the result of parties filing motions and judges holding associated hearings.

Second, there are great efficiencies in scheduling multiple cases during the same hearing block that occurs in ERP. This results in the in-court clerk and the judicial officer essentially ramping up and down once for six to eight cases, all heard in a 3-4 hour block. In one typical divorce or custody case, the final event – trial or settlement – takes over four hours on average. ERP final paperwork is prepared and distributed in the courtroom using templates pre-filled in advance of the hearing, eliminating the need for judicial officers and their staff to prepare orders after the fact that occurs in typical cases.

RECOMMENDATION 2: INVESTIGATE THE ACTUAL COST PER CASE FOR ERP CASES AND TYPICAL DIVORCE AND CUSTODY CASES.

The cost per case analysis considered the average ERP case and the typical divorce or custody case, using current personnel costs. In essence, it suggests the cost if a case is processed according to the outlined steps and associated time lines. The actual costs of the cases in the two samples were not collected because that information was not available. While confident that the steps and costs identified in this analysis are accurate, it would be best to compare them to actual costs. That said, it would be incredibly difficult to measure the actual costs of the two types of cases using a large enough sample of each because there are so many steps and employees involved in processing typical cases.

CONCLUSION 3: THE ERP PROCESS DOES NOT RESULT IN A HIGHER LEVEL OF DISSATISFACTION WITH THE OUTCOME THAN A TYPICAL DIVORCE OR CUSODY CASE DESPITE THE QUICKER TIME TO DISPOSITION.

The number of motions to modify filed within two years of the cases disposition was compared for ERP cases and typical divorce and custody cases. This outcome was chosen as a proxy for litigant satisfaction based on the belief that dissatisfied litigants file motions to modify soon after the disposition, essentially as a way to express buyer's remorse to a settlement. The hope was that for ERP cases, the number of motions to modify would be equal or fewer than result from typical cases. While the number of motions to modify filed within two years of the case disposition was fewer for ERP cases compared to the control group, there was not a statistically significant difference. The low number of motions to modify indicates that filing one is a relatively rare occurrence and most cases do not include a post-judgment motion in the two year time frame. The very low number in ERP cases, which resolve significantly quicker and

at a substantially lower cost than typical divorce and custody cases, does not reflect dissatisfaction with the ERP settlement. In other words, any concerns that the ERP process is too quick and parties do not have enough time to think about the issues, is not reflected in additional post-judgment motion activity.

RECOMMENDATION 3: INVESTIGATE THE REASONS WHY PEOPLE FILE MOTIONS TO MODIFY IN ERP CASES.

This analysis considered only the number of motions to modify that occurred. If additional analysis were possible, it would be helpful to evaluate the reasons why individuals filed motions to modify. The author recommends determining if litigants filed motions because of changed circumstances that were not foreseen at the time of disposition or because agreements reached in ERP were simply not workable in the minds of the parties. This analysis could also be valuable to determine if the same issues were identified at the screening stage. If so, it would be worth consideration as to whether problems could have been avoided with conditional provisions in the final documents that anticipated particular issues.

While this evaluation looked at the Anchorage ERP cases from 2011-2013, the program was expanded and operates in three of the state's larger courts, covering a significant geographic area and over 50% of the eligible cases in those regions. Despite the participation of different judicial officers, different volunteer unbundled attorneys and mediators, the outcomes are remarkably similar regarding the settlement rates, acceptance rates into the program and appearance rates by parties. Since the program's inception, approximately 80% of the cases resolve in ERP, most within one

hearing. Over 50% of the eligible cases are heard in the program. Almost every party appears with a failure to appear rate less than 1%.

What is the same regardless of the program location, is that a FLSHC staff attorney conducts all of the screening using the same criteria, and the ERP process is virtually the same from start to finish. The consistency of outcomes is a testament to the effectiveness of the screening and triage process. This triage is relatively simple and fast to conduct, using known information from the court file and parties' court case histories. The process from identifying the case to disposing of it is efficient. Both the triage and process are replicable as seen by the expansion within Alaska and virtually identical outcomes.

Courts across the country are trying to figure out how to address self-represented family law cases and how to triage cases to their appropriate resolution approach. ERP provides a model of how to use resources and partnerships with unbundled volunteer attorneys and mediators to resolve cases by agreement quickly and in a cost-effective manner with no increase in motions to modify indicating buyer's remorse. Even if a court system determined that implementing such a program would not be the best fit for that jurisdiction, there are elements of the program that should be considered to benefit the parties and the court system. For example:

- use a scheduling order that encourages settlement.
- make reminder/readiness phone calls which reduces failure to appear rates and results in litigants showing up more prepared.
- schedule more than one case involving two self-represented litigants during a time slot and hold the hearing like a settlement conference on the record.

- think about the order of the cases being heard; hear the “easier ones” or those involving parties who agree first to set an example for later cases.
- pre-fill out court documents and automate when possible; it is simple with Word and Excel which everyone has on their computer.

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Statutes

Alaska Statute 25.24.150(g).

Alaska Statute 25.24.150(h)).

Appendices

Appendix 1. ERP Triage

ERP Triage Level 1: ERP Screening Factors

Factors that may cause a case to be screened out as inappropriate for ERP include:

- Current and serious domestic violence incidents, especially if there are minor children involved;
- An undisposed criminal case for one or both parties that is relevant to the family law case or serious criminal history that may affect the availability of a parent to participate in ERP;
- A pending Child In Need Of Aid (CINA) case (child abuse and neglect case filed by the state);
- One parent is incarcerated, and cannot participate easily in the hearing;
- An unaddressed serious drug or alcohol abuse allegation;
- An unaddressed serious mental health allegation;
- Issues requiring evidentiary findings such as a challenge to the court's jurisdiction;
- A pending tribal court custody decision;
- A dispute about tribal vs. state court jurisdiction;
- The parties have complicated financial situations (e.g., they own a business that needs to be divided and requires a professional business valuation, or there is a very long marriage with substantial assets) that require additional discovery or will take too long to go through during an ERP hearing;
- A relocation issue in a custody case where the parents do not agree;
- Contested request for custody by third parties (grandparents, aunts, uncles, etc.)
- A non-parent has asserted that he or she should be considered a psychological parent; or
- A special needs child in a custody case that requires expert testimony.

Cases likely to be considered candidates for ERP include the following situations:

- The parties appear to agree (complaint and answer request similar relief).
- The parties agree on some issue(s).
- The parties do not agree on any issue but a workable solution seems obvious (e.g., legal custody determination, uncomplicated physical custody issues, few or low value assets/debts).
- The parties do not agree but one party's position is within the realistic range of options given the legal framework.
- The parties had a short marriage.
- The parties do not agree but have long been separated and have been following a parenting schedule.
- The parties have long been separated so likely have dealt with their marital assets and debts.
- The parties agree on the parenting arrangement, but there is an issue with child support; basically, the question is how much the child support amount will be.
- The parties largely agree on which marital assets and debts should be divided, but not necessarily the value or who should get the item or be responsible for the debt. This often includes division of household items, vehicles, car loans, credit card debts, and medical bills. However, disputes about marital homes and retirement accounts are commonly resolved.
- The parties are young, unmarried parents of a baby, have many years to parent the child together, and could benefit from learning how to work together to co-parent.
- The parties are parents of teenagers and their current parenting schedule likely will continue or be the basis for a new schedule based on the teens' preference, schooling, activities and social lives.
- The parties are involved with the military.
- Child support is current.

ERP Triage Level 2: Which Legal Resource is Appropriate?

Volunteer attorneys work with cases

- party(ies) need a reality check because one or both parties' positions are so extreme or outside the bounds of the legal framework (e.g., says there should be no child support or should not divide retirement)
- one party's position is so one-sided that there may be coercion or guilt (cheating, overspending) or some other non-legal factor driving the case (e.g., long marriage and one spouse wants all assets; one parent does not want the other parent to see the child)
- recent domestic violence, volatility or serious safety concerns
- party needs someone to tell him/her what to do (indecisive)
- property disputes, especially involving separate (pre-marital) property

Mediators work with cases

- young parents with babies
- parents with teenagers (law allows for consideration of a teen preference depending on age and maturity but most parenting plans seriously consider what plan the teen wants to avoid runaways)
- long separations where they have been doing some parenting plan
- parties with children without serious safety concerns
- long marriages with much property/debt to sort through but parties agree on what items are marital property and debt (may disagree on values and who should get) – basically need help going item by item through their marital estate

Settlement judge

- uncontested cases
- cases with few issues
- very short marriages
- very long separations when most property / debt was already distributed long ago
- cases when there are no attorneys / mediators available
- "black robe" effect needed

Appendix 2. ERP Cases that Settled 2011-2013

# cases	Case No.	Time to Disposition from Answer	# Motion to Modify w/in 2 Years
1.	3AN-11-04555CI	28	0
2.	3AN-11-04599CI	51	0
3.	3AN-11-04608CI	31	0
4.	3AN-11-04812CI	50	0
5.	3AN-11-04875CI	15	0
6.	3AN-11-04903CI	56	0
7.	3AN-11-04911CI	40	0
8.	3AN-11-04916CI	45	0
9.	3AN-11-04992CI	50	0
10.	3AN-11-05131CI	24	0
11.	3AN-11-05233CI	45	1
12.	3AN-11-05342CI	89	1
13.	3AN-11-05357CI	93	0
14.	3AN-11-05551CI	29	0
15.	3AN-11-05573CI	31	0
16.	3AN-11-05612CI	24	1
17.	3AN-11-05640CI	84	0
18.	3AN-11-05862CI	39	0
19.	3AN-11-05895CI	48	1
20.	3AN-11-05975CI	28	0
21.	3AN-11-06000CI	37	0
22.	3AN-11-06029CI	33	2
23.	3AN-11-06052CI	49	0
24.	3AN-11-06106CI	24	0
25.	3AN-11-06257CI	36	0
26.	3AN-11-06272CI	46	0
27.	3AN-11-06273CI	54	1
28.	3AN-11-06285CI	31	0
29.	3AN-11-06290CI	32	0
30.	3AN-11-06309CI	48	1
31.	3AN-11-06408CI	41	0
32.	3AN-11-06411CI	33	0
33.	3AN-11-06441CI	24	0
34.	3AN-11-06445CI	53	0
35.	3AN-11-06467CI	81	0
36.	3AN-11-06609CI	37	0
37.	3AN-11-06940CI	175	0
38.	3AN-11-06956CI	36	0
39.	3AN-11-07122CI	56	0

40.	3AN-11-07284CI	37	0
41.	3AN-11-07307CI	56	1
42.	3AN-11-07437CI	52	0
43.	3AN-11-07497CI	17	0
44.	3AN-11-07501CI	36	0
45.	3AN-11-07597CI	36	0
46.	3AN-11-07649CI	165	0
47.	3AN-11-07721CI	74	0
48.	3AN-11-07946CI	50	0
49.	3AN-11-07957CI	49	0
50.	3AN-11-07970CI	38	3
51.	3AN-11-08032CI	77	0
52.	3AN-11-08046CI	79	0
53.	3AN-11-08190CI	126	0
54.	3AN-11-08198CI	53	0
55.	3AN-11-08203CI	98	0
56.	3AN-11-08456CI	36	0
57.	3AN-11-08457CI	43	0
58.	3AN-11-08460CI	36	0
59.	3AN-11-08462CI	44	0
60.	3AN-11-08733CI	72	0
61.	3AN-11-08740CI	32	0
62.	3AN-11-08898CI	36	0
63.	3AN-11-08912CI	16	0
64.	3AN-11-09213CI	60	0
65.	3AN-11-09250CI	51	0
66.	3AN-11-09273CI	42	0
67.	3AN-11-09467CI	57	0
68.	3AN-11-09657CI	22	0
69.	3AN-11-09733CI	37	0
70.	3AN-11-09756CI	56	0
71.	3AN-11-09883CI	77	0
72.	3AN-11-10041CI	48	0
73.	3AN-11-10058CI	77	0
74.	3AN-11-10116CI	46	0
75.	3AN-11-10314CI	35	0
76.	3AN-11-10584CI	40	3
77.	3AN-11-10688CI	23	0
78.	3AN-11-10907CI	17	0
79.	3AN-11-11013CI	20	0
80.	3AN-11-11262CI	4	0
81.	3AN-11-11363CI	53	0
82.	3AN-11-11398CI	77	0
83.	3AN-11-11538CI	4	0
84.	3AN-11-11627CI	29	0

85.	3AN-11-11751CI	51	0
86.	3AN-11-11935CI	38	0
87.	3AN-11-11981CI	143	0
88.	3AN-11-12032CI	91	0
89.	3AN-11-12069CI	44	0
90.	3AN-11-12082CI	64	0
91.	3AN-11-12133CI	49	0
92.	3AN-11-12194CI	31	0
93.	3AN-11-12383CI	42	0
94.	3AN-11-12478CI	50	0
95.	3AN-11-12562CI	74	1
96.	3AN-11-12598CI	59	0
97.	3AN-11-12859CI	38	0
98.	3AN-11-12871CI	71	0
99.	3AN-11-12907CI	95	0
100.	3AN-11-13040CI	28	0
101.	3AN-11-13042CI	35	0
102.	3AN-12-04401CI	14	0
103.	3AN-12-04627CI	57	0
104.	3AN-12-04722CI	31	0
105.	3AN-12-04773CI	50	0
106.	3AN-12-04895CI	14	0
107.	3AN-12-05025CI	23	0
108.	3AN-12-05033CI	38	0
109.	3AN-12-05152CI	36	0
110.	3AN-12-05166CI	45	1
111.	3AN-12-05170CI	70	1
112.	3AN-12-05194CI	30	0
113.	3AN-12-05202CI	31	0
114.	3AN-12-05248CI	36	0
115.	3AN-12-05364CI	38	0
116.	3AN-12-05418CI	57	0
117.	3AN-12-05450CI	46	1
118.	3AN-12-05650CI	29	0
119.	3AN-12-05732CI	49	0
120.	3AN-12-05779CI	93	0
121.	3AN-12-06002CI	58	0
122.	3AN-12-06013CI	39	0
123.	3AN-12-06101CI	43	1
124.	3AN-12-06211CI	37	0
125.	3AN-12-06300CI	52	0
126.	3AN-12-06302CI	39	0
127.	3AN-12-06351CI	32	1
128.	3AN-12-06450CI	50	0
129.	3AN-12-06522CI	47	0

130.	3AN-12-06530CI	52	0
131.	3AN-12-06559CI	136	0
132.	3AN-12-06578CI	35	0
133.	3AN-12-06623CI	36	0
134.	3AN-12-06632CI	41	0
135.	3AN-12-06779CI	250	3
136.	3AN-12-06809CI	31	0
137.	3AN-12-06886CI	43	0
138.	3AN-12-06969CI	74	0
139.	3AN-12-07087CI	29	0
140.	3AN-12-07131CI	185	1
141.	3AN-12-07263CI	30	1
142.	3AN-12-07502CI	21	0
143.	3AN-12-07523CI	159	0
144.	3AN-12-07647CI	39	0
145.	3AN-12-07708CI	39	0
146.	3AN-12-07752CI	78	0
147.	3AN-12-07891CI	68	0
148.	3AN-12-07899CI	44	0
149.	3AN-12-08001CI	64	0
150.	3AN-12-08029CI	57	1
151.	3AN-12-08062CI	71	0
152.	3AN-12-08257CI	56	0
153.	3AN-12-08333CI	94	0
154.	3AN-12-08343CI	47	0
155.	3AN-12-08376CI	53	0
156.	3AN-12-08454CI	56	0
157.	3AN-12-08550CI	35	1
158.	3AN-12-08696CI	43	0
159.	3AN-12-08709CI	49	1
160.	3AN-12-08739CI	26	0
161.	3AN-12-08755CI	108	0
162.	3AN-12-08756CI	52	0
163.	3AN-12-09026CI	52	0
164.	3AN-12-09046CI	71	1
165.	3AN-12-09055CI	30	3
166.	3AN-12-09191CI	30	1
167.	3AN-12-09194CI	36	1
168.	3AN-12-09244CI	38	0
169.	3AN-12-09292CI	16	0
170.	3AN-12-09322CI	57	0
171.	3AN-12-09323CI	50	0
172.	3AN-12-09342CI	31	0
173.	3AN-12-09405CI	38	0
174.	3AN-12-09442CI	36	0

175.	3AN-12-09445CI	51	0
176.	3AN-12-09636CI	28	0
177.	3AN-12-09723CI	30	1
178.	3AN-12-09781CI	31	0
179.	3AN-12-09791CI	22	0
180.	3AN-12-09890CI	43	0
181.	3AN-12-10005CI	32	0
182.	3AN-12-10190CI	57	0
183.	3AN-12-10206CI	42	0
184.	3AN-12-10421CI	32	0
185.	3AN-12-10436CI	32	0
186.	3AN-12-10445CI	199	0
187.	3AN-12-10575CI	39	0
188.	3AN-12-10674CI	64	0
189.	3AN-12-10810CI	59	2
190.	3AN-12-10976CI	98	0
191.	3AN-12-11029CI	39	0
192.	3AN-12-11294CI	39	0
193.	3AN-12-11394CI	270	0
194.	3AN-12-11412CI	36	0
195.	3AN-12-11413CI	20	0
196.	3AN-12-11475CI	29	0
197.	3AN-12-11664CI	39	0
198.	3AN-12-11687CI	39	0
199.	3AN-12-11738CI	90	1
200.	3AN-12-11755CI	39	1
201.	3AN-12-11814CI	45	3
202.	3AN-12-11866CI	35	0
203.	3AN-13-04322CI	43	0
204.	3AN-13-04332CI	73	0
205.	3AN-13-04376CI	53	0
206.	3AN-13-04397CI	57	1
207.	3AN-13-04501CI	63	0
208.	3AN-13-04637CI	101	0
209.	3AN-13-04673CI	35	0
210.	3AN-13-04742CI	80	0
211.	3AN-13-04917CI	102	1
212.	3AN-13-04973CI	56	0
213.	3AN-13-05008CI	38	0
214.	3AN-13-05117CI	16	0
215.	3AN-13-05179CI	51	0
216.	3AN-13-05231CI	9	0
217.	3AN-13-05269CI	67	1
218.	3AN-13-05273CI	29	0
219.	3AN-13-05532CI	26	0

220.	3AN-13-05583CI	36	1
221.	3AN-13-05668CI	31	0
222.	3AN-13-05807CI	46	0
223.	3AN-13-05815CI	43	0
224.	3AN-13-05973CI	32	0
225.	3AN-13-06066CI	37	0
226.	3AN-13-06076CI	61	0
227.	3AN-13-06105CI	18	0
228.	3AN-13-06265CI	39	0
229.	3AN-13-06282CI	43	0
230.	3AN-13-06351CI	44	0
231.	3AN-13-06385CI	49	0
232.	3AN-13-06478CI	37	1
233.	3AN-13-06603CI	37	0
234.	3AN-13-06636CI	24	0
235.	3AN-13-06920CI	65	0
236.	3AN-13-06991CI	31	0
237.	3AN-13-07027CI	24	0
238.	3AN-13-07108CI	49	0
239.	3AN-13-07152CI	49	0
240.	3AN-13-07244CI	43	0
241.	3AN-13-07300CI	34	0
242.	3AN-13-07392CI	45	0
243.	3AN-13-07521CI	22	0
244.	3AN-13-07522CI	90	0
245.	3AN-13-07598CI	149	0
246.	3AN-13-07674CI	36	0
247.	3AN-13-07698CI	20	0
248.	3AN-13-07702CI	49	0
249.	3AN-13-07757CI	44	0
250.	3AN-13-07910CI	39	1
251.	3AN-13-07989CI	42	0
252.	3AN-13-08171CI	43	0
253.	3AN-13-08209CI	43	0
254.	3AN-13-08216CI	51	0
255.	3AN-13-08295CI	35	0
256.	3AN-13-08303CI	51	0
257.	3AN-13-08554CI	39	0
258.	3AN-13-08615CI	33	0
259.	3AN-13-08699CI	28	0
260.	3AN-13-08712CI	39	0
261.	3AN-13-08716CI	153	0
262.	3AN-13-08789CI	21	0
263.	3AN-13-08863CI	53	0
264.	3AN-13-08898CI	44	0

265.	3AN-13-08922CI	22	0
266.	3AN-13-09102CI	53	0
267.	3AN-13-09116CI	127	0
268.	3AN-13-09127CI	24	0
269.	3AN-13-09158CI	37	0
270.	3AN-13-09164CI	38	0
271.	3AN-13-09441CI	32	1
272.	3AN-13-09487CI	46	1
273.	3AN-13-09518CI	32	0
274.	3AN-13-09524CI	87	0
275.	3AN-13-09527CI	30	0
276.	3AN-13-09528CI	34	0
277.	3AN-13-09529CI	28	0
278.	3AN-13-09536CI	43	0
279.	3AN-13-09632CI	38	0
280.	3AN-13-09831CI	32	0
281.	3AN-13-09865CI	49	0
282.	3AN-13-09902CI	40	0
283.	3AN-13-09996CI	31	0
284.	3AN-13-10093CI	32	0
285.	3AN-13-10137CI	43	1
286.	3AN-13-10202CI	36	0
287.	3AN-13-10357CI	46	0
288.	3AN-13-10392CI	102	1
289.	3AN-13-10565CI	28	0
290.	3AN-13-10581CI	32	0
291.	3AN-13-10628CI	35	0
292.	3AN-13-10722CI	30	0
293.	3AN-13-10760CI	57	0
294.	3AN-13-10971CI	50	1
295.	3AN-13-11006CI	22	0
296.	3AN-13-11065CI	21	0
297.	3AN-13-11196CI	50	0
298.	3AN-13-11203CI	83	0
299.	3AN-13-11219CI	38	0
300.	3AN-13-11252CI	22	0
	Mean	**50**	**.18**

Appendix 3. Control Group Cases from 2007-2009

# cases	Case No.	Time to Disposition from Answer	# Motion to Modify w/in 2 Years
1.	3AN-07-04102CI	169	1
2.	3AN-07-04385CI	295	3
3.	3AN-07-04492CI	98	0
4.	3AN-07-04637CI	74	0
5.	3AN-07-04899CI	74	0
6.	3AN-07-05521CI	50	0
7.	3AN-07-05801CI	43	0
8.	3AN-07-06415CI	51	0
9.	3AN-07-06585CI	196	0
10.	3AN-07-06677CI	342	0
11.	3AN-07-06691CI	288	0
12.	3AN-07-07192CI	41	0
13.	3AN-07-07228CI	807	0
14.	3AN-07-07413CI	173	1
15.	3AN-07-07445CI	497	0
16.	3AN-07-07665CI	354	2
17.	3AN-07-08493CI	319	0
18.	3AN-07-08617CI	202	0
19.	3AN-07-08719CI	72	0
20.	3AN-07-08911CI	91	0
21.	3AN-07-09178CI	273	0
22.	3AN-07-09337CI	345	0
23.	3AN-07-09374CI	272	0
24.	3AN-07-09534CI	252	3
25.	3AN-07-10030CI	466	0
26.	3AN-07-10175CI	37	0
27.	3AN-07-10247CI	15	0
28.	3AN-07-11040CI	367	0
29.	3AN-07-11163CI	827	0
30.	3AN-07-11314CI	540	0
31.	3AN-07-11482CI	622	0
32.	3AN-07-11724CI	57	0
33.	3AN-07-12174CI	82	1
34.	3AN-08-04212CI	27	0
35.	3AN-08-04573CI	59	0
36.	3AN-08-04654CI	33	0
37.	3AN-08-04856CI	434	0
38.	3AN-08-04935CI	77	1

39.	3AN-08-05068CI	71	0
40.	3AN-08-05138CI	164	0
41.	3AN-08-05198CI	34	0
42.	3AN-08-05286CI	37	0
43.	3AN-08-05638CI	120	0
44.	3AN-08-05870CI	138	0
45.	3AN-08-05970CI	35	0
46.	3AN-08-06511CI	98	0
47.	3AN-08-06684CI	83	0
48.	3AN-08-06954CI	200	0
49.	3AN-08-07108CI	147	0
50.	3AN-08-07216CI	75	0
51.	3AN-08-07445CI	366	0
52.	3AN-08-07533CI	24	0
53.	3AN-08-08051CI	222	0
54.	3AN-08-08427CI	343	0
55.	3AN-08-08483CI	103	0
56.	3AN-08-08589CI	597	0
57.	3AN-08-08624CI	102	0
58.	3AN-08-08725CI	112	0
59.	3AN-08-09178CI	218	0
60.	3AN-08-09346CI	82	0
61.	3AN-08-09797CI	148	0
62.	3AN-08-09867CI	95	0
63.	3AN-08-10089CI	88	0
64.	3AN-08-10114CI	117	0
65.	3AN-08-10184CI	644	5
66.	3AN-08-10227CI	108	0
67.	3AN-08-10482CI	126	0
68.	3AN-08-10649CI	37	0
69.	3AN-08-10703CI	193	0
70.	3AN-08-10878CI	120	0
71.	3AN-08-10988CI	301	0
72.	3AN-08-11313CI	126	0
73.	3AN-08-11653CI	203	0
74.	3AN-08-11861CI	660	0
75.	3AN-08-12435CI	108	0
76.	3AN-09-04106CI	116	1
77.	3AN-09-04188CI	152	0
78.	3AN-09-04504CI	227	0
79.	3AN-09-04769CI	198	0
80.	3AN-09-04950CI	133	0
81.	3AN-09-05085CI	37	0
82.	3AN-09-05200CI	43	0
83.	3AN-09-05340CI	15	0

84.	3AN-09-05410CI	52	0
85.	3AN-09-05564CI	43	0
86.	3AN-09-05662CI	205	0
87.	3AN-09-05752CI	105	0
88.	3AN-09-05943CI	63	0
89.	3AN-09-06089CI	48	0
90.	3AN-09-06655CI	117	1
91.	3AN-09-06705CI	65	0
92.	3AN-09-06749CI	58	0
93.	3AN-09-06834CI	65	1
94.	3AN-09-06896CI	35	0
95.	3AN-09-07044CI	87	0
96.	3AN-09-07236CI	174	0
97.	3AN-09-07690CI	51	0
98.	3AN-09-07942CI	45	0
99.	3AN-09-08070CI	769	0
100.	3AN-09-08220CI	86	0
101.	3AN-09-08319CI	105	0
102.	3AN-09-08579CI	226	0
103.	3AN-09-08768CI	309	1
104.	3AN-09-09763CI	117	1
105.	3AN-09-09842CI	72	0
106.	3AN-09-09958CI	93	0
107.	3AN-09-10026CI	36	0
108.	3AN-09-10368CI	226	0
109.	3AN-09-10414CI	322	1
110.	3AN-09-10782CI	18	1
111.	3AN-09-10864CI	174	3
112.	3AN-09-11177CI	34	0
113.	3AN-09-11442CI	53	0
114.	3AN-09-11600CI	57	0
115.	3AN-09-11721CI	193	0
116.	3AN-09-11907CI	104	0
117.	3AN-09-12680CI	1701	0
118.	3AN-09-12740CI	133	0
119.	3AN-09-12899CI	77	0
120.	3AN-07-04519CI	52	0
121.	3AN-07-04660CI	58	0
122.	3AN-07-04918CI	551	0
123.	3AN-07-05167CI	96	0
124.	3AN-07-05222CI	101	0
125.	3AN-07-05381CI	148	0
126.	3AN-07-05556CI	437	0
127.	3AN-07-05653CI	316	3
128.	3AN-07-05859CI	280	0

129.	3AN-07-06215CI	60	0
130.	3AN-07-06443CI	534	0
131.	3AN-07-06607CI	77	0
132.	3AN-07-06678CI	43	0
133.	3AN-07-07095CI	186	0
134.	3AN-07-07205CI	509	0
135.	3AN-07-07539CI	109	0
136.	3AN-07-07733CI	29	0
137.	3AN-07-08057CI	342	0
138.	3AN-07-08129CI	35	0
139.	3AN-07-08287CI	113	1
140.	3AN-07-08509CI	42	0
141.	3AN-07-08589CI	133	0
142.	3AN-07-08670CI	272	0
143.	3AN-07-08800CI	43	0
144.	3AN-07-08941CI	99	0
145.	3AN-07-09192CI	87	0
146.	3AN-07-09338CI	508	0
147.	3AN-07-09481CI	66	0
148.	3AN-07-09914CI	350	0
149.	3AN-07-10002CI	281	0
150.	3AN-07-10075CI	55	0
151.	3AN-07-10193CI	58	0
152.	3AN-07-10576CI	102	0
153.	3AN-07-10923CI	84	0
154.	3AN-07-11052CI	136	0
155.	3AN-07-11183CI	84	0
156.	3AN-07-11516CI	91	0
157.	3AN-07-11751CI	80	0
158.	3AN-07-11908CI	62	0
159.	3AN-08-04104CI	24	0
160.	3AN-08-04751CI	53	0
161.	3AN-08-04864CI	133	1
162.	3AN-08-05103CI	121	2
163.	3AN-08-05469CI	285	0
164.	3AN-08-05923CI	55	0
165.	3AN-08-06017CI	273	0
166.	3AN-08-06292CI	11	0
167.	3AN-08-06413CI	44	0
168.	3AN-08-06546CI	598	0
169.	3AN-08-06731CI	56	0
170.	3AN-08-06830CI	68	0
171.	3AN-08-07123CI	137	0
172.	3AN-08-07730CI	51	0
173.	3AN-08-07938CI	171	2

174.	3AN-08-08880CI	170	0
175.	3AN-08-09256CI	65	1
176.	3AN-08-09648CI	178	0
177.	3AN-08-09972CI	74	2
178.	3AN-08-10116CI	28	0
179.	3AN-08-10195CI	357	0
180.	3AN-08-10241CI	63	0
181.	3AN-08-10584CI	152	0
182.	3AN-08-10654CI	30	2
183.	3AN-08-10747CI	35	0
184.	3AN-08-10852CI	101	1
185.	3AN-08-10890CI	30	0
186.	3AN-08-11393CI	139	0
187.	3AN-08-11464CI	37	0
188.	3AN-08-11524CI	48	0
189.	3AN-08-11656CI	282	0
190.	3AN-08-11848CI	274	0
191.	3AN-08-11878CI	218	0
192.	3AN-08-12282CI	58	0
193.	3AN-08-12457CI	108	0
194.	3AN-09-04352CI	64	0
195.	3AN-09-04726CI	62	0
196.	3AN-09-04793CI	61	0
197.	3AN-09-04970CI	259	0
198.	3AN-09-05037CI	128	0
199.	3AN-09-05568CI	30	0
200.	3AN-09-05801CI	154	0
201.	3AN-09-05989CI	561	0
202.	3AN-09-06163CI	190	0
203.	3AN-09-06529CI	122	0
204.	3AN-09-06715CI	238	0
205.	3AN-09-07237CI	58	0
206.	3AN-09-07517CI	86	0
207.	3AN-09-07929CI	72	0
208.	3AN-09-08137CI	79	0
209.	3AN-09-08230CI	60	0
210.	3AN-09-08324CI	135	0
211.	3AN-09-08820CI	10	0
212.	3AN-09-09103CI	325	1
213.	3AN-09-09325CI	111	0
214.	3AN-09-09883CI	73	0
215.	3AN-09-09959CI	102	0
216.	3AN-09-10198CI	53	0
217.	3AN-09-10423CI	135	0
218.	3AN-09-10631CI	120	0

219.	3AN-09-10807CI	42	0
220.	3AN-09-10866CI	1224	3
221.	3AN-09-11111CI	101	1
222.	3AN-09-11564CI	45	0
223.	3AN-09-11722CI	57	0
224.	3AN-09-11857CI	65	1
225.	3AN-09-11929CI	181	0
226.	3AN-09-12272CI	343	0
227.	3AN-09-12694CI	92	1
228.	3AN-09-12932CI	126	0
	Mean	**172**	**.22**

Appendix 4. Table of Costs Per Step in ERP Case Process

Employee	Task	Time in minutes	Ave. salary + benefits	Cost /minute	Cost / Task
Customer service (deputy clerk II)	Customer files complaint and other required documents; Clerk explains process to customer, reviews and notarizes paperwork, makes copies, receipt in and docket filing fee, put receipt # on file, enter party screen in CMS, docket paperwork, assign judge and write it on file, issue summons and standing order, explain docs and service, print label and put on file, tie in paperwork, scan file and put in out basket (if fee waiver request, put red dot on file and route to civil dept.)	Divorce w/o children: 13 minutes Divorce w/ children: 27 minutes Custody: 27 minutes 2 minutes 5 minutes	$73,623	.63	8.19 (div w/o children) 17.01 (div w/ children and custody)
Records Clerk – (deputy clerk II)	Picks up file from customer service basket, scans file to file shelf and puts file back on the shelf in	2 minutes	$72,649	.62	1.24

	the file room				
Records Clerk	After answer is filed, pick up paperwork and clock in sort by case numbers	5 minutes	$72,649	.62	3.10
Civil Clerk (deputy clerk II)	Pick up paperwork in file room by punch clock and return to civil dept. and lay out papers and distributes to assigned civil clerk to process	6 minutes	$76,715	.66	3.96
Civil Clerk - Case manager for that case no.	Get file and tie in paperwork and routes to the FLSHC Dockets answer and additional documents filed. Clerk then goes to the file room gets the file, Tie in the paperwork, fill out a blue routing sheet, scans file to the cart for delivery.	9 minutes	$76,715	.66	5.94
Records Clerk	Picks up file to take to Supply for delivery to FLSHC	5 minutes	$72,649	.62	3.10
Supply Clerk (central services clerk II)	Deliver to FLSHC	8 minutes	$79,215	.68	5.44
Family Law Staff	Receive potential ERP	Divorce w/o children: 6	$124,586	1.06	6.36

Attorney	case, perform Courtview search, and enter basic information into the ERP database (date reviewed, case type, parties' names, case number, assigned judge, complaint and answer dates, DV screen, Courtview screen, and brief summary of parties' proposals)	minutes Divorce with children and custody cases: 12 minutes			12.72
Family Law Staff Attorney	For accepted cases, draft detailed screen notes including parties' financial information, content of any parenting plans and/or property and debt worksheets	Divorce w/o children: 5 minutes Custody and divorce with children but no property: 10 minutes Divorce with children and lots of property: 15 minutes	$124,586	1.06	5.30 10.60 15.90
Family Law Staff Attorney	Docket ERP hearing in Courtview; print addressed envelopes to distribute scheduling order	2 minutes	$124,586	1.06	2.12

Family Law Staff Attorney	Draft scheduling order; copy and mail order	4 minutes	$124,586	1.06	4.24
Family Law Staff Attorney	Prepare case screen notes in MS Word document	1 minute	$124,586	1.06	1.06
Family Law Staff Attorney	Draft attendance sheet	2 minutes	$124,586	1.06	2.12
Family Law Staff Attorney	Draft e-mail to attorney volunteer coordinator providing case information and summary	2 minutes	$124,586	1.06	2.12
Family Law Staff Attorney	Prepare rough drafts of final documents for ERP cases	Divorce w/o children: 3 minutes Custody and divorce with children: 15 minutes (including child support calculations)	$124,586	1.06	3.18 15.90
Family Law Staff Attorney	Discuss mediator assignment with Family Case Services Coordinator	2 minutes (only for cases with children)	$124,586	1.06	2.12
Family Case Services Coordinator	Discuss mediator assignment with FL Staff Attorney	2 minutes (only for cases with children)	$199,811	1.71	3.42
Family Law Staff Attorney	Make reminder phone calls to both parties	3 minutes	$124,586	1.06	3.18
Family Law	Prepare files	3 minutes	$124,586	1.06	3.18

Staff Attorney	for judicial officer review				
Family Law Staff Attorney	Discuss files with judicial officer	1 minutes	$124,586	1.06	1.06
Judicial Officer	Discuss files with FL Staff Attorney	1 minutes	$228,849.50	1.96	1.96
FLSHC Facilitator	Hangs signs, checks in ERP parties, sets up equipment, helps mediators and attorneys with drafting agreements and child support orders	10 minutes	$91,648	.78	7.80
Family Law Staff Attorney	ERP hearing: Prepare courtroom and mediation rooms for ERP; check in parties and show parent education video; draft final paperwork on record; assist judicial officer with issues that arise on record as needed; copy and distribute final paperwork; put away ERP equipment	48 minutes (average per case assuming 6 case calendar and 290 minutes average time spent on typical ERP day (12:40 PM to 5:30 PM)).	$124,586	1.06	50.88
Judicial Officer	Conduct ERP hearing	24 minutes (average per case assuming 6	$228,849.50	1.96	47.04

		case calendar and 144 minutes average time spent on typical ERP cases).			
In-court clerk	Preps courtroom, records hearing and prepares log notes	30 minutes (average per case assuming 6 case calendar and 180 minutes average spent on typical ERP cases).	$77,925	.67	20.10
Family Law Staff Attorney	Log information into outcomes spreadsheet	1 minute	$124,586	1.06	1.06
Supply Clerk	Picks up file from FLSHC and deliver to Records	8 minutes	$79,215	.68	5.44
Records Clerk	Picks up file, scans to deliver to Civil Dept.	5 minutes	$72,649	.62	3.10
Civil Clerk	Picks up file from the sort table, scans file to themselves. Organizes, reviews and ties in loose paperwork. Docket to close file in CMS, making sure all motions are	10 minutes	$76,715	.66	6.60

	resulted out, child support orders have a special docket, Bureau of Vital Statistics form must be filled out and given to the assigned clerk. Stamp “closed” on outside of file. Scan file to the out basket and walks file to the out basket.				
Records Clerk	Picks up file, scans file to shelf and delivers to the shelf.	2 minutes	$72,649	.62	1.24

Total cost / ERP divorce w/o children: $215.65/case

Total cost ERP custody and divorce w/ children and no property: $248.85/case

Total cost ERP divorce w/ children and property: $254.15/case

Appendix 5. Table of Costs Per Step in Divorce and Custody Cases That Use Typical Case Flow Process

Employee	Task	Time in minutes	Ave. salary + benefits	Cost/minute	Cost / Task
Customer service (deputy clerk II)	Customer files complaint and other required documents; Clerk explains process to customer, reviews and notarizes paperwork, makes copies, receipt in and docket filing fee, put receipt # on file, enter party screen in CMS, docket paperwork, assign judge and write it on file, issue summons and standing order, explain docs and service, print label and put on file, tie in paperwork, scan file and put in out basket (if fee waiver request, put red dot on file and route to	Divorce w/o children: 13 minutes Divorce w/ children: 27 minutes Custody: 27 minutes	$73,623	.63	8.19 (div w/o children) 17.01 (div w/ children and custody)

	civil dept.)				
Records Clerk – (deputy clerk II)	Picks up file from customer service basket, scans file to file shelf and puts file back on the shelf in the file room	2 minutes	$72,649	.62	1.24
Records Clerk	After answer is filed, pick up paperwork and clock in sort by case numbers	5 minutes	$72,649	.62	3.10
Civil Clerk (deputy clerk II)	Pick up paperwork in file room by punch clock and return to civil dept. and lay out papers and distributes to assigned civil clerk to process	6 minutes	$76,715	.66	3.96
Civil Clerk - Case manager for that case no.	Get file and tie in paperwork and routes to the FLSHC Dockets answer and additional documents filed. Clerk then goes to the file room gets the file, Tie in the paperwork, fill out a blue	9 minutes	$76,715	.66	5.94

	routing sheet, scans file to the cart for delivery.				
Records Clerk	Picks up file to take to Supply for delivery to FLSHC	5 minutes	$72,649	.62	3.10
Supply Clerk (central services clerk II)	Deliver to FLSHC	8 minutes	$79,215	.68	5.44
FLSHC facilitator	FLSHC schedules for Family Law Education Class, dockets in CMS, preps and prints scheduling notices and envelopes and puts in out basket for mail; file in out basket for supply to pick up	6 minutes	$82,486	.71	4.26
Supply Clerk (central services clerk II)	Picks up file and delivers to records dept.	5 minutes	$79,215	.68	3.40
Records Clerk	Records clerk delivers file to assigned Judge's chamber	8 minutes	$72,649	.62	4.96
Judicial Assistant (JA) (admin assistant I or II)	Schedules initial status / trial setting conference in CMS, prepare a scheduling	4 minutes	$90,454	.77	3.08

	order, prints, copies and mails out. Scan file to out basket.				
Records Clerk	Picks up file, and when arrive at Civil Dept., scan file and deliver to sort table	5 minutes	$72,649	.62	3.10
Civil Clerk	The clerk picks up files from the sort table, then scans file to themselves. The Clerk looks in file, organizes and reviews paperwork. Ties in loose paperwork. Scans file to the out table baskets and walks file to the out basket.	5 minutes	$76,715	.66	3.30
Records Clerk	Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.	2 minutes	$72,649	.62	1.24
Records Clerk	Picks up file from the shelf, scan it, and delivers to judge's chambers on Wednesdays	5 minutes	$72,649	.62	3.10

	for following week's court hearings / trials.				
Judicial Assistant	Runs weekly calendar, puts file in order for each hearing and reviews files prior to hearing.	1 min	$90,454	.77	.77
In court Clerk (deputy clerk III)	Preps courtroom, records initial status / trial setting conference and prepares log notes	32 minutes	$77,925	.67	21.44
Judge	Reviews file, holds initial status / trial setting conference occurs	31 minutes	$293,539	2.51	77.81
Judicial Assistant	Reviews log notes, ties in log notes, result out hearing in CMS, schedules future hearings in CMS, preps, copies and mails out scheduling orders, scan file to out basket	10 minutes	$90,454	.77	7.70
Records Clerk	Picks up file, scans to civil dept. sort table and	5 minutes	$72,649	.62	3.10

	delivers to civil department				
Civil Clerk	The clerk picks up files from the sort table, then scans file to themselves. The Clerk looks in file, organizes and reviews paperwork. Ties in loose paperwork. Scans file to the out table baskets and walks file to the out basket.	5 minutes	$76,715	.66	3.30
Records Clerk	Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.	2 minutes	$76,649	.62	1.24
Records Clerk	Picks up file from the shelf, scan it, and delivers to judge's chambers on Wednesdays for following week's court hearings / trials.	5 minutes	$76,649	.62	3.10
Judicial Assistant	Runs weekly calendar, puts file in order for each hearing	1 min	$90,454	.77	.77

	and reviews file prior to hearing.				
In-court Clerk	Preps courtroom, records pre-trial conference and prepares log notes	25 minutes	$77,925	.67	16.75
Judge	Reviews file, conducts pre-trial conference occurs	48 minutes	$293,539	2.51	120.48
Judicial Assistant	Reviews log notes, ties in log notes, result out hearing in CMS, scan file to out basket	10 minutes	$90,454	.77	7.70
Records Clerk	Picks up file, scans to civil dept. sort table and delivers to civil	5 minutes	$72,649	.62	3.10
Civil Clerk	Clerk picks up files from the sort table, then scans file to themselves. The Clerk looks in file, organizes and reviews paperwork. Ties in loose paperwork. Scans file to the out table baskets and walks file to	5 minutes	$76,715	.66	3.30

	the out basket.				
Records Clerk	Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.	2 minutes	$72,649	.62	1.24
Records Clerk	Picks up file from the shelf, scan it, and delivers to judge's chambers on Wednesdays for following week's court trials.	5 minutes	$72,649	.62	3.10
Records Clerk	Picks up newly filed trial documents and clocks in	6 minutes	$72,649	.62	3.72
Civil Clerk	Picks up paperwork in file room by punch clock and returns to civil dept. and lays out papers and distributes to assigned civil clerk to process	6 minutes	$76,715	.66	3.96
Civil Clerk	Dockets paperwork in CMS, gets file and ties in paperwork, scans and sends to shelf, or routes	6 minutes	$76,715	.66	3.96

	paperwork to where the file is located by putting it on cart				
Judicial Assistant	Runs weekly calendar, puts file in order for trial, reviews files prior to trial.	1 minute	$90,454	.77	.77
In-court Clerk	Preps courtroom, records initial trial and prepares log notes	239 minutes	$77,925	.67	160.13
Judge	Reviews file, conducts trial / settlement conference; may order parties to prepare documents or the Judge or JA will prepare documents.	244 minutes	$293,539	2.51	612.44
Judicial Assistant	Reviews log notes, tie in log notes, result out hearing in CMS.	10 minutes	$90,454	.77	7.70
Judge	Judge prepares final documents (although some may order parties to prepare documents and some ask JA to draft).	153 minutes	$293,539	2.51	384.03

Judicial Assistant	JA prepares final documents, the Judge reviews and signs documents, gives to JA to docket and mail out. Scans file to out basket.	10 minutes	$90,454	.77	7.70
Records Clerk	Picks up file, scans file to child support analyst and delivers	10 minutes	$72,649	.62	6.20
Child Support Analyst	Logs file into data base, reviews file for income, listens to hearing, possibly requests income from CSSD, calculates support, prepares child support order & possible cover order for the judge, scans file to basket or walks file to chambers.	30 minutes	$92,232	.79	23.70
Records Clerk	Picks up file from child support analyst, scans file and delivers to Judge's	10 minutes	$72,649	.62	6.20

	chambers				
Judicial Assistant	Gives child support order and file to judge for reviews and signature.	2 minutes	$90,454	.77	1.54
Judge	Reviews, possibly amends paperwork, signs and gives to Judicial Assistant.	5 minutes	$293,539	2.51	12.55
Judicial Assistant	Finalizes paperwork, dockets in CMS and prints final documents and envelopes for mailing scan file out	10 minutes	$90,454	.77	7.70
Records Clerk	Picks up file, scans to deliver to Civil Dept.	5 minutes	$72,649	.62	3.10
Civil Clerk	Picks up file from the sort table, scans file to themselves. Organizes, reviews and ties in loose paperwork. Docket to close file in CMS, making sure all motions are resulted out, child support orders have a	10 minutes	$76,715	.66	6.60

	special docket, Bureau of Vital Statistics form must be filled out and given to the assigned clerk. Stamp “closed” on outside of file. Scan file to the out basket and walks file to the out basket.				
Records Clerk	Picks up file, scans file to shelf and delivers to the shelf.	2 minutes	$72,649	.62	1.24

Total cost/ case for Divorce w/o children: $1585.55

Total cost / case for Divorce w/ children and Custody: $1594.37

Appendix 6. Table of Costs Per Step in Motion Process

Employee	Task	Time in minutes	Ave. salary + benefits	Cost/minute	Cost / Task
Records clerk	picks up motion paperwork from box and clocks in motion	6 minutes	$72,649	.62	3.72
Civil clerk	picks up the motion and disperses to the assigned clerk	6 minutes	$76,715	.66	3.96
Civil clerk	If file is in chambers, gives the motion with a routing sheet to legal tech (LT), but if the file is on the shelf, gets the file and gives motion to LT.	6 minutes if in chambers, 8 minutes if on shelf	$76,715	.66	3.96 or 5.28
Legal tech	dockets motion and puts file in the out basket to be routed to the shelf; if the file is in chambers, routes the motion to the file by putting the paperwork on the cart	5 minutes	$89,269	.76	3.80
Records clerk	picks up paperwork from box and clocks in opposition /	6 minutes	$72,649	.62	3.72

	response				
Civil clerk (case manager)	picks up the opposition / response and disperses to the assigned clerk	6 minutes	$76,715	.66	3.96
Civil clerk (case manager)	if the file is in chambers, dockets the opposition / response, attaches routing sheet and puts on the cart to be routed to chambers; if the file is on the shelf, dockets the opposition / response, puts into the file and puts file on the out table	7 minutes	$76,715	.66	4.62
Records clerk	picks up paperwork from box and clocks in reply	6 minutes	$72,649	.62	3.72
Civil clerk	picks up the reply and disperses to the assigned clerk	6 minutes	$76,715	.66	3.96
Civil clerk	If file is in chambers, gives the reply with a routing sheet to LT; if the file is on the shelf, gets file and	2 minutes or 4 minutes	$76,715	.66	1.32 or 2.64

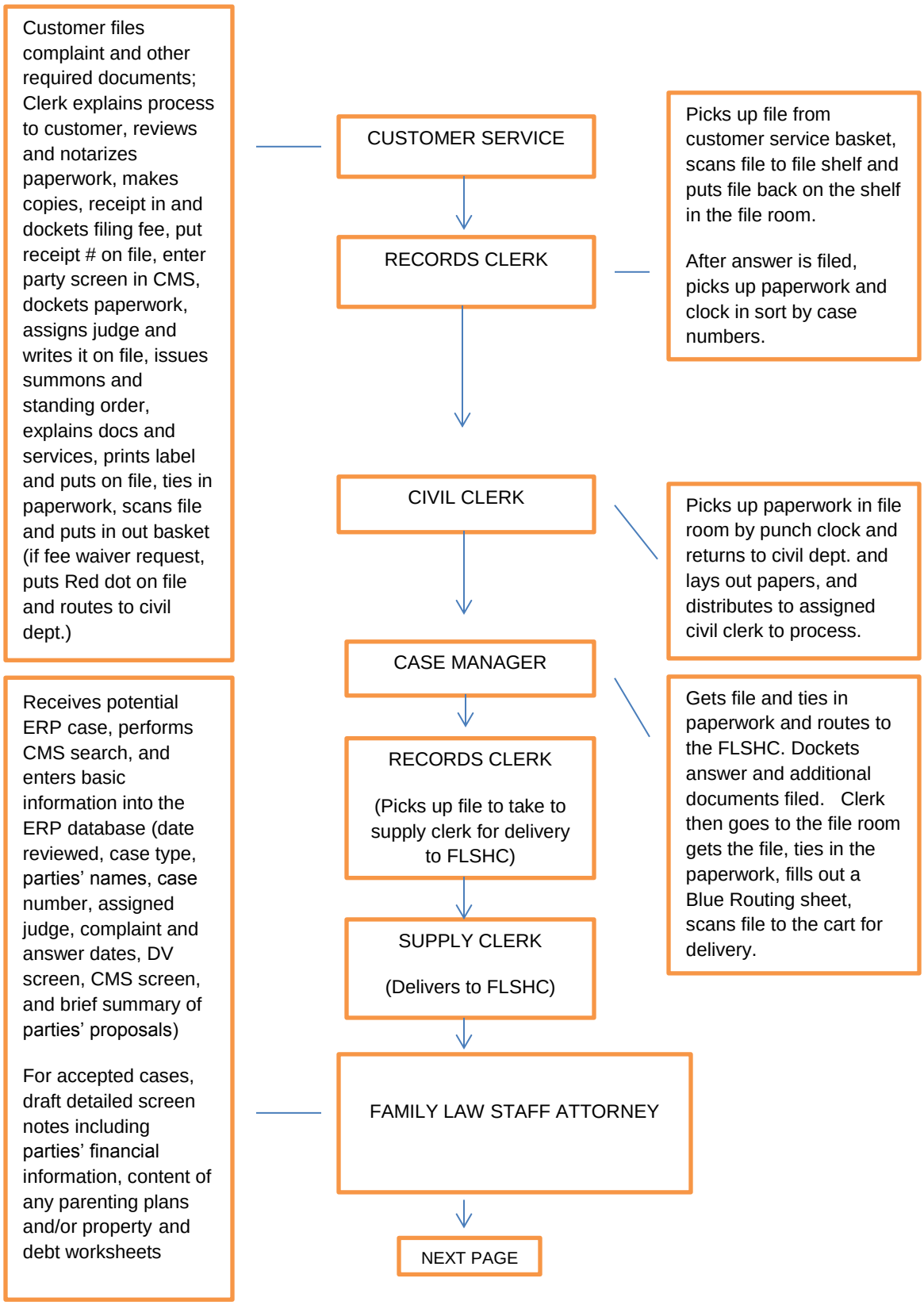
	gives reply to LT.				
Legal tech	dockets reply and puts file on the cart to be routed to chambers	5 minutes	$89,269	.76	3.80
Records Clerk	Picks up file from the cart in civil div., scans it, and delivers to judge's chambers.	5 minutes	$72,649	.62	3.10
Judicial Assistant	Reviews filing and gives to judge.	1 minute	$90,454	.77	.77
Judge	Reviews filing and tells JA to set a hearing	5 minutes	$293,539	2.51	12.55
Judicial Assistant	Schedules motion hearing in CMS, prepares a scheduling order, prints, copies and mails out. Scan file to out basket.	4 minutes	$90,454	.77	3.08
Records Clerk	Picks up file, and when arrive at Civil Dept., scan file and deliver to sort table	5 minutes	$72,649	.62	3.10
Civil Clerk	The clerk picks up files from the sort table, then scans file to themselves. The Clerk	5 minutes	$76,715	.66	3.30

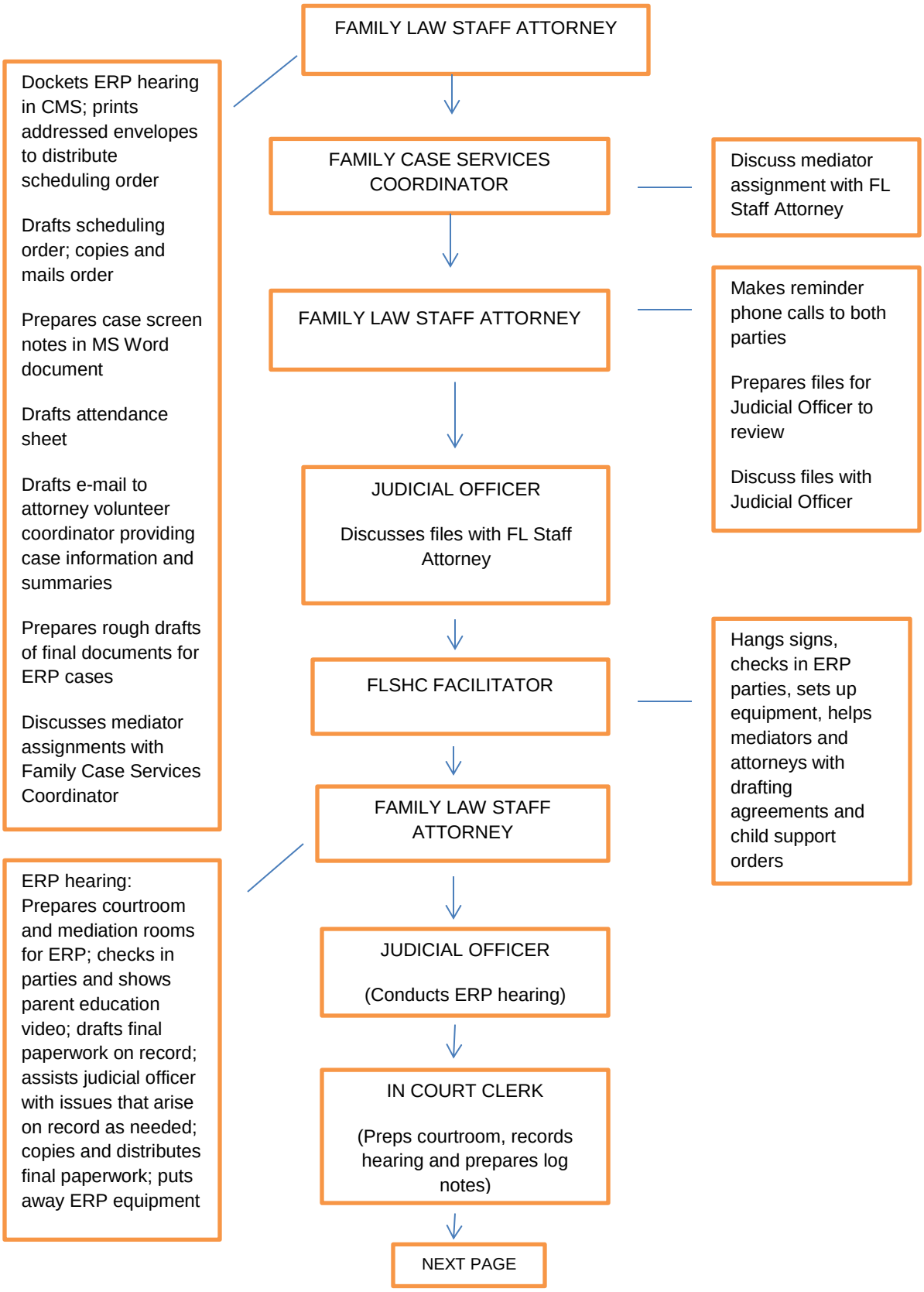
	looks in file, organizes and reviews paperwork. Ties in loose paperwork. Scans file to the out table baskets and walks file to the out basket.				
Records Clerk	Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.	2 minutes	$72,649	.62	1.24
Records Clerk	Picks up file from the shelf, scan it, and delivers to judge's chambers	5 minutes	$72,649	.62	3.10
Judicial Assistant	Reviews file prior to hearing, searches CMS for other relevant cases and gets those files, and gives judge	5 minutes	$90,454	.77	3.85
In court Clerk (deputy clerk III)	Preps courtroom, records motion hearing and types log notes	40 minutes 70 minutes 130 minutes	$77,925	.67	26.80 46.90 87.10
Judge	Reviews file, holds motion hearing	40 minutes 70 minutes	$293,539	2.51	100.40 175.70

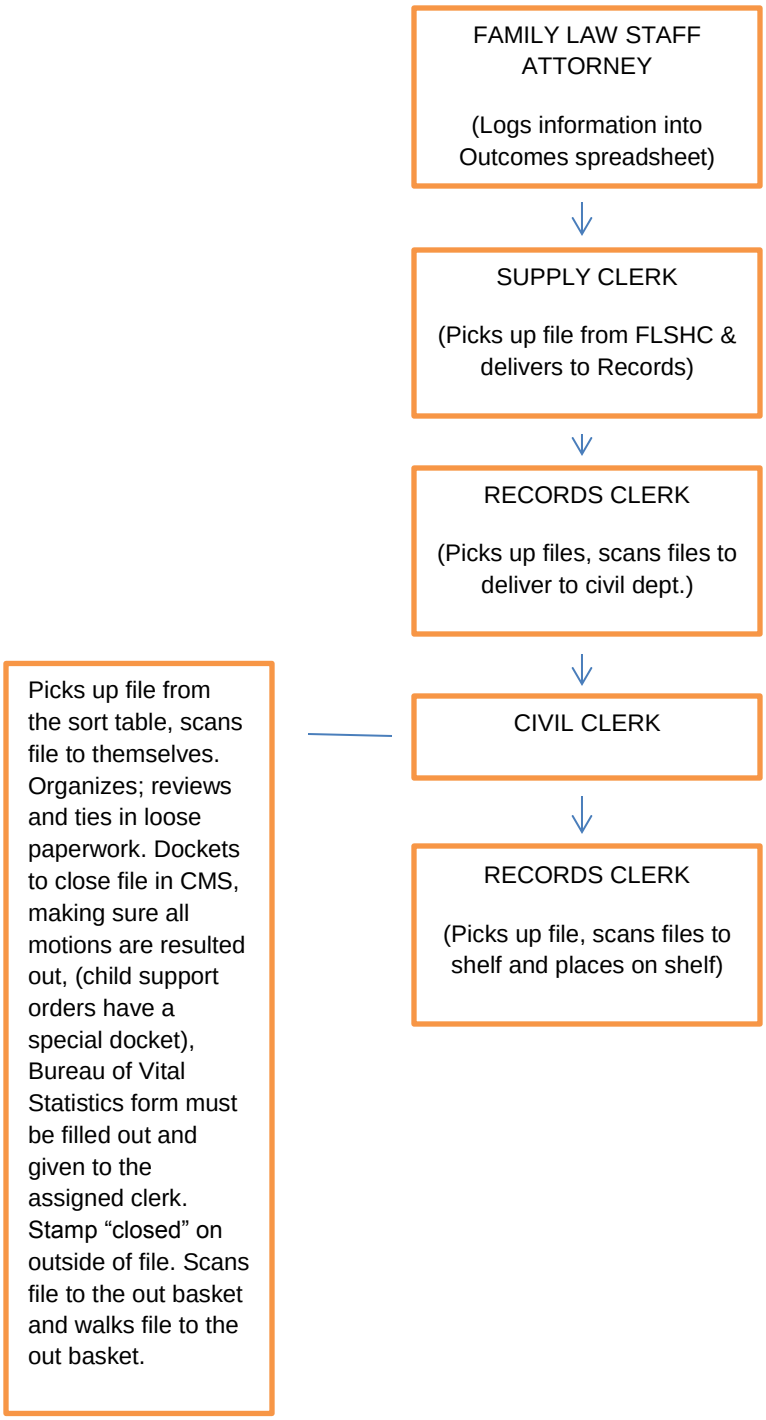
		130 minutes			326.30
Judge	Writes decision or provides JA instructions about typing up decision	30 minutes	$293,539	2.51	75.30
Judicial Assistant	Reviews log notes, ties in log notes, may listen to hearing and type decision and provides to judge for signature,	7-30 minutes	$90,454	.77	5.39 – 23.10
Judge	Reviews and signs decision and gives file to JA	5 minutes	$293,539	2.51	12.55
Judicial Assistant	ties in log notes, result out hearing in CMS, schedules future hearings in CMS, preps, copies and mails out decision, scans file to out basket	10 minutes	$90,454	.77	7.70
Records Clerk	Picks up file, scans to civil dept. sort table and delivers to civil department	5 minutes	$72,649	.62	3.10

Cost for motion hearings	**Range of costs**
30 minute hearing	$305.87- $326.22
60 minute hearing	$401.27 - $421.62
120 minute hearing	$592.07 - $612.42

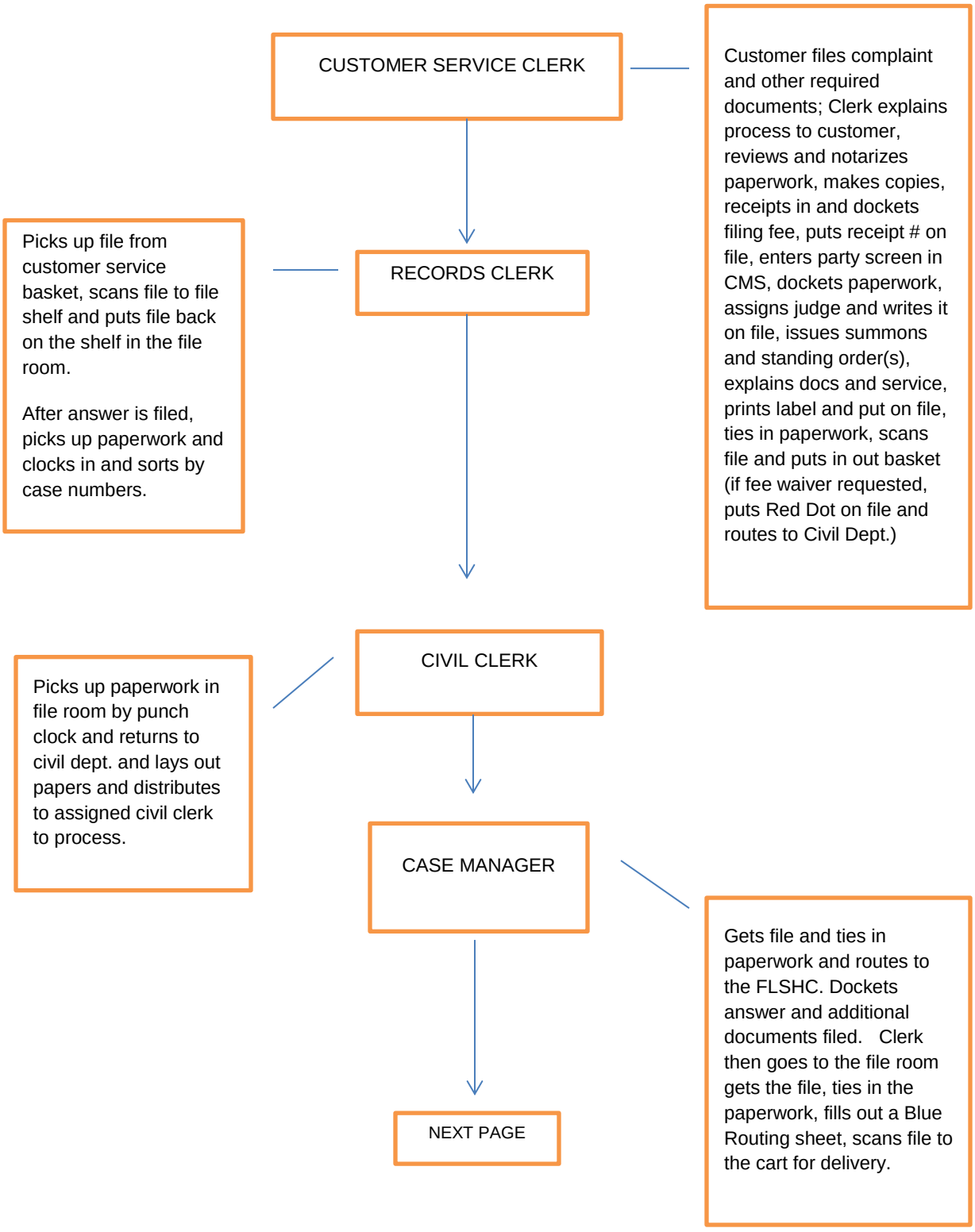
Appendix 7. ERP Process Flow Chart

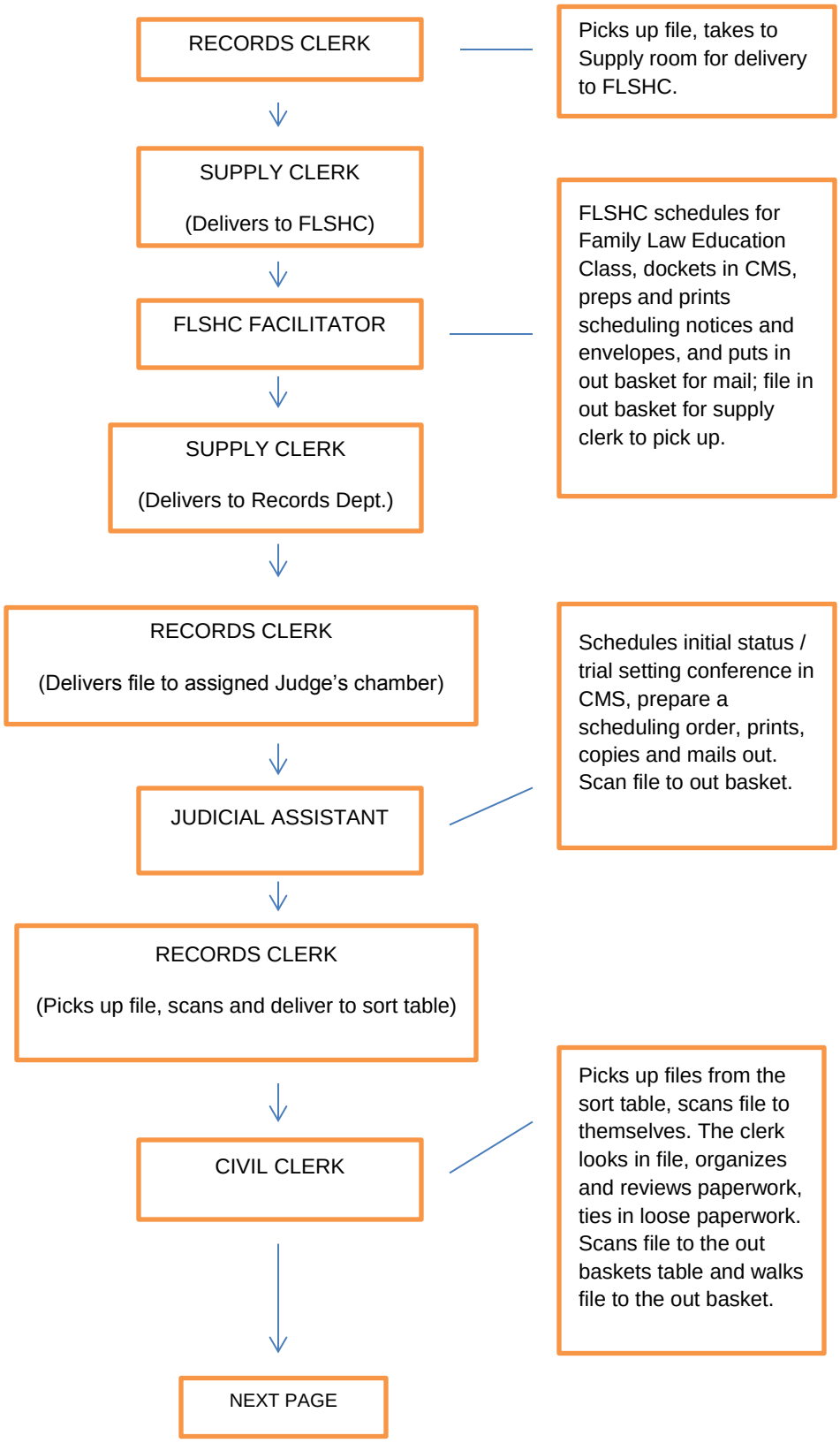


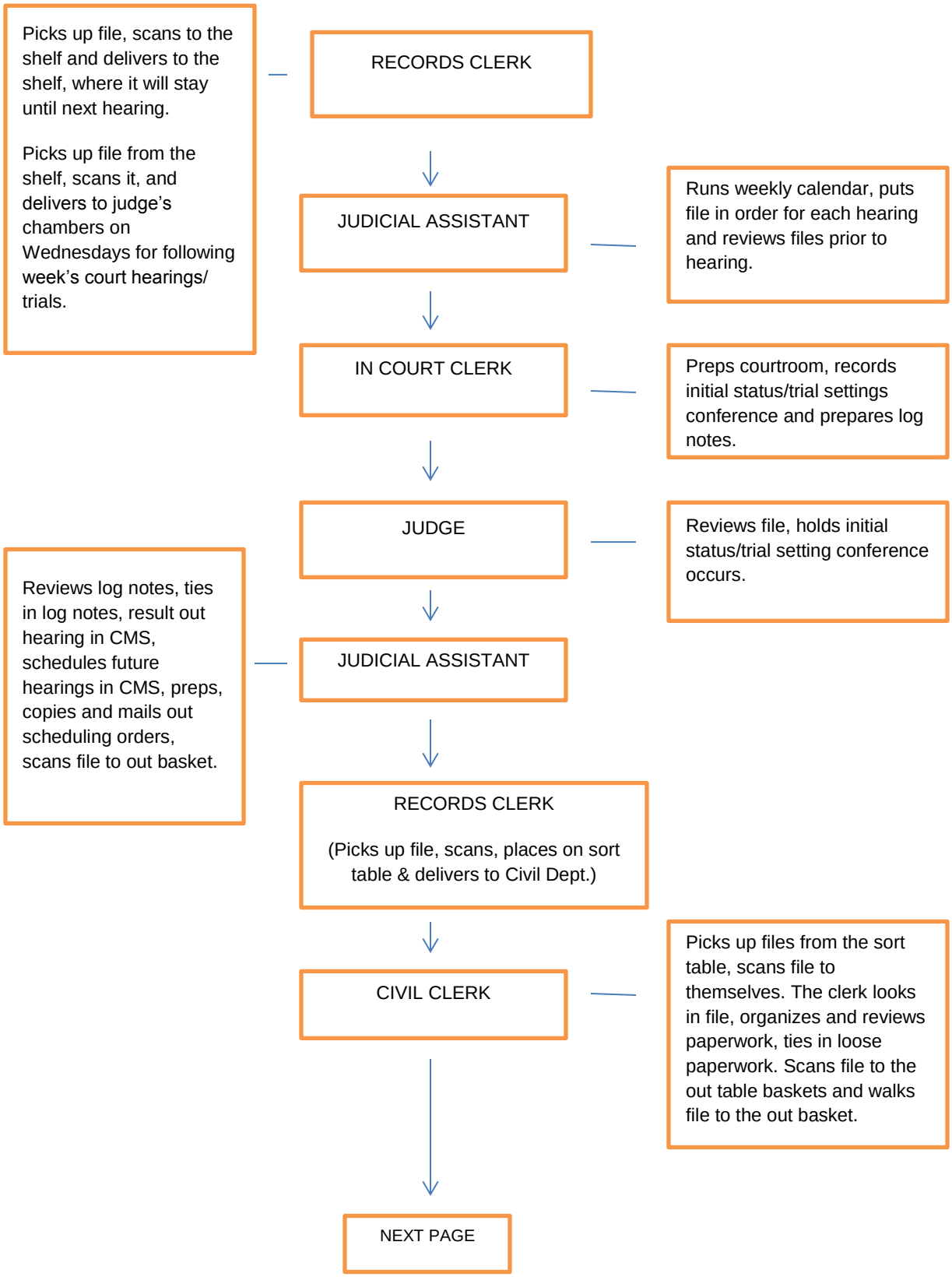

FAMILY LAW STAFF ATTORNEY
Dockets ERP hearing in CMS; prints addressed envelopes to distribute scheduling order
Drafts scheduling order; copies and mails order
Prepares case screen notes in MS Word document
Drafts attendance sheet
Drafts e-mail to attorney volunteer coordinator providing case information and summaries
Prepares rough drafts of final documents for ERP cases
Discusses mediator assignments with Family Case Services Coordinator
FAMILY CASE SERVICES COORDINATOR
Discuss mediator assignment with FL Staff Attorney
FAMILY LAW STAFF ATTORNEY
Makes reminder phone calls to both parties
Prepares files for Judicial Officer to review
Discuss files with Judicial Officer
JUDICIAL OFFICER
Discusses files with FL Staff Attorney
FLSHC FACILITATOR
Hangs signs, checks in ERP parties, sets up equipment, helps mediators and attorneys with drafting agreements and child support orders
FAMILY LAW STAFF ATTORNEY
ERP hearing: Prepares courtroom and mediation rooms for ERP; checks in parties and shows parent education video; drafts final paperwork on record; assists judicial officer with issues that arise on record as needed; copies and distributes final paperwork; puts away ERP equipment
JUDICIAL OFFICER
(Conducts ERP hearing)
IN COURT CLERK
(Preps courtroom, records hearing and prepares log notes)
NEXT PAGE

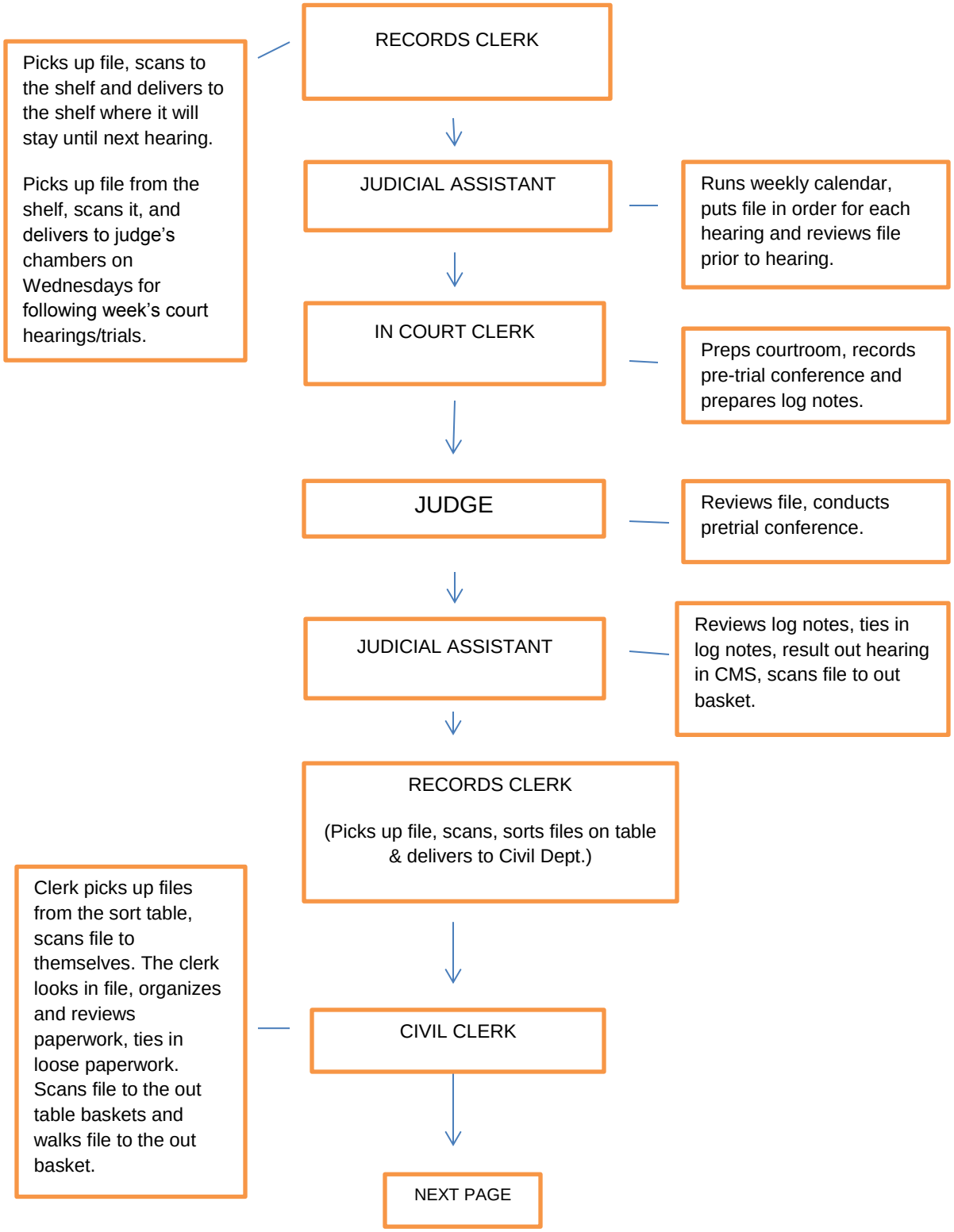

FAMILY LAW STAFF ATTORNEY
(Logs information into Outcomes spreadsheet)
SUPPLY CLERK
(Picks up file from FLSHC & delivers to Records)
RECORDS CLERK
(Picks up files, scans files to deliver to civil dept.)
CIVIL CLERK
Picks up file from the sort table, scans file to themselves. Organizes; reviews and ties in loose paperwork. Dockets to close file in CMS, making sure all motions are resulted out, (child support orders have a special docket), Bureau of Vital Statistics form must be filled out and given to the assigned clerk. Stamp “closed” on outside of file. Scans file to the out basket and walks file to the out basket.
RECORDS CLERK
(Picks up file, scans files to shelf and places on shelf)

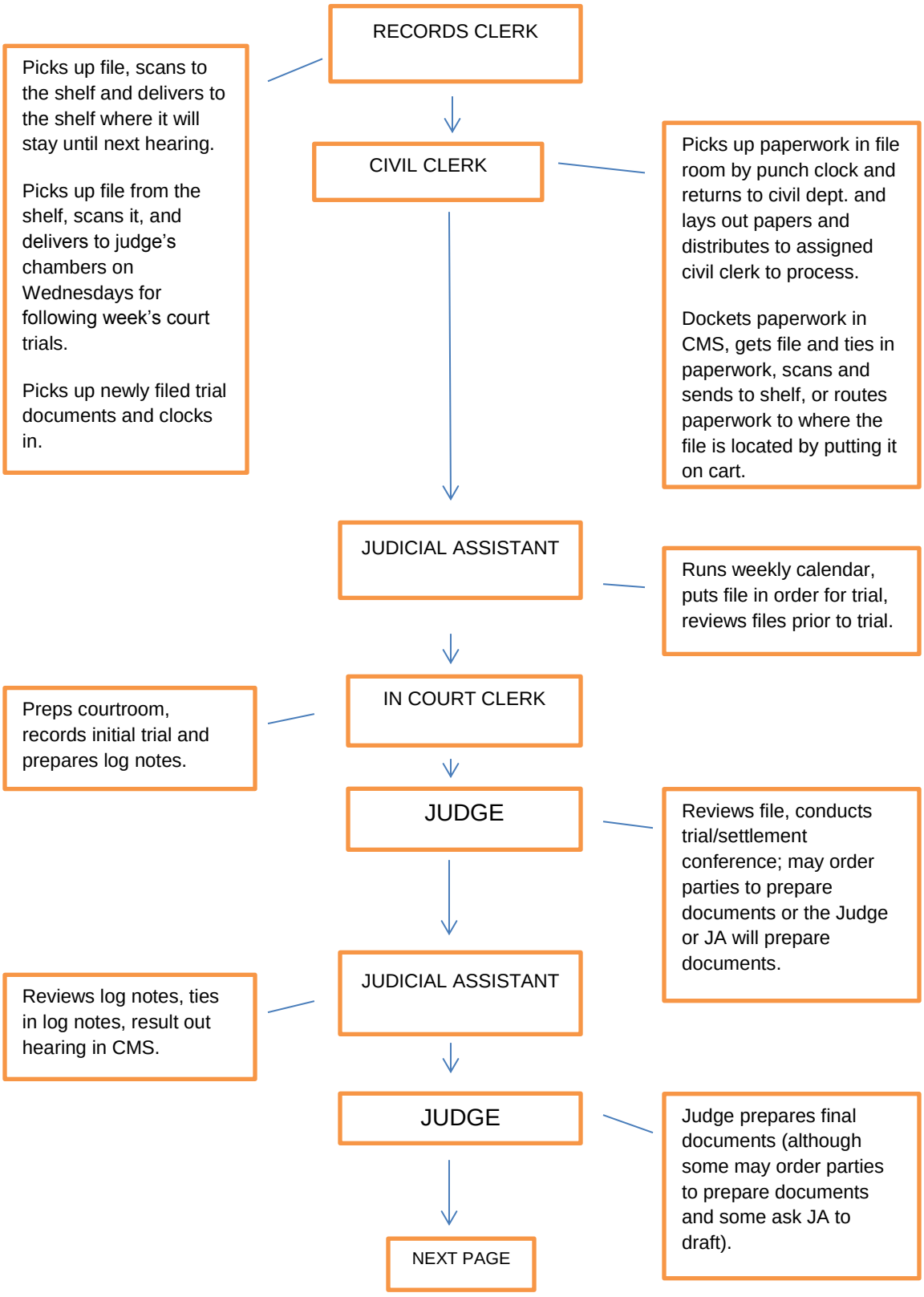
Appendix 8. Typical Divorce and Custody Flow Chart

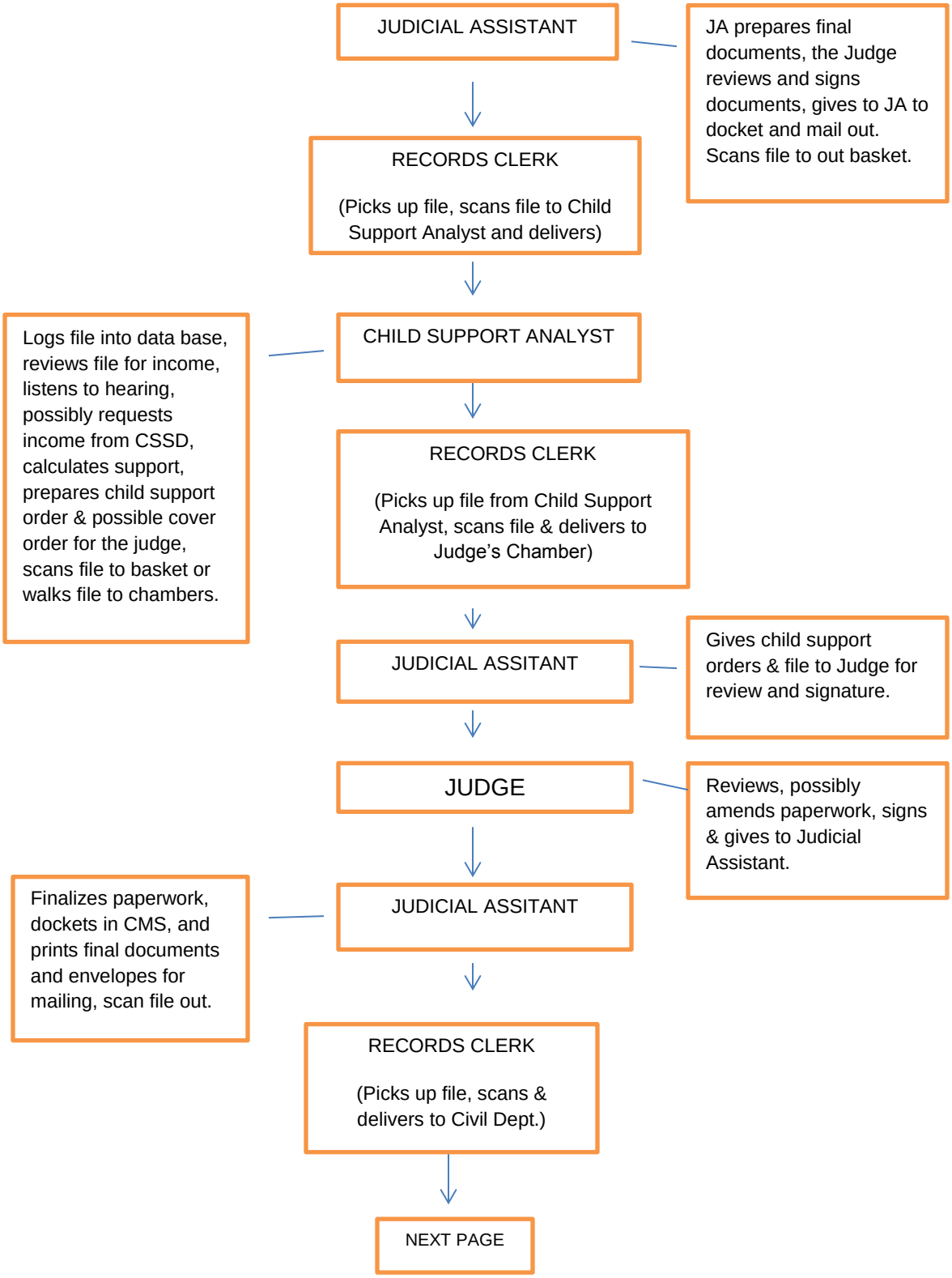


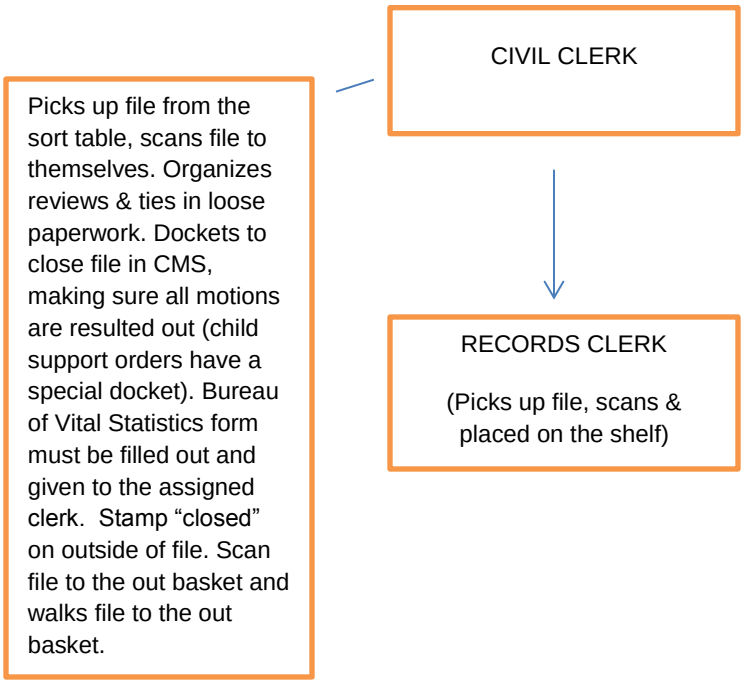

RECORDS CLERK
Picks up file, takes to Supply room for delivery to FLSHC.
SUPPLY CLERK
(Delivers to FLSHC)
FLSHC FACILITATOR
FLSHC schedules for Family Law Education Class, dockets in CMS, preps and prints scheduling notices and envelopes, and puts in out basket for mail; file in out basket for supply clerk to pick up.
SUPPLY CLERK
(Delivers to Records Dept.)
RECORDS CLERK
(Delivers file to assigned Judge's chamber)
JUDICIAL ASSISTANT
Schedules initial status / trial setting conference in CMS, prepare a scheduling order, prints, copies and mails out. Scan file to out basket.
RECORDS CLERK
(Picks up file, scans and deliver to sort table)
CIVIL CLERK
Picks up files from the sort table, scans file to themselves. The clerk looks in file, organizes and reviews paperwork, ties in loose paperwork. Scans file to the out baskets table and walks file to the out basket.
NEXT PAGE


Picks up file, scans to the shelf and delivers to the shelf, where it will stay until next hearing.
Picks up file from the shelf, scans it, and delivers to judge's chambers on Wednesdays for following week's court hearings/ trials.
RECORDS CLERK
JUDICIAL ASSISTANT
Runs weekly calendar, puts file in order for each hearing and reviews files prior to hearing.
IN COURT CLERK
Preps courtroom, records initial status/trial settings conference and prepares log notes.
JUDGE
Reviews file, holds initial status/trial setting conference occurs.
Reviews log notes, ties in log notes, result out hearing in CMS, schedules future hearings in CMS, preps, copies and mails out scheduling orders, scans file to out basket.
JUDICIAL ASSISTANT
RECORDS CLERK
(Picks up file, scans, places on sort table & delivers to Civil Dept.)
CIVIL CLERK
Picks up files from the sort table, scans file to themselves. The clerk looks in file, organizes and reviews paperwork, ties in loose paperwork. Scans file to the out table baskets and walks file to the out basket.
NEXT PAGE

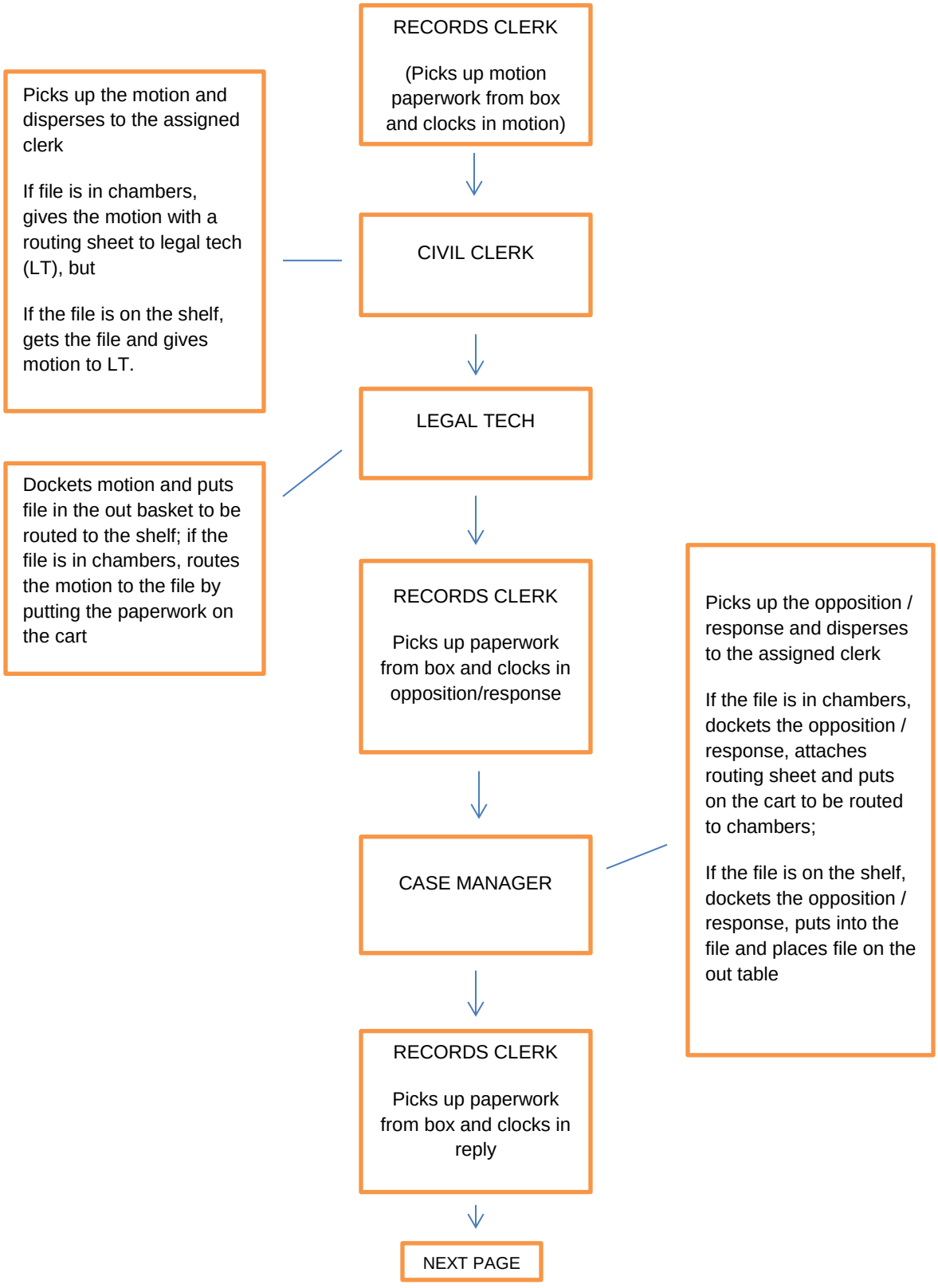

RECORDS CLERK
Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.
Picks up file from the shelf, scans it, and delivers to judge's chambers on Wednesdays for following week's court hearings/trials.
JUDICIAL ASSISTANT
Runs weekly calendar, puts file in order for each hearing and reviews file prior to hearing.
IN COURT CLERK
Preps courtroom, records pre-trial conference and prepares log notes.
JUDGE
Reviews file, conducts pretrial conference.
JUDICIAL ASSISTANT
Reviews log notes, ties in log notes, result out hearing in CMS, scans file to out basket.
RECORDS CLERK
(Picks up file, scans, sorts files on table & delivers to Civil Dept.)
CIVIL CLERK
Clerk picks up files from the sort table, scans file to themselves. The clerk looks in file, organizes and reviews paperwork, ties in loose paperwork. Scans file to the out table baskets and walks file to the out basket.
NEXT PAGE

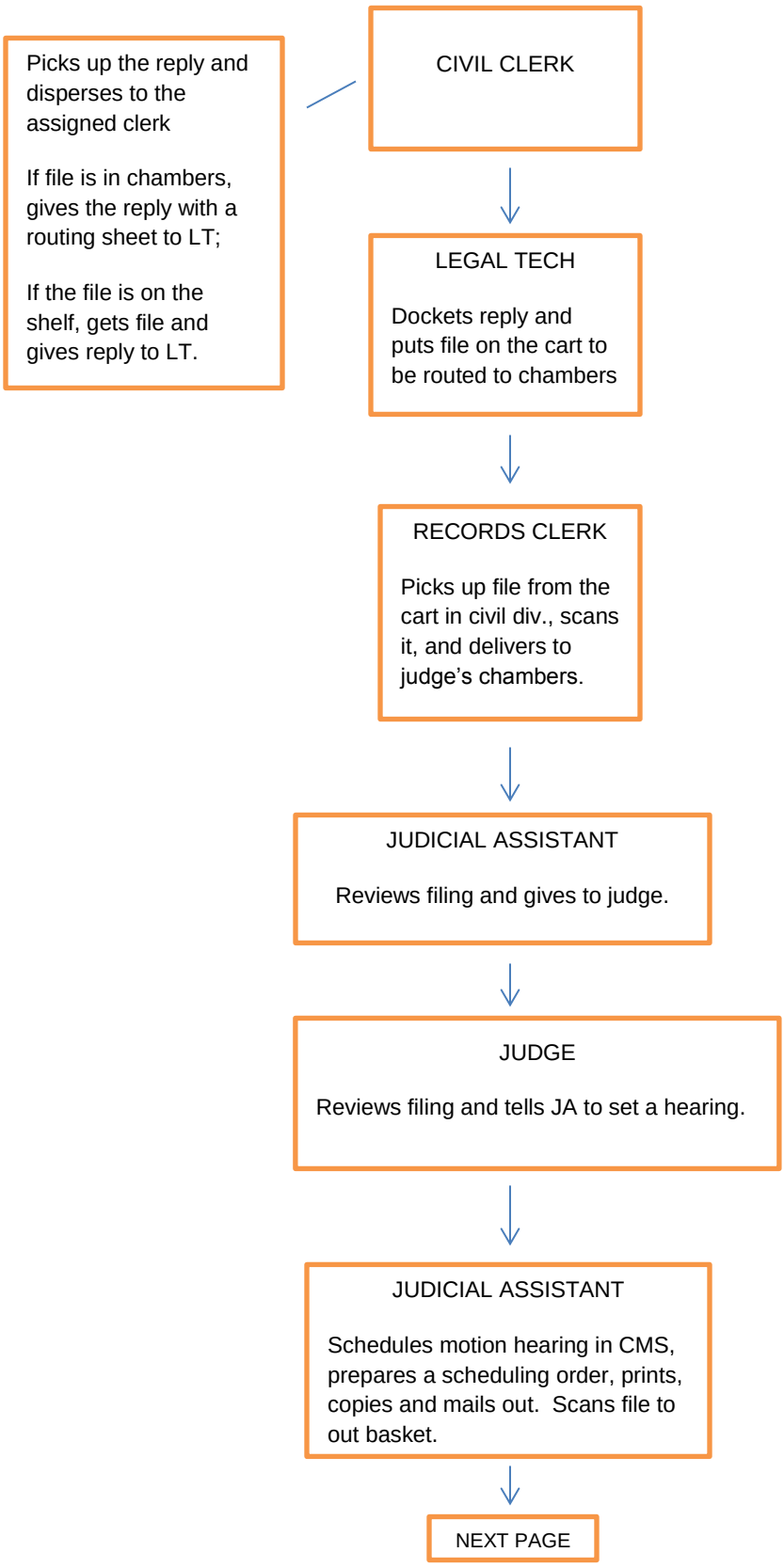

RECORDS CLERK
Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.
Picks up file from the shelf, scans it, and delivers to judge's chambers on Wednesdays for following week's court trials.
Picks up newly filed trial documents and clocks in.
CIVIL CLERK
Picks up paperwork in file room by punch clock and returns to civil dept. and lays out papers and distributes to assigned civil clerk to process.
Dockets paperwork in CMS, gets file and ties in paperwork, scans and sends to shelf, or routes paperwork to where the file is located by putting it on cart.
JUDICIAL ASSISTANT
Runs weekly calendar, puts file in order for trial, reviews files prior to trial.
IN COURT CLERK
Preps courtroom, records initial trial and prepares log notes.
JUDGE
Reviews file, conducts trial/settlement conference; may order parties to prepare documents or the Judge or JA will prepare documents.
JUDICIAL ASSISTANT
Reviews log notes, ties in log notes, result out hearing in CMS.
JUDGE
Judge prepares final documents (although some may order parties to prepare documents and some ask JA to draft).
NEXT PAGE


JUDICIAL ASSISTANT
JA prepares final documents, the Judge reviews and signs documents, gives to JA to docket and mail out. Scans file to out basket.
RECORDS CLERK
(Picks up file, scans file to Child Support Analyst and delivers)
Logs file into data base, reviews file for income, listens to hearing, possibly requests income from CSSD, calculates support, prepares child support order & possible cover order for the judge, scans file to basket or walks file to chambers.
CHILD SUPPORT ANALYST
RECORDS CLERK
(Picks up file from Child Support Analyst, scans file & delivers to Judge's Chamber)
JUDICIAL ASSITANT
Gives child support orders & file to Judge for review and signature.
JUDGE
Reviews, possibly amends paperwork, signs & gives to Judicial Assistant.
Finalizes paperwork, dockets in CMS, and prints final documents and envelopes for mailing, scan file out.
JUDICIAL ASSITANT
RECORDS CLERK
(Picks up file, scans & delivers to Civil Dept.)
NEXT PAGE


CIVIL CLERK
Picks up file from the sort table, scans file to themselves. Organizes reviews & ties in loose paperwork. Dockets to close file in CMS, making sure all motions are resulted out (child support orders have a special docket). Bureau of Vital Statistics form must be filled out and given to the assigned clerk. Stamp “closed” on outside of file. Scan file to the out basket and walks file to the out basket.
RECORDS CLERK
(Picks up file, scans & placed on the shelf)

Appendix 9. Motion Process Flow Chart




CIVIL CLERK
Picks up the reply and disperses to the assigned clerk
If file is in chambers, gives the reply with a routing sheet to LT;
If the file is on the shelf, gets file and gives reply to LT.
LEGAL TECH
Dockets reply and puts file on the cart to be routed to chambers
RECORDS CLERK
Picks up file from the cart in civil div., scans it, and delivers to judge's chambers.
JUDICIAL ASSISTANT
Reviews filing and gives to judge.
JUDGE
Reviews filing and tells JA to set a hearing.
JUDICIAL ASSISTANT
Schedules motion hearing in CMS, prepares a scheduling order, prints, copies and mails out. Scans file to out basket.
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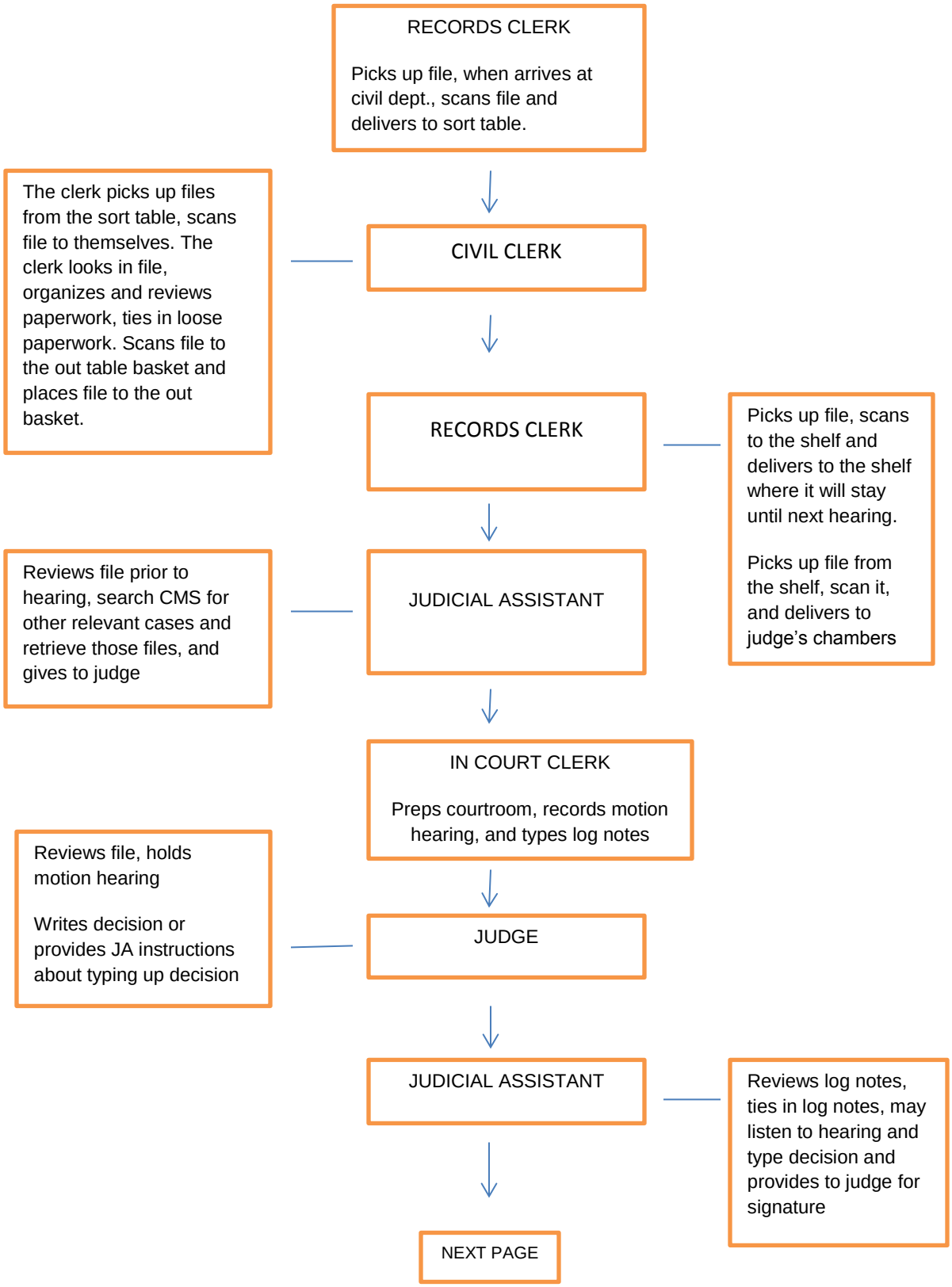
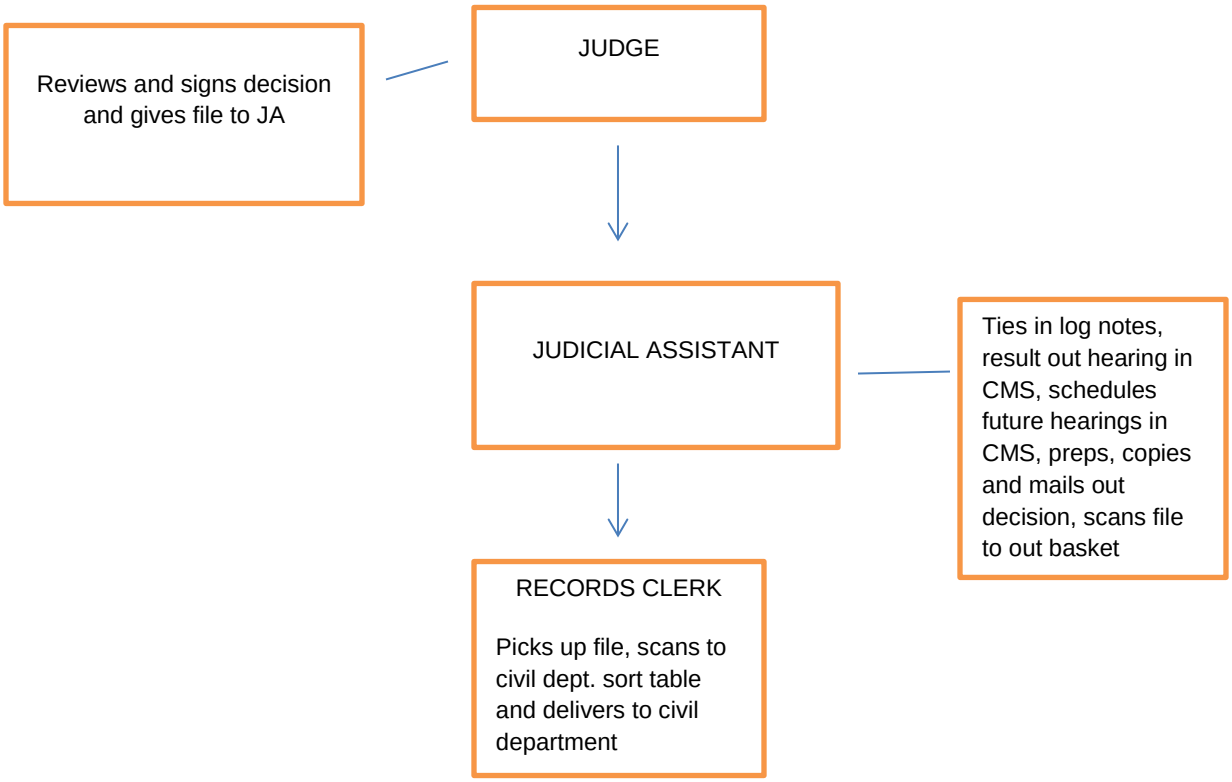
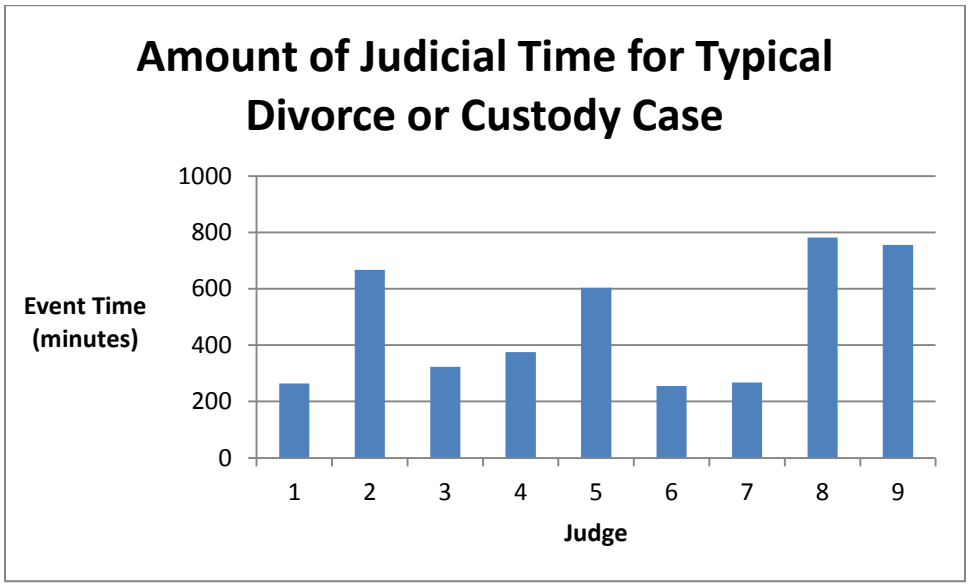

RECORDS CLERK
Picks up file, when arrives at civil dept., scans file and delivers to sort table.
The clerk picks up files from the sort table, scans file to themselves. The clerk looks in file, organizes and reviews paperwork, ties in loose paperwork. Scans file to the out table basket and places file to the out basket.
CIVIL CLERK
RECORDS CLERK
Picks up file, scans to the shelf and delivers to the shelf where it will stay until next hearing.
Picks up file from the shelf, scan it, and delivers to judge's chambers
Reviews file prior to hearing, search CMS for other relevant cases and retrieve those files, and gives to judge
JUDICIAL ASSISTANT
IN COURT CLERK
Preps courtroom, records motion hearing, and types log notes
Reviews file, holds motion hearing
Writes decision or provides JA instructions about typing up decision
JUDGE
JUDICIAL ASSISTANT
Reviews log notes, ties in log notes, may listen to hearing and type decision and provides to judge for signature
NEXT PAGE


JUDGE
Reviews and signs decision and gives file to JA
JUDICIAL ASSISTANT
Ties in log notes, result out hearing in CMS, schedules future hearings in CMS, preps, copies and mails out decision, scans file to out basket
RECORDS CLERK
Picks up file, scans to civil dept. sort table and delivers to civil department

Appendix 10. Amount of Judicial Time for Typical Divorce or Custody Case

	J1	J2	J3	J4	J5	J6	J7	J8	J 9	Total minutes	Ave. min.
Event											
Trial Setting Conference	6	22	23	30	49	45	20	40	46	281	31
Pre-Trial Conference	6	15	0	15	15	90	7	270	15	433	48
Trial/Settlement	252	450	150	270	240	120	240	172	305	2199	244
Preparation / Document Drafting	0	180	150	60	300	0	0	300	390	1380	153
Total	264	667	323	375	604	255	267	782	756	4293	477

Average minutes per judge / case: 477 minutes (7.95 hours)



Appendix 11. Email request to Anchorage Superior Court Judges Regarding Time Spent

Dear Judge,

For the last 2 years, I've been participating in the NCSC court executive fellows program. The final phase is a large research project and for that, I've been doing an evaluation of the ERP program. I've reviewed 400 files from 2007-09 to get my control group by looking at the initial documents - complaint, answer, financials, property and debt worksheets, and the parties' Courtview history until the answer date to determine if we'd take the case into ERP (had it existed at that time). I'm comparing the control group to the ERP group of cases from 2011-13 and comparing the time to disposition and rate of motions to modify. I'm also looking at cost per case which is where I need your help. With help from various staff members, I have a long flow chart of the average course a divorce or custody case takes from start to finish and noted how long each step takes down to the minute. Where I need help is understanding a ball park of how much prep time it takes a judge before and after hearings and how a judge may use their law clerks and other staff (JA, child support analyst) in a run of the mill divorce or custody case with two self-represented parties.

On average, a case has three events before the judge:

- Initial status / trial scheduling conference – do you schedule 15 minutes? 30 minutes? For the actual court time.

- Trial call – 15 minutes? 30 minutes scheduled for actual court time?

- Trial / final hearing – 2 hours? 3 hours? 4 hours for actual court time?

I'm hoping you can estimate the number of minutes you spend before and after these events – reading the file, any research, drafting documents? Do you send any routine work to law clerks in divorce / custody cases?

I know every case is different and I'm identifying as many of the variables as I can think of (expedited motions, regular motions, DVPOs, etc.) so don't worry about all of the random possibilities. I'm after the garden variety case prep.

I'm surveying other judges too. I'm aggregating the info and not naming any judges so people don't have to worry that they will be pegged as too slow or too fast, etc. There is no value judgment. Just trying to figure out the cost of an average case involving two self-represented parties.

Thanks,
Stacey

Stacey Marz
Director, Family Law Self-Help Center
Alaska Court System
820 W. 4th Ave.
Anchorage, AK 99501
(907) 264-0877