



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2011

Title	Agenda Item Type
Family Law: Family Centered Case Resolution	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rule 5.83; approve forms FL-172 and FL-174	January 1, 2012
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	October 25, 2011
Hon. Kimberly J. Nystrom-Geist, Cochair	Contact
Hon. Dean Stout, Cochair	Deborah J. Chase, 415-865-7598, deborah.chase@jud.ca.gov
Elkins Family Law Implementation Task Force	
Hon. Laurie D. Zelon, Chair	

Executive Summary

The Family and Juvenile Law Advisory Committee and the Elkins Family Law Implementation Task Force recommend that the Judicial Council adopt rule 5.83 of the California Rules of Court including the framework for a family centered caseflow resolution process to be implemented by January 1, 2013 and suggested dispositional goals that apply to cases filed on or after January 1, 2014. The rule implements changes to Family Code sections 2450–2451¹ made by Assembly Bill 939 (Assembly Committee on Judiciary; Stats. 2010, ch. 352)², which allow judges discretion to implement a family centered case resolution case management plan without the need for a stipulation from the parties and which also require the council to adopt a rule of court

¹ Available: <http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=71593122281+0+0+0&WAIAction=retrieve>

² Available: http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0901-0950/ab_939_bill_20100927_chaptered.pdf

implementing family centered case resolution by January 1, 2012. The task force and the committee also recommend that the Judicial Council approve two optional forms that provide the court with additional tools to implement family centered case resolution.

Recommendation

The Family and Juvenile Law Advisory Committee and the Elkins Family Law Implementation Task Force recommend that the Judicial Council, effective January 1, 2012:

1. Adopt rule 5.83 of the California Rules of Court that implements Family Code sections 2450–2451 including the framework for a family centered caseflow resolution process that by January 1, 2013, will keep track of, organize, and manage family law cases to reach fair and timely dispositions, will provide judges with the information they need to exercise their discretion to order family centered case resolution plans, and suggest dispositional goals that apply to cases filed on or after January 1, 2014.
2. Approve *Case Information-Family Law* (new form FL-172) as an optional form designed to facilitate case file review and provide judicial officers with a quick reference to general information about the case; and
3. Approve *Family Centered Case Resolution Order* (new form FL-174) as an optional form designed to provide the parties and the court with a written record of decisions made during a family centered case resolution conference.

The text of the proposed rule and the forms are attached at pages 11–20.

Previous Council Action

The Judicial Council supported Assembly Bill 939. On April 23, 2010, the council accepted the Elkins Family Law Task Force’s *Final Report and Recommendation*,³ which recommended that courts actively manage their family law caseload and called for the Legislature to authorize judicial officers to implement a family centered case resolution case management plan without the requirement for a stipulation from the parties. In July 2010, the Elkins Family Law Implementation Task Force was appointed to help implement the *Final Report and Recommendations*.

Rationale for Recommendation

Background

In August 2010, the Legislature passed Assembly Bill 939, which modifies Family Code sections 2450–2451 to eliminate the requirement of a stipulation by the parties for a judicial officer to

³ Available: <http://www.courts.ca.gov/documents/elkins-finalreport.pdf>

order a family centered case resolution case management plan. The legislature's intent in modifying Family Code sections 2450–2451 is stated as follows:

The courts cannot manage limited resources efficiently, nor serve the best interests of California's families and children, without the ability to manage the flow of cases through the courts. Under the current system, the parties, who are most often self-represented, must take the initiative to obtain appropriate orders and judgments in a complicated judicial process that very few litigants can understand, and they often fail to take the next step toward completing the case. As a result, it is not unusual for family law cases to linger in the court for years. By eliminating the current ability of one party to drag out a case for years, the Legislature intends that all parties participate in, and benefit from, family centered case resolution. (AB 939, sec.(1)(c))

Family Code section 2451 mandates that the Judicial Council, by January 1, 2012, adopt a rule of court implementing family centered case resolution.

In implementing family centered case resolution, rule 5.83 addresses an historical operational model in which the progress of family law cases has largely not been managed within the design of court operations. Time standards for disposition of almost every other case type (criminal, civil, and juvenile) have resulted in the establishment of operational systems within which the court manages the progress of cases. Yet in family law, where approximately 80 percent of the cases involve litigants without attorneys, the management of case progress has been left up to the parties. Over the years, this lack of control and organization of its caseflow has created a significant resource burden on the courts, both in the courtrooms and in business office operations. Frequently, unfinished family law cases linger within the family court system for year after year, sometimes indefinitely. Undisposed family cases 20 and 30 years old can be found in the inventories of most courts. As a result, inventories of active cases assigned to individual family law judges are remarkably higher than the case inventories for judges in civil and criminal assignments. Large numbers of unresolved cases also result in problems of records management and storage, the filing of multiple cases by self-represented litigants because they do not understand the process, a revolving door of rejected and resubmitted default or uncontested judgment paperwork, repeated motions to modify temporary orders, high continuance rates, and an overall inflation of docket size in family law courtrooms.

The consequences to the public are also clearly problematic. Many litigants who have default or uncontested matters simply do not know that they need to obtain a judgment or other final determination regarding the status of their marriage or domestic partnership. Some remarry in the mistaken belief that their divorce was finalized automatically six months after filing. Issues related to subsequent invalid marriages, pension distributions, social security benefits, characterization and valuation of property, and determination of parentage and inheritance rights are among the difficulties that arise. The resulting legal entanglements are then brought back to the family court to address.

As a result, chief among the recommendations of the Elkins Family Law Task Force's *Final Report and Recommendations* was a call for courts to implement procedures to keep track of, organize and efficiently manage their flow of family law cases to ensure fair and timely dispositions (Recommendation 1A).

Available Data

With respect to family centered case resolution, the Elkins Family Law Implementation Task Force and the Family and Juvenile Law Advisory Committee reviewed data that was available on caseload management in California family courts.

For example, Greacen Associates conducted a cost-benefit analysis of services provided to self-represented litigants in six Central Valley courts.⁴ This study reported data from one court in which assistance with case disposition was provided to self-represented family law litigants at the first court hearing. This saved the need for future hearings overall. The report found that for every \$.45 the court spent on providing this assistance \$1.00 was saved. If the cost to litigants of attending the eliminated hearings was included in the analysis, the cost of service fell to \$.14 per \$1.00 saved. In another of the courts in this study, assistance was provided to contested cases on a case management calendar. The benefit to the court was assessed to be a savings of \$40.65 per case. In an additional review of local court data by Greacen Associates, it was found that in one court when the family law status conference calendar was discontinued, the OSC/motion calendars began to grow and over the next three months had increased to the extent that an additional 24 judge days per year would be required to handle them. Furthermore, the numbers were continuing to grow.

Additional data considered by the task force and the committee included observations made by judges and court executive officers in courts that have already implemented methods to organize, track and review their family law cases. In fact, many California family courts have already begun work on implementing fair and efficient family centered case resolution caseload management procedures.⁵ Among these are small, medium, and large courts using a variety of creative operational designs. The benefits to the courts that have been reported include reductions in ex parte requests because issues were settled at status conferences that would have otherwise developed into requests for ex parte orders. Also, the family centered case resolution caseload process allows courts to leverage resources by grouping cases that are alike and thereby restructuring calendars far more efficiently. Child custody matters can be handled promptly, before they become increasingly complicated due to lack of resolution. Courts report that the total numbers of OSC/motions are reduced because of the stipulations reached at status conferences. Calendars are also reduced because litigants are more prepared to proceed at hearings and continuances are reduced. One court mentioned that more cases get completed and

⁴ Greacen Associates, *The Benefits and Costs of Programs to Assist Self-Represented Litigants: Results from Limited Data Gathering Conducted by Six Trial Courts in California's San Joaquin Valley* (May 2009).

⁵ Examples of courts working on family centered case resolution caseload management include Amador, Calaveras, Fresno, Imperial, Inyo, Kings, Los Angeles, Marin, Napa, Orange, Placer, Plumas, San Diego, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare, Ventura, and Yuba.

put into permanent storage at a lower cost to the court. Courts also report a significant increase in the number of case dispositions within one year of filing.

The current unprecedented budget crisis has significantly amplified the need for courts to efficiently organize and manage the flow of its family law cases. The task force and the committee anticipate potential reductions in allocations of diminished court resources to family law. The resulting challenges facing family courts cannot be met by attempting to continue doing business as historically conducted, only now with significantly fewer resources. Instead, in order to move family law cases forward in a reasonable manner, courts will need to identify and redesign operational models that have become outdated. Courts will simply not be able to afford to continue conducting family court business effectively without actively managing their caseloads.

Rule 5.83

This rule provides a framework within which courts can design procedures to actively manage their family law caseloads. Over the next two years, courts must develop and implement a family centered case resolution caseflow process to organize, track and review marital and parentage cases twice a year to provide information to judges about case progress and assist cases in moving forward toward timely disposition. The task force and the committee believe that courts must be free to design their own procedures for a family centered caseflow process that is consistent with other local court operations and cultures. Therefore, rule 5.83 is drafted broadly. For example, one court currently calendars all cases at filing for a review status conference at 150 days from filing. Another court sends out notices for status reviews at 120 days from filing. Some courts have litigants and their attorneys appear before a judicial officer for the status review while others set cases with the self-help center for a procedural assistance review. One court has created a “virtual courtroom” to review cases at 60 days. Some programs use specific procedural criteria to decide which cases need assistance in moving forward. All of these designs are consistent with rule 5.83. Although the rule sets out procedural milestones and dispositional goals, they are not mandatory and courts are free to use their own criteria to evaluate the progress of its cases. For those cases that require an individualized family centered case resolution case management plan, the rule sets out procedures for conducting family centered case resolution conferences and ordering these case management plans as needed.

Case Information–Family Law (form FL-172)

This optional form is designed to facilitate case file review and provide judicial officers with a quick reference to general information about the case. Currently, courts must access the information contained on the new from the case file ad hoc, repeatedly at various times in the case process, at the filing of motions, during hearings, or when judgment paperwork is submitted. Form FL-172 is intended to provide the procedural data needed at these various times on one form that can be accessed easily in the file. The information has to be found in the file only once rather than repeatedly every time it is needed. Overall, there should be a significant time savings.

Family Centered Case Resolution Order (form FL-174)

This optional form is designed to provide the parties and the court with a written record of decisions made during a family centered case resolution case management conference.

Comments, Alternatives Considered, and Policy Implications

Comments

The rule and forms were circulated for comment as part of the spring 2011 invitation-to-comment cycle from April 21 to June 20, 2011. In addition to the standard mailing list for proposals—which includes appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, attorneys, mediators, family law facilitators and self-help center attorneys, and other family law professionals and attorney organizations—the committee sought comment from the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee.

There were 29 comments submitted. Two commentators limited their comments to *Case Information–Family Law* (form FL-172). There were 27 comments on rule 5.83.

Of the 27 comments addressing the proposed rule, 5 agreed with it, 16 agreed if modified; 3 did not agree; and 3 did not state a position. Comments were received from a court staff individual who did not state a position, and a family court services mediator who agreed with the rule if modified. Comments were also received from 2 individual judges and 3 individual attorneys, all of whom either agreed or agreed if modified with the proposed rule.

Six of the commentators were organizations of attorneys that included the Association of Certified Family Law Specialists, State Bar Family Law Executive Committee, local bar associations from Orange, Los Angeles, and Sonoma Counties, and the Harriett Buhai Center for Family Law. All either agreed or agreed if modified. Most of the comments from the attorney organizations requested that the rule include more specific provisions about program design. Examples include adding provisions for an “opt-out” process, or a process by which attorneys can notify the court by telephone or in writing that cases are negotiating or parties are attempting reconciliation. One commentator wanted a provision mandating that only judges be allowed to advise litigants that ADR is voluntary and not appropriate in cases of domestic violence. Another wanted a provision mandating that judges must conduct all status conferences as well as family centered case resolution case management conferences. Several thought the rule should contain enforcement provisions for sanctions against litigants not cooperating with the family centered case resolution process. One commentator wanted the rule to mandate specific procedural steps that litigants must follow; another wanted the rule to expressly state that judges could not diverge from disclosure and discovery statutes in family centered case resolution case management orders.

The task force and the committee believe that specific program design issues such as those raised by these commentators are most effectively addressed at the local level. Courts that already employ a family centered case resolution caseflow process use a variety of different methods to

address these types of issues. The task force and the committee do not want to mandate any one of these models as a statewide practice. Instead, rule 5.83 is intended to set out a basic framework within which the courts have the greatest possible leeway to design and implement specific processes that accommodate their own overall court operations and cultures.

The Trial Court Presiding Judges Advisory Committee (TCPJAC)/Court Executives Advisory Committee (CEAC)/Joint Rules Working Group pointed out that courts not already employing a family centered case resolution process will need time to plan, design, and implement a process. In its comment, TCPJAC/CEAC requested that the rule be phased in so that the provision requiring that cases be reviewed periodically apply to cases filed January 1, 2013, rather than January 1, 2012. While concern over budget constraints caused the Working Group to disagree with the rule overall, the comment also called attention to the fact that any increase in staff workload resulting from increased case processing will be offset by reduction in continuances as well as in the size of OSC calendars, all of which lessen staff workload.

The task force and the committee agree that those courts that are currently without a family centered case resolution caseflow management system will need time for a strategic transition that integrates caseflow management into operations. Therefore, the task force and the committee recommend that the Judicial Council adopt Option 3 (set out below), which changes the provision requiring that cases be reviewed periodically to apply to cases filed on January 1, 2013, rather than January 1, 2012. This provides an additional year for courts to develop the most efficient models for this purpose. Further, Option 3 sets the disposition goals in rule 5.83(c)(5) to apply to cases filed on January 1, 2014, rather than January 1, 2012. This provides the courts with two years to work on their family centered case resolution caseflow management process.

Twelve courts⁶ submitted comments. One court limited its comment to *Case Information–Family Law* (form FL-172). Eleven courts commented on rule 5.83. Of those, 7 either agreed or agreed if modified, 2 disagreed, and 2 did not state a position.

Six court commentators suggested adding specific provisions about program design such as implementation of various enforcement sanctions, more standardization of program design statewide, and specification of which court personnel should perform certain tasks. As previously stated, the task force and the committee believe that these issues are best addressed at the local level.

Six courts expressed concern that implementing a family centered case resolution caseflow process would increase workload on judges and court staff and that resources might not be available to implement it. Two courts disagreed with the rule. One of those set out a cost

⁶ The court commentators are Contra Costa, Los Angeles, Monterey, Orange, Riverside, Sacramento, San Bernardino, San Diego, Santa Clara, Shasta, Tuolumne, and Ventura. Two courts submitted two separate comments so that the 12 courts actually submitted 14 comments.

estimate based on program designs that were highly resource intensive; however, these designed are not reflective of the experiences of many of the courts already conducting family centered case resolution caseflow management procedures. There are already models of caseflow management operating in California courts that are not significantly resource intensive from which other courts can learn. The task force and the committee anticipate facilitating connections among the courts and providing education and technical assistance to courts that want it.

Two court commentators were concerned that accomplishing the dispositional goals set out in rule 5.83 would not be realistic unless judgments as to status only were included in the definition of a disposition. The task force and the committee had been hesitant to include status only judgments because of the problem of cases with significant reserved issues remaining unresolved indefinitely. However, the task force and the committee understood the issue raised by these courts and agreed to modify the rule to include status only judgments as dispositions. New language has been added to the rule that expressly allows courts to maintain or re-enter a case in the family centered case resolution process postdisposition when appropriate. This would then apply to cases with reserved issues as well as to those with postjudgment motions that would benefit from participation in the family centered case resolution caseflow process.

Three attorney and two court commentators suggested additional or different procedural milestones or dispositional goals. The list of procedural milestones set out in rule 5.83(c)(4) is neither mandatory nor exclusive. Courts are free to employ additional or different procedural points in determining the progress of a case. The dispositional goals set out in rule 5.83(c)(5) are based on available data from California courts and other jurisdictions and were set out in the *Final Report and Recommendations* of the Elkins Family Law Task Force. These timelines are not mandatory but serve as guidelines for the court.

Two attorney and one court commentators were concerned that the rule was “fast-tracking” family law cases. The rule does not mandate compliance with the timely disposition goals it sets out. Unlike the trial delay reduction (“fast-track”) legislation, there is no requirement that the Judicial Council monitor compliance with these goals nor are any sanctions against parties included to enforce them, and there is no requirement to maintain statistics. The task force and the committee intend the procedural milestones and disposition goals to serve as a basis from which courts can assess their own effectiveness in moving family law cases forward in a timely manner.

Two attorney and two court commentators were concerned that the rule mandates the court to order a family centered case resolution case management plan for every family law case. The proposed rule simply allows courts to schedule family centered case resolution case management conferences and make family centered case resolution case management orders in cases it deems appropriate. The family centered case resolution process of organizing, tracking and reviewing cases will provide judges with the information they need to exercise their discretion to order a family centered case resolution plan. Rule 5.83(c)(7) sets out some factors a court might consider in deciding whether or not an individual case would benefit from scheduling a family centered

case resolution case management conference. The rule sets out the parameters for conducting the conference and ordering a family centered case resolution plan for the management of the case.

One individual commentator did not approve of *Case Information–Family Law* (form FL-172) because it did not ask for more comprehensive criminal information about the parties. This form is intended to comply with the criminal information permitted by Family Code section 6306 in cases of domestic violence. One court asked for the addition of language on the form to clarify that Family Code section 2107 refers to a request to waive the declaration of disclosure. The task force and the committee have added the requested language.

In response to court commentators, the task force and the committee have modified *Family Centered Case Resolution Order* (form FL-174) to provide space for a department number and the date and time of trials and mandatory settlement conferences.

Alternatives considered

The Elkins Family Law Implementation Task Force and the Family and Juvenile Law Advisory Committee considered the following options, and recommend that the council adopt Option 3.

Option 1: Take no action.

The task force and the committee did not consider taking no action on family centered case resolution because Family Code section 2451 requires that the Judicial Council by January 1, 2012 adopt a rule implementing family centered case resolution. Taking no action is inconsistent with the statute.

Option 2: Adopt rule 5.83 with the compliance dates as circulated.

This option would require courts to implement, by January 1, 2012, a family centered case resolution process. As part of that process, courts must review marital/domestic partnership and parentage cases at least twice a year until disposition, starting with cases filed on or after January 1, 2012. Further, for all such cases filed on or after January 1, 2012, the goal of the family centered case resolution process would be to meet the dispositional timelines set out in the rule.

Option 3: Adopt the rule with modified compliance dates.

This option would require courts to begin development and implementation of a family centered case resolution process starting January 1, 2012. Implementation must be completed by January 1, 2013. As part of that process, courts must review cases twice a year until disposition; however, these reviews would apply to cases filed on or after January 1, 2013, rather than January 1, 2012. Further, the dispositional goals set out in the rule would apply to cases filed on or after January 1, 2014 rather than January 1, 2012. This adopts the suggestion from TCPJAC/CEAC that the rule be implemented in a step-up manner. It allows the courts one year to work on developing a caseflow management process that fits their operations in the best possible manner. It then allows an additional year to apply the system to cases in meeting the rule's dispositional goals.

Implementation Requirements, Costs, and Operational Impacts

The task force and the committee do not anticipate significant implementation costs for courts that have already implemented a family centered case resolution process.

For those courts that need to initiate a process, the task force and the committee agree with the assessment of TCPJAC/CEAC that the impact on staff workload will be more in the nature of a shifting of workload than an overall increase in workload. Nevertheless, these courts will need time to make a strategic transition to the use of a new business practice. The extent of the costs will depend largely on the design of the model chosen by each court. For example, some current models are designed so that there is no need for their electronic case management system to “tickle” cases; some do not require court staff to send out notices. Some models do not schedule status reviews for all cases, but only for those deemed to have problems moving forward. Some models conduct status reviews in the courtroom and some do not. Some leverage resources by including a review of case status at the time of hearings. The task force and the committee believe that the benefits to the court achieved through family centered case resolution caseload management will result in part from the way in which the process is implemented.

The task force and the committee anticipate working with the Administrative Office of the Courts to facilitate communication among courts regarding strategies already in place that are working well. The task force is currently engaged in developing workload data on family law caseload management, and the AOC Center for Families, Children & the Courts is working on a set of resource guidelines in family law in which caseload management is a critical component. All data related to leveraging of resources and program design will be shared with the courts. Additionally, education and training in family law caseload management will be available to judges and court staff; and technical assistance will be available to courts that request it.

Relevant Strategic Plan Goals and Operational Plan Objectives

These recommendations serve Goal I: Access, Fairness and Diversity in that barriers to obtaining judgments in family law cases are significantly reduced. Public trust and confidence in the court will be increased.

These recommendations also serve Goal III. B: Modernization of Management and Administration, by implementing effective practices to foster the fair, timely, and efficient processing and resolution of all cases.

These recommendations also serve Goal IV: Quality of Justice and Service to the Public, by implementing effective practices in a high-volume court such as family law to enhance procedural fairness and reduce the time and expense of court proceedings.

Attachments

1. California Rules of Ct., rule 5.83, at pages 11–15
2. FL-172 and FL-174, at pages 16–20
3. Chart of Comment, at pages 21–111

California Rules of Court, rule 5.83 is adopted effective January 1, 2012 to read:

1 **Rule 5.83. Family Centered Case Resolution**
2

3 **(a) Purpose**
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5 This rule establishes processes and procedures for courts to manage cases from
6 initial filing to final disposition in an effective and timely manner. It is intended to
7 advance the goals of Family Code section 2450(a) and Standards of Judicial
8 Administration, standard 5.30.
9

10 **(b) Definitions**
11

12 (1) “Family centered case resolution process” refers to the process employed by
13 the court to ensure that family law cases move through the court process from
14 filing to final disposition in a timely, fair, and effective manner.
15

16 (2) “Disposition” refers to final judgment, dismissal, change of venue, or
17 consolidation of the case into a lead case. Courts may continue a case in, or
18 return a case to, the family centered case resolution process after disposition.
19

20 (3) “Status conference” refers to court events scheduled with the parties and
21 attorneys for the purpose of identifying the current status of the case and
22 determining the next steps required to reach disposition.
23

24 (4) “Family centered case resolution conference” refers to a conference
25 scheduled with parties, attorneys, and a judicial officer to develop and
26 implement a family centered case resolution plan under Family Code section
27 2451.
28

29 **(c) Family centered case resolution process**
30

31 (1) Beginning January 1, 2012, courts must develop a family centered case
32 resolution process which must be fully implemented by January 1, 2013. The
33 family centered case resolution process must identify and assist all
34 dissolution, legal separation, nullity, and parentage cases to progress through
35 the court process toward disposition effectively in a timely manner. The court
36 may identify other family law case types to include in the family centered
37 case resolution process.
38

39 (2) For cases filed on or after January 1, 2013, the court must include as part of
40 the family centered case resolution process a review of all dissolution, legal
41 separation, nullity, and parentage cases within at least 180 days from the date
42 of the initial filing and at a minimum, at least every 180 days thereafter until
43 disposition in order to determine the most appropriate next steps to help
44 ensure an effective, fair, and timely resolution. Unless the court determines
45 that procedural milestones are being met, the review must include at least one

1 of the following: (1) a status conference or (2) a family centered case
2 resolution conference. Nothing in this section prohibits courts from setting
3 more frequent review dates.
4

5 (3) If, after 18 months from the date the petition was filed, both parties have
6 failed to participate in the case resolution process as determined by the court,
7 the court's obligation for further review of the case is relieved until the case
8 qualifies for dismissal under Code of Civil Procedure section 583.210 or
9 583.310, or until the parties reactivate participation in the case, and the case
10 is not counted toward the goals for disposition set out in (c)(5).
11

12 (4) In deciding whether a case is progressing in an effective and timely manner,
13 the court should consider procedural milestones including the following:
14

15 (A) A proof of service of summons and petition should be filed within 60
16 days of case initiation;
17

18 (B) If no response has been filed, and the parties have not agreed on an
19 extension of time to respond, a request to enter default should be
20 submitted within 60 days after the date the response was due;
21

22 (C) The petitioner's preliminary declaration of disclosure should be served
23 within 60 days of the filing of the petition;
24

25 (D) When a default has been entered, a judgment should be submitted
26 within 60 days of the entry of default;
27

28 (E) Whether a trial date has been requested or scheduled; and
29

30 (F) When the parties have notified the court that they are actively
31 negotiating or mediating their case, a written agreement for judgment is
32 submitted within six months of the date the petition was filed, or a
33 request for trial date is submitted.
34

35 (5) For dissolution, legal separation, and nullity cases initially filed on or after
36 January 1, 2014, the goals of any family centered case resolution process
37 should be to finalize dispositions as follows:
38

39 (A) At least 20 percent are disposed within 6 months from the date the
40 petition was filed;
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42 (B) At least 75 percent are disposed within 12 months from the date the
43 petition was filed; and
44

45 (C) At least 90 percent are disposed within 18 months from the date the
46 petition was filed.

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(6) The court may select various procedural milestones at which to assist cases in moving toward disposition in an effective and timely manner. Types of assistance that can be provided include the following:

(A) Notifying the parties and attorneys by mail, telephone, e-mail, or other electronic method of communication of the current status of the case and the next procedural steps required to reach disposition.

(B) Implementing a schedule of status conferences for cases to identify the status of the case and determine the next steps required to progress toward disposition;

(C) Providing assistance to the parties at the time scheduled for hearings on requests for orders to identify the status of the case and determine the next steps required to reach disposition;

(D) Providing financial and property settlement opportunities to the parties and their attorneys with judicial officers or qualified attorney settlement officers;

(E) Scheduling a family centered case resolution conference to develop and implement a family centered case resolution plan under Family Code section 2451.

(7) In deciding that a case requires a family centered case resolution conference, the court should consider, in addition to procedural milestones, factors including the following:

(A) Difficulty in locating and serving the respondent;

(B) Complexity of issues;

(C) Nature and extent of anticipated discovery;

(D) Number and locations of percipient and expert witnesses;

(E) Estimated length of trial;

(F) Statutory priority for issues such as custody and visitation of minor children;

(G) Extent of property and support issues in controversy;

(H) Existence of issues of domestic violence, child abuse, or substance abuse;

1
2 (I) Pendency of other actions or proceedings that may affect the case; and

3
4 (J) Any other factor that would affect the time for disposition.

5
6 **(d) Family centered case resolution conferences**

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8 (1) The court may hold an initial family centered case resolution conference to
9 develop a specific case resolution plan. The conference is not intended to be
10 an evidentiary hearing.

11
12 (2) Family centered case resolution conferences must be heard by a judicial
13 officer. On the court's initiative or at the request of the parties, to enhance
14 access to the court, the conference may be held in person, by telephone, by
15 videoconferencing, or by other appropriate means of communication.

16
17 (3) At the conference, counsel for each party and each self-represented litigant
18 must be familiar with the case and must be prepared to discuss the party's
19 positions on the issues.

20
21 (4) With the exception of mandatory child custody mediation and mandatory
22 settlement conferences, before alternative dispute resolution (ADR) is
23 included in a family centered case resolution plan under Family Code section
24 2451(a)(2), the court must inform the parties that their participation in any
25 court recommended ADR services is voluntary and that ADR services can be
26 part of a plan only if both parties voluntarily opt to use these services.
27 Additionally, the court must:

28
29 (A) Inform the parties that ADR may not be appropriate in cases involving
30 domestic violence and provide information about separate sessions;
31 and

32
33 (B) Ensure that all court-connected providers of ADR services that are part
34 of a family centered case resolution plan have been trained in assessing
35 and handling cases that may involve domestic violence.

36
37 (5) Nothing in this rule prohibits an employee of the court from reviewing the
38 file and notifying the parties of any deficiencies in their paperwork before the
39 parties appear in front of a judicial officer at a family centered case resolution
40 conference. This type of assistance can occur by telephone, in person, or in
41 writing, on or before each scheduled family centered case resolution
42 conference. However, this type of procedural assistance is not intended to
43 replace family centered case resolution plan management or to create a
44 barrier to litigants' access to a judicial officer.
45

1 **(e) Family centered case resolution plan order**
2

3 (1) Family centered case resolution plans as ordered by the court must comply
4 with Family Code sections 2450(b) and 2451.
5

6 (2) The family centered case resolution plan order should set a schedule for
7 subsequent family centered case resolution conferences and otherwise
8 provide for management of the case.
9

10 **(f) Family centered case resolution order without appearance**
11

12 If the court determines that appearances at a family centered case resolution
13 conference are not necessary, the court may notify the parties and, if stipulated,
14 issue a family centered case resolution order without an appearance at a conference.
15

16 **(g) Family centered case resolution information**
17

18 (1) Upon the filing of first papers in dissolution, legal separation, nullity, or
19 parentage actions the court must provide the filing party with the following:
20

21 (A) Written information summarizing the process of a case through
22 disposition;
23

24 (B) A list of local resources that offer procedural assistance, legal advice or
25 information, settlement opportunities, and domestic violence services;
26

27 (C) Instructions for keeping the court informed of the person's current
28 address and phone number, and e-mail address;
29

30 (D) Information for self-represented parties about the opportunity to meet
31 with court self-help center staff or a family law facilitator; and
32

33 (E) Information for litigants on how to request a status conference, or a
34 family centered case resolution conference earlier than or in addition to,
35 any status conference or family centered case resolution conferences
36 scheduled by the court.

(THIS FORM IS FOR COURT USE ONLY)

FL-172

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center; font-size: 24pt;">Not approved by the Judicial Council</p>
<p>PETITIONER/PLAINTIFF:</p> <p>RESPONDENT/DEFENDANT:</p> <p>OTHER PARTY:</p>	
<p>CASE INFORMATION—FAMILY LAW</p>	<p>CASE NUMBER:</p>

1. **ASSIGNMENT** Case assigned to Judicial Officer (*name*): Dept. No.

2. **PETITION**

The petition for dissolution legal separation nullity parentage other (*specify*):
was filed on (*date*):

3. **BACKGROUND DATA**

- a. Date of marriage/registered domestic partnership:
Date of separation on the petition: _____ on the response (*if different*):
Length of marriage or partnership:
- b. There is a dispute about the length of the marriage or partnership.
- c. Interpreter needed
 - (1) Petitioner's Language:
 - (2) Respondent's Language:
 - (3) Other Party's Language:

4. **CHILDREN**

<u>Name of child or children</u>	<u>Birthdate</u>	<u>Age</u>	<u>Gender</u>
----------------------------------	------------------	------------	---------------

Additional children listed on Attachment 4.

5. **RELATED CASES**

One or both of the parties, or a child or children of the parties, has been involved in other related court cases. (*List county or district and case number, if known*):

- a. Custody or visitation (parenting time) for the children of this case:
- b. Juvenile delinquency:
- c. Juvenile dependency:
- d. Domestic violence/protective order:
- e. Bankruptcy:
- f. Criminal (*only if reasonably related to the issues of this case*):
- g. Other:

6. **JUDGMENT TERMINATING STATUS OF MARRIAGE OR DOMESTIC PARTNERSHIP HAS BEEN ENTERED**

- a. Date of termination:
- b. Date status judgment entered:

PETITIONER: RESPONDENT: OTHER PARTY:	CASE NUMBER:
--	--------------

7. SERVICE AND RESPONSE

- a. Respondent **was served** with the petition on *(date)*: _____, by *(method)*:
 personal service substituted service publication or posting notice and acknowledgement
of receipt other *(specify)*: _____
- b. Respondent **has not been served** with the petition.
- c. Respondent **filed a response** on *(date)*: _____
- d. Respondent **has not filed a response** with the court.
- e. Default has been entered against respondent.
- f. Respondent appeared by filing an *Appearance, Stipulations, and Waivers* (form FL-130).

8. DISCLOSURE

Service of declarations of disclosure has been completed by:

- | | | |
|-----------------------------|-------------------------------------|-------------------------------------|
| a. Preliminary | <input type="checkbox"/> Petitioner | <input type="checkbox"/> Respondent |
| b. Final | <input type="checkbox"/> Petitioner | <input type="checkbox"/> Respondent |
| c. Final has been waived by | <input type="checkbox"/> Petitioner | <input type="checkbox"/> Respondent |
| d. Other (specify): | <input type="checkbox"/> Petitioner | <input type="checkbox"/> Respondent |

9. PROTECTIVE ORDERS

- The parties have a restraining order that expires on *(date)*: _____
- a. Protected party *(name)*: _____
- b. Children are included as protected persons.

10. DEPARTMENT OF CHILD SUPPORT SERVICES

- a. The Department of Child Support Services has a separate case open.
- b. The Department of Child Support Services has intervened in this case.

11. CUSTODY/PARENTING TIME (VISITATION)

- a. The parties have participated in child custody and visitation (parenting time) mediation.
- b. An agreement has been reached.
- c. Counsel has been appointed to represent the minor child or children.
- d. A child custody evaluation has been ordered report has been filed.

12. EXPERTS

The following experts have been appointed *(include issues)*: _____

13. OTHER

PETITIONER: RESPONDENT: OTHER PARTY:	CASE NUMBER:
--	--------------

4. Declaration of disclosure

- a. Petitioner must serve the other party with the *Preliminary Declaration of Disclosure* (form FL-140) and the *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form FL-141) by (date):
- b. Respondent must serve the other party with the *Preliminary Declaration of Disclosure* (form FL-140) and the *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form FL-141) by (date):
- c. The parties must submit *Declaration Regarding Service of Final Declaration of Disclosure* (form FL-141) or a waiver by (date):

5. Income and expense declarations

- a. Petitioner must serve and file a current *Income and Expense Declaration* (form FL-150) by (date):
- b. Respondent must serve and file a current *Income and Expense Declaration* (form FL-150) by (date):

6. Other discovery

- a. Discovery is completed.
- b. Discovery is suspended pending settlement discussions or other alternative dispute resolution services.
- c. The parties must complete the following discovery as follows:

<u>Party</u>	<u>Description</u>	<u>By (date)</u>
--------------	--------------------	------------------

7. Experts

- a. Pursuant to agreement of the parties, experts will be as follows:

<u>Name</u>	<u>To address the issue of</u>
-------------	--------------------------------

- b. Pursuant to agreement of the parties, the experts will be paid as follows:

PETITIONER: RESPONDENT:	CASE NUMBER:
--------------------------------	--------------

8. Trial setting

- a. A trial is set for *(date)*: Time: Dept. No.
- b. A mandatory settlement conference is set for *(date)*: Time: Dept. No.
- c. Settlement conference statement filed by *(date)*:
- d. Estimated time for trial:
- e. Issues for trial:

- f. Other orders related to trial setting:

9. Other family centered case resolution orders:

10. Total number of pages attached *(if any)*: _____

Date: _____

JUDGE OF THE SUPERIOR COURT

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Family and Juvenile Rules: Family Centered Case Management Rule and Forms (adopt rule 5.83; approve forms FL-172 and FL-174)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Hon. Irma Poole Asberry, Judge of the Superior Court of Riverside County	A	No narrative comment.	No response required.
2.	Association of Certified Family Law Specialist (ACFLS) Diane Wasznicky, President, ACFLS San Rafael	AM	1. Rule 5.83: This rule has been drafted as a mandatory fast track process for family law cases. Family Code section 2450 does NOT mandate family centered case resolutions. It is optional and it should stay optional. Family Law is not conducive to fast track and parties should not be mandated to move faster than what they agree is best for their particular family or situation.	<p>The proposed rule does not mandate compliance with the timely disposition goals it sets out. Unlike the fast track legislation, there is no requirement that the Judicial Council monitor compliance with these goals, nor are any sanctions included for the purpose of enforcing them. The Elkins Family Law Implementation Task Force (the task force) and the Family and Juvenile Law Advisory Committee (the committee) intend the procedural milestones and disposition goals set out in the rule to serve as a framework that courts can use to assess their effectiveness in moving family law cases forward in a timely manner. The proposed rule does not require that a family centered case resolution plan be implemented for each case. Under this rule the decision to implement a family centered case resolution plan is one of several options available to courts and is intended to be based on the individual needs of the case in the discretion of the court.</p> <p>The proposed rule addresses the existing burden on the courts, of lingering and unfinished cases continuing on within the family court system for year after year, sometimes indefinitely. Undisposed family cases 20 and 30 years old can be found in the inventories of most courts. As a result inventories of cases assigned to individual family law judges are remarkably higher than the case inventories for judges in civil and criminal</p>

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	Commentator	Position	Comment	Committee Response
				<p>assignments. Undisposed cases also lead to problems of records management and storage, the filing of multiple cases by self-represented litigants because they do not understand the process, a revolving door of rejected default and uncontested judgment paperwork from all types of litigants, repeated motions to modify temporary orders, and an overall increase in the litigation loads on the family courts. In one court it was found that when the family law status conference calendar was discontinued, the OSC/motion calendars began to grow and over the next three months had increased to the extent that an additional 24 judge days per year would be required to handle them. Furthermore, the numbers were continuing to grow.</p> <p>Given the current budget constraints, the task force and the committee concluded that courts can no longer reasonably afford to continue conducting family court business without actively managing the caseloads. In response to this reality, many courts have already begun programs to actively track and manage family cases. The Elkins Family Law Task Force addresses the issue in Recommendation 1A which calls for the courts to actively manage their caseload, and for the legislature to authorize judges to implement a family centered case resolution case management plan without the requirement of a stipulation from the parties. Proposed rule 5.83 implements Elkins Recommendation 1A, and the legislature’s intent in eliminating the need of a case management plan</p>

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	Commentator	Position	Comment	Committee Response
			<p>A. 5.83(c)(2): ACFLS proposes to add a provision which would allow "opt out" by agreement of both parties/counsel (for reasons such as progress is being made, the case is being negotiated or the parties are attempting a reconciliation), as well as a procedure by which the court could be advised of progress by some means other than attendance at a hearing (ie. joint letter submitted to the court).</p> <p>B. 5.83 (c)(4)(c) add the following language: "unless extended by written agreement of parties or order of the court."</p> <p>C. 5.83 (c)(5)(a)(b)(c) sets forth the goals of the process to finalize 20% of cases within 6 months, 75% within one year and 90% within 18 months. We feel these time frames are unrealistic for many cases. This provision should be stricken as it is not appropriate to impose fast track time lines into family law.</p>	<p>stipulation. AB939 (1)(c), reads in part as follows: "..... <i>By eliminating the current ability of one party to drag out a case for years, the Legislature intends that all parties participate in, and benefit from, family centered case resolution.</i>"</p> <p>The task force and the committee want the courts to have the greatest possible leeway within the rule to design and implement processes by which they monitor and assist the progress of cases to see that they are moving forward in a reasonably timely manner. Therefore, there is nothing in the rule that would prohibit a court from designing a process by which litigants or their attorneys could report by letter or telephone call that the case was progressing forward reasonably given the specific circumstances of the case – such as attempts at reconciliation. However, the court should be informed periodically of the status of the case.</p> <p>There is nothing in the rule that would prohibit extending the time set out in 5.83(c)(4)(c) by written agreement or order of the court.</p> <p>The lack of time goals and active caseload management in family law contributes significantly to the burden on the court of large numbers of unresolved cases. The Public Trust and Confidence Study of 2005 reported litigants rate their ability to obtain timely dispositions as among their highest unmet expectations. The</p>

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	Commentator	Position	Comment	Committee Response
			<p>Even though the time frames are called "guidelines", they will be most certainly be imposed as "deadlines" by certain judicial officers as that is reportedly occurring now in counties with mandatory case management.</p> <p>2. FL-172 should be modified to provide in #8 a waiver of Final Declaration of Disclosure.</p>	<p>input received by the Elkins Family Law Task Force from the public, both represented and unrepresented, and from a survey of family law attorneys mirrored this same frustration with the frequent inability to move cases forward in a timely manner. The task force and the committee noted that unlike general civil, complex civil, juvenile, probate, mental health, or criminal cases, family law is the last general jurisdiction case type in California that does not provide standards for the fair, timely, and efficient disposition of a case. In case types other than family law, statutes, the California Rules of Court, and the California Standards of Judicial Administration firmly establish caseflow management rules, goals, and standards used to promote the timely disposition of cases in a manner that protects the due process rights of the parties. Based on current information and procedures in effect in other jurisdictions, the goals set out in this rule are realistic for reasonable case completion. This rule recognizes that some cases need significantly more time than others because of the complexity of the issues or desire of the parties to have additional time to attempt reconciliation. However, it also provides the opportunity for those litigants who would like to have their matter resolved to have it heard promptly.</p> <p>The task force and the committee agree and will add a box for waiver of the final declaration of disclosure to item #8 on the FL-172.</p>
3.	Hon. John Chemeleski	AM	I have concerns about rules that state the court	There are already models of caseflow

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Family and Juvenile Rules: Family Centered Case Management Rule and Forms (adopt rule 5.83; approve forms FL-172 and FL-174)

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	Commentator	Position	Comment	Committee Response
	Superior Court of Los Angeles County Trial Court Commissioner Long Beach		"must" do certain things without specifying what should occur if the court does not have sufficient resources in time or staff to do all things that may be required by law or other rules and how to prioritize the various obligations the court may have. Should this requirement be more or less important than the court's obligation to hold and decide hearings and trials assigned to that court in child custody or domestic violence cases? Perhaps "must" could be replaced with "should if time and resources permit".	<p>management operating in California courts that are not significantly resource intensive from which other courts can learn. The task force and the committee anticipate facilitating connections among the courts and providing education and technical assistance. Also, please note that none of the disposition goals or procedural milestones are mandatory. While recognizing that there are up-front resources required to change a business practice and transition to a family centered case resolution caseflow management system, the Trial Court Presiding Judges Advisory Committee (TCPJAC)/Court Executives Advisory Committee (CEAC)/Joint Rules Working Group concluded that this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload.</p> <p>The task force and the committee believe that timing of implementation of family centered case resolution is an important factor. While the current budget constraints make the need for this change critical, those courts that are currently without a family centered case resolution caseflow management system will need time for a strategic transition that integrates caseflow management into operations. In recognition of the need for a strategic transition period, the task force and the committee modified the implementation dates set out in the proposed rule. The requirement that cases be reviewed periodically will apply to cases filed on January</p>

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	Commentator	Position	Comment	Committee Response
				1, 2013 rather than January 1, 2012. This provides an additional year for courts to develop the most efficient models for this purpose. Further, the disposition goals set out in 5.83(c)(5) will apply to cases filed on January 1, 2014 rather than January 1, 2012. This provides the courts with two years to work on their family centered case resolution caseflow management process.
4.	Roberta Fitzpatrick San Jose	N	Form FL-172 g: You give too much leeway for recording Criminal History. Years of repetitive criminal behavior need to be documented. Fraud, child abuse, drug and alcohol abuse, refusal to follow court orders, domestic violence over 20+ years indicate a person unsuitable to be a custodial parent, whether or not each individual crime is not “related” to the family law case. Please require information which will enable the court to really act in the best interests of children. You also need to indicate if a child was the victim of a crime while in the care of either parent, and investigate the facts.	This form is a procedural information form and does not address the substantive matters in the case. Form FL-172 simply identifies the existence of related criminal cases. The cases that are permissibly related are set out in Family Code section 6306.
5.	Harriett Buhai Center for Family Law Erin Dabbs, Senior Staff Attorney Los Angeles	AM	We understand the need for the court to move quickly and have flexibility in its case management processes so that litigants are not lost in the litigation system. However, we ask the Judicial Council to balance the needs of the court against the burden placed on litigants when they are required to come to court on multiple occasions. For litigants who are employed, a court date means that they must miss a day of work, thereby possibly losing a day of income. For litigants with children, child	The task force and the committee are mindful of the burden on litigants and attorneys of unnecessary court appearances and fully support any process that works to reduce this burden. It appears that the commentator’s suggestion about allowing litigants to present status reports to the court in writing, or appear at status conferences by telephone, would help eliminate the need for trips to the courthouse. Courts are free under this rule to implement such procedures.

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Family and Juvenile Rules: Family Centered Case Management Rule and Forms (adopt rule 5.83; approve forms FL-172 and FL-174)

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	Commentator	Position	Comment	Committee Response
			<p>care arrangements must be made and paid for. For all litigants, transportation costs must be borne.</p> <p>Each of these burdens is amplified for low income litigants who are often working in the types of jobs that do not offer vacation or personal time, and for whom child care and transportation costs are prohibitively expensive. Many of our clients opine that they have lost their jobs due to repeated court dates. Our clients also express frustration at the costs of obtaining childcare and paying for parking or transportation to the courthouse. Further, if a low income litigant is unable to bear these costs and misses a court date, he or she may be sanctioned and ordered to pay over \$200 in court fees, regardless of whether the litigant has obtained a fee waiver order.</p> <p>When a court date is scheduled by the litigant him or herself to obtain much needed orders for custody, visitation, child and/or spousal support, he or she may make the difficult decision that the costs of a trip to court are worth the benefits. However, when these court dates are scheduled by the court, and there is no procedure by which a litigant who is actively pursuing his or her case can opt out, we believe that the burdens are unjustified.</p> <p>We ask that the Judicial Council consider the burdens placed on vulnerable low income and</p>	<p>The proposed form will be referred for consideration for a future RUPRO cycle.</p>

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	Commentator	Position	Comment	Committee Response
			<p>self-represented litigants as the Council finalizes these proposed rules of court. We further ask that an option be created by which litigants can mail in or phone in a response to a case status conference. The Harriett Buhai Center has created a sample declaration that we hope could be useful to the Council. We are enclosing a copy of it with this response.</p> <p>Proposed Rule of Court, Rule 5.83(c)(4):</p> <p>(a) We suggest that this procedural milestone be extended to 120 days in order to accommodate service of respondents who might be out of the state or the county, in the military, or in prison. In our experience, the majority of our clients require greater than 60 days to complete service of process. We believe that this applies across the board to self-represented and/or low income litigants who will usually have to find a friend or family member to complete service as they cannot afford the costs of a process server.</p>	<p>Problems with service of summons also often include problems serving an order to show cause. This creates wasted time for the court in calendaring and hearing cases that result only in the case being dropped or reissued and continued to another date. Available data from local courts indicate that unless service has been accomplished within 60 days, complex issues may be involved similar to the examples given by the commentator. Efficient management in the business office and in the courtroom must be supported by assistance to self-represented litigants with issues such as the need for foreign service, service by publication or posting, etc. If a litigant is making progress toward accomplishment of service, all that should be required for a family centered case resolution caseflow management process is notice to the court that things are moving ahead as planned. The committee and the task force want the courts to be free to decide what form that type of notice about status should take. For those litigants that are struggling, help should be available promptly.</p>

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			<p>(c) We suggest that this procedural milestone be extended to 180 days after the entry of default. In our experience, 60 days is insufficient time to complete discovery (which can involve, e.g., valuing houses, pensions, obtaining payroll records, obtaining evidence for a custody/visitation case). The implication here is that a default case is synonymous with a simple case. However, our default cases often include issues warranting discovery, this prolonging the time between the entry of default and the filing of a proposed default judgment.</p> <p>(f) We suggest that this procedural milestone be changed to “within twelve months of the date the petition was filed or within six months of the date that the court receives notice that the parties are in settlement negotiations.” The current wording on the proposed rule provides insufficient time for settlement talks as it requires them to be complete within six months of filing of the Petition, regardless of when the settlement talks began. If settlement talks begin five months after filing of the Petition, the current proposed rule gives these parties only one month to complete their settlement negotiations.</p>	<p>Many cases proceed by way of defaults that do not have the sort of property issues set out by the commentator. There is no reason to delay entry of judgment longer than 60 days from the filing of the default. In fact, in many cases, the proposed judgment is submitted at the same time as the request to enter default. There are, of course, cases that are more complex. Please see the above response with respect to status notifications to the court.</p> <p>As with all of the procedural milestones set out in the rule, this is not mandatory. The rule suggests that the court should be informed of the progress of the case if settlement discussions have not been successful, or if movement toward trial is also not evident six months from when the parties notified the court they were negotiation or mediating.</p>

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	Commentator	Position	Comment	Committee Response
			<p>Proposed Rule of Court, Rule 5.83(c)(5):</p> <p>For the reasons detailed above regarding the difficulties that self-represented litigants face in pursuing their family law cases:</p> <p style="padding-left: 40px;">(b) We suggest that this goal be changed to 50-60% within 12 months from the date the petition was filed.</p> <p style="padding-left: 40px;">(c) We suggest that this goal be changed to 75% within 18 months from the date the petition was filed.</p> <p>Proposed Rule of Court, Rule 5.83(d)(4):</p> <p>We appreciate that the potential impact of domestic violence on the ADR process is being recognized in these proposed rules. We share the Judicial Council’s concern that the relationship between the parties can be of greatly unequal power and may have been and/or is now characterized by physical, verbal, or psychological abuse that would negatively impact their ability to reach a fair settlement. For this reason, we strongly support the committee’s recommendation that the court emphasize the <i>voluntary</i> nature of ADR and provide information about the availability of domestic violence protections (e.g., separate sessions at separate times) so that litigants know they can <i>self-identify</i> by requesting these protections at any time.</p>	<p>Several different commentators have suggested several alternate dispositional goals for the proposed rule. The time goals were based on available data from California courts and other jurisdictions and were set out in the recommendations of the Elkins Family Law Task Force. Please note that these timelines are not mandatory but serve as guidelines that a court may use to assess its effectiveness in moving its family law cases forward in a reasonably timely manner.</p> <p>The task force and the committee want the courts to have the greatest possible leeway to design processes that work most effectively for them locally. There are several diverse ways in which litigants, particularly self-represented litigants, can be clearly informed that settlement processes such as ADR are available, that participation is not mandatory, and that it may not be appropriate in cases where domestic violence is an issue. The task force and the committee do not want to limit interpretation of the requirement that the court provide this information to only include judges. It seems entirely possible that this information might come from some other source such as the family law facilitator or court self-help center.</p>

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			<p>We suggest that some clarification would give domestic violence victims greater protection and more flexibility in asserting statutory protections. Rather than as presently drafted, “<i>the court</i> must inform the parties,” we recommend that the proposed rules clarify that <i>the judge</i> explain that ADR may not be appropriate when there has been a history of domestic violence or a restraining order in effect, and that the judge state that domestic violence protections are available.</p> <p>Additionally, in our experience, people can become tongue-tied or confused in court, and survivors of domestic violence do not always feel comfortable discussing the abuse in public in front of a judge. For this reason, we recommend that the option to request domestic violence protections also be included as part of the mediator’s initial instructions to the parties and on all intake and advisement forms. Mediators, for this reason, should be trained in assessing and handling cases that may involve domestic violence. As a model, we suggest using the training requirements for custody cases in Conciliation Court. <i>See</i> Cal. Fam. Code. § 1816.</p> <p>Proposed Rule of Court, Rule 5.83(d)(4):</p> <p>Following on our comments above, we recommend the following language:</p>	<p>The procedures followed by mediators are not the subject of this proposed rule. Family Code section 2451 requires that ADR be conducted consistent with Family Code section 3181.</p>

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	Commentator	Position	Comment	Committee Response
			<p>With the exception of mandatory child custody mediation, before alternative dispute resolution (ADR) is included in a family centered case resolution plan under Family Code section 2451(a)(2), <u>the judicial officer must inform the parties on the record that their participation in ADR services is entirely voluntary and that both parties must agree to their use.</u> Additionally:</p> <p>(A) <u>The judge shall</u> inform the parties that ADR may not be appropriate in cases involving domestic violence and provide information about <u>the availability of separate sessions. If there is a history of domestic violence or a restraining order in the case history, the judge shall affirmatively ask if either party wants domestic violence protections.</u></p> <p>(B) <u>If the parties choose to participate in ADR, the mediator shall inform the parties that ADR may not be appropriate in cases involving domestic violence and provide information about the availability of separate sessions. If there is a history of domestic violence or a restraining order in the case history, the mediator shall affirmatively ask if either party wants domestic violence protections.</u></p> <p>(C) <u>The court shall ensure that all court-connected providers of ADR services that are</u></p>	<p>This is a substantial modification to the rule and the burden placed upon judicial officers. Making such a modification would require the rule to be circulated again for comment. Also, please refer to response above.</p>

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	Commentator	Position	Comment	Committee Response
			<p><u>part of a family centered case resolution plan have been trained in assessing and handling cases that may involve domestic violence (as described in Cal. Fam. Code section 1816).</u></p> <p><u>(D) Nothing in this provision should be interpreted as to prevent an individual from requesting domestic violence protections at any other time in the proceeding.</u></p>	
6.	<p>Los Angeles County Bar Association Family Law Section Executive Committee Legislative Committee Barbara K. Hammers, C.F.L.S. Andrea F. Balian, Esq.</p>	AM	<p>Rule 5.83: The LACBA Family Law Section supports the objectives set forth in the proposed rule but suggests the rule be amended and clarified as described below.</p> <p>Rule 5.83 (c)(4)(c) sets forth the requirement that the Preliminary Declaration of Disclosure be served within 60 days. While the timeframe is consistent with the requirement of the Family Code, it should be amend to add "unless the parties agree to an extension of this time." In more complex matters where the parties may need more time to prepare their Preliminary Declaration of Disclosure, a provision should be inserted that allows the time to be extended by agreement.</p> <p>Rule 5.83 (c)(5) is vague as to how it effects litigants and attorneys, or even if this subsection is directed to litigants and attorneys. It appears from the subsection that this is simply a stated goal of the judicial system and that this</p>	<p>Rule 5.83(c)(4)(c) does not require that the Preliminary Declaration of Disclosure be served within 60 days of filing. It merely sets this procedural milestone out as one of many that a court could consider in determining if the case is moving forward in a reasonably timely manner. There is nothing in the rule that would prevent a court from allowing the time to be extended based on the stipulation of the parties, just as set out in the statute.</p> <p>The rule is clear stating that the goals set out in section 5.83 (c)(5) are to be part of a family centered case resolution process. Section 5.83(b)(1) defines a “family centered case resolution process” as a court process that is</p>

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			<p>subsection is directed to the courts and not the litigants. However, this is not clearly stated in the subsection. Furthermore, it is unknown how this stated goal will be utilized by litigants, attorneys and the Courts to put pressure on litigants and reduce their opportunity for hearings and a trial. The subsection should have language that specifies that the goals are not binding or mandatory for litigants and attorneys.</p> <p>Form FL-174 "Family Centered Case Resolution Order" which is an optional form includes a statement on page 2 of 3, paragraph 4c that allows Courts to determine the date for the submission of the filing of the Declaration Regarding Service of the Final Declaration of Disclosure (and thereby ordering parties to serve Final Declarations of Disclosure by a certain date). This contradicts Family Code section 2105(a) which specifies when a Final Declaration of Disclosure must be served (and the corresponding Declaration Regarding Service of the Final Declaration of Disclosure filed). A Court should not be permitted to contravene the deadlines set forth in the Family Code by checking boxes on this form.</p> <p>Similarly, Paragraph 6(c) on page 2 of 3 of the form allows the Court to assign a date for the completion of discovery by parties. This</p>	<p>intended to ensure that family law cases move forward in a fair and timely manner. Therefore, the goals set out in 5.83 (c)(5) refer to a court process. The rule does not set out any sanctions for litigants or attorneys for the purpose of enforcing these goals. There is nothing in the rule that would reduce the opportunity to access hearings and trials. The task force and the committee believe that the framework set out in this rule will actually enhance the ability of litigants, and their attorneys, to access timely hearing and trial dates.</p> <p>The task force and the committee anticipate that judges will make orders within the appropriate statutory requirements for Declarations of Disclosure. Family Code section 2105(a) allows judges discretion for good cause to order alternative service dates for the Final Declarations of Disclosure.</p> <p>Family Code section 2451 authorizes judges to make discovery orders as part of the family centered case resolution plan. The task force and</p>

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			<p>contradicts Code of Civil Procedure section 2024 et. seq. which sets forth very specific time frames for the completion of discovery for all litigants. A Court should not be permitted to contravene the deadlines set forth in the Code of Civil Procedure, which apply to all litigants, by checking boxes on this form.</p> <p>The LACBA Family Law Section would agree with and support this proposed rule if subsections (c)(4)(c) and (c)(5) of the Rule is amended and clarified as suggested above and if Form FL-174 is amended so that section 4(c) and 6(c) of the form are eliminated or modified to specifically state that the Court cannot order dates that contravene the deadlines set forth in Family Code section 2105 and Code of Civil Procedure 2024 et. seq.</p>	<p>the committee anticipate that judges will make orders for discovery that do not conflict with statutory authority.</p> <p>The task force and the committee anticipate that judges will make orders for discovery that do not conflict with statutory authority.</p>
7.	Orange County Bar Association John Hueston, President Newport Beach	A	No narrative comment.	No response needed.
8.	Lee C. Pearce, Esq. Walnut Creek	A	The key to the effectiveness is going to be whether the parties/attorneys are prepared and correct paperwork deficiencies. Otherwise, Section (d)(5) is a waste of the court's time. I don't see anything about enforcement in the rule. What are the consequences for noncompliance? What if one side is compliant and the other isn't? Shouldn't there be some kind of sanction?	In surveying courts that are already employing family centered court resolution caseflow management processes, the task force and committee found a variety of different practices regarding sanctions for non-compliance with local case management rules. The task force and committee did not want to mandate any one of these models as a statewide practice. Nevertheless, there is nothing in the rule that would prevent a court from adopting a local rule imposing sanctions for non-compliance with its case management rules.

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			<p>I have no idea where the courts are going to find the time to fill out FL172 on each of the thousands of cases that are filed in each county every year.</p>	<p>Currently, courts must access the information contained on FL-172 from the case file ad hoc, repeatedly at various times in the process of the case – at the filing of motions, during hearings, when judgment paperwork is submitted. Form FL-172 is intended to provide the procedural data needed at these various times on one form that can be accessed easily in the file. The information has to be found in the file only once rather than every time it is needed for one or another purpose. Overall, there should be a significant time savings. Nevertheless, form FL-172 is an optional form for courts to use and may not be necessary for all cases.</p>
9.	<p>Sonoma County Bar Association, Family Law Committee Joann Campoy, Esq Robert E. Marmor, Esq.</p>	AM	<p>Rule 5.83 Family Centered Case Resolution - Sonoma County Bar Association, Family Law Section comment are as follows: This rule should include a provision that the status conferences and FCCR conferences should be conducted by the judicial officer assigned to the case.</p> <p>(b) Definitions (1) "Family centered case resolution process" refers to the process employed by the court to ensure that family law cases move through the court process from filing to final disposition in a timely, fair, and effective manner"</p>	<p>There are a variety of ways in which courts are assigning status conferences and family centered case resolution (FCCR) conferences. The task force and committee do not believe that a one-size-fits-all method mandated statewide is the most effective way to approach a statewide rule. While FCCR conferences are required to be handled by a judicial officer, the decision to direct calendar them, master calendar them or use some other assignment method should be left to the discretion of the local courts.</p> <p>For the purposes of the rule, the task force and committee prefer to use the language as circulated.</p>

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			<p>Suggested: "Family centered case resolution process refers to the process by which the court assists family law cases move through the court process from initial filing to final disposition in a timely and effective manner." (Language taken from statute)</p> <p>(4) "Family centered case resolution conference" refers to a meeting scheduled with parties, attorneys, and a judicial officer Replace meeting with conference.</p> <p>(c) Family centered case resolution process (2) Requires review within six months of initial filing and a minimum of every 180 days thereafter. In many cases, a review within 180 days of the first review is not appropriate or necessary such as ADR/collaborative, or because of the circumstances of the case. We suggest including wording which qualifies the requirement for a conference every 180 days after the initial conference by inserting "absent good cause", to avoid unnecessary scheduling and appearances and leave these requirements more flexible subject to the judicial officer's discretion.</p> <p>(4) Procedural milestones. We express our concern that not all of these milestones are realistic. The proposed rule requires the court to consider rather than enforce the milestones. A lack of reaching the milestones within the prescribed time frames does not necessarily</p>	<p>The task force and the committee agree and will change the word "meeting" to "conference."</p> <p>The task force and committee understand that cases participating in processes such as ADR or collaborative law may not move forward in the same manner as other cases, but they should nevertheless be making progress toward a reasonably timely disposition. The way in which these cases are handled during the reviews should be up to the discretion of the local court. There is nothing in the rule that would prevent local courts from determining that cases involved in ADR or collaborative law were progressing reasonably and therefore not requiring status or FCCR conferences.</p> <p>This rule recognizes that some cases need significantly more time than others because of the complexity of the issues or desire of the parties to have additional time to attempt reconciliation. Based on current information and procedures in</p>

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			<p>mean the case is not moving forward timely.</p> <p>(4)(D) which requires a judgment to be submitted within 60 days of entry of default should state a judgment should be submitted or a prove up hearing scheduled.</p> <p>(4)(F) a requirement that a judgment is submitted within six months of filing the Petition in cases where parties have notified the court they are actively negotiating or mediating may not be realistic. Nine months may be a more reasonable period of time.</p> <p>(5) Should include paternity cases.</p> <p>(6) Insert "the" prior to the last word "following:"</p> <p>(6)(D) This section refers to providing financial and property settlement assistance to the parties. We should add custody and visitation assistance. This section refers to "qualified attorney settlement officers" whereas our Sonoma County court has elected to use the term " settlement conference attorney" to avoid</p>	<p>effect in other jurisdictions, the goals set out in this rule are realistic for reasonable case completion.</p> <p>The procedural milestones listed in the rule are not an exclusive list. There is nothing in the rule that would prevent a local court from determining that setting a default hearing within a similar time frame would be a sufficient procedural milestone.</p> <p>The task force and committee are aware cases in mediation will vary in the amount of time that is reasonable for them to move forward. Courts are free within the rule to set a different timeframe for cases in mediation; however, the goal should remain that the case moves forward toward disposition in a timely manner.</p> <p>Courts are free to include paternity cases.</p> <p>The word will be added.</p> <p>Settlement discussions related to custody and visitation are handled by family court service mediators. The term "qualified attorney settlement officer" merely requires that settlement discussions be conducted by an attorney that is qualified to provide accurate information to</p>

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			<p>the connotation and possible legal ramifications of official status. Replace “qualified attorney settlement officer” with "qualified settlement conference attorney."</p> <p>(7) Add subsections with additional factors to consider. Suggested additional factors to assist the Court in deciding if a case requires FCCR, the court should consider additional factors such as: (1) Whether a party is self represented; (2) The extent the conflict between the parties interferes with timely resolution; and (3) The extent to which a party or parties is failing to cooperate in good faith to move the forward in a timely manner.</p> <p>(7)(H) Should include additional factor(s): "Existence of issues of domestic violence, child abuse, or substance abuse, and, in cases involving custody or visitation, existence of intense conflict between the parties or the proposed move away of a parent"</p> <p>(d) Family centered case resolution conferences (d)(4) refers to the court informing the parties that their participation in ADR offered by the court is voluntary. We suggest that the second part of the first sentence of the paragraph should read “...the court must inform the parties that their participation in ADR services recommended by the court is voluntary and that such ADR services can be part of a plan only if both parties voluntarily opt to use these</p>	<p>litigants so that they can make informed choices. It does not confer or imply any official status within the court.</p> <p>The list of procedural milestones is not intended to be an exclusive list. There is nothing in the rule that would prevent the court from including the additional factors mentioned in the comment.</p> <p>See previous response.</p> <p>The task force and committee agree with this change in the wording.</p>

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			<p>services.” We suggest using “recommended” because the ADR services would not be "offered by the court" and because, at a FCCR conference, the court could order the parties to participate in certain types of private ADR that would not be voluntary. Participation in court recommended ADR would be voluntary.</p> <p>(d)(5) Insert the word "procedural" to read "...reviewing the file and notifying the parties of any procedural deficiencies..." The concern is limiting a court employee to procedural advice given they are not licensed and should not be offering legal advice.</p>	<p>The court employee reviewing the paperwork may be a case management attorney. Different courts are using different methods of case review. The task force and the committee expect that courts will restrict employees to work within the boundaries of their professional qualifications.</p>
10.	Thomas P. Stabile, Esq. Sole Practitioner Orange	AM	<p>The Rule should be modified to “may” instead of “must.” The timeline outlined in Rule 5.83(c) (1) should be increased from 180 days to 360 days.</p> <p>For the Orange County Superior Court to comply with C-5 the Family Law Panel is going to have to be increased. Eliminate the necessity of FL-172.</p>	<p>The rule is intended to implement Elkins Family Law Task Force Recommendation 1A and Family Code section 2451 by furthering the legislative intent set out in AB 939. Please see previous response.</p> <p>Proposed form FL-172 is an optional form.</p>
11.	State Bar of California, Executive Committee of the Family Law Section (FLEXCOM) Jill L. Barr, FLEXCOM	AM	<p>FLEXCOM proposes the following modifications:</p> <p>A. FL-172: Case Information</p>	<p>A box for the waiver of the Final Declarations of</p>

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	Saul Bercovitch, State Bar Legislative Counsel		<p>Item 8: Add “waiver of FDD” to options.</p> <p>B. RULE 5.83: Family Centered Case Management Rule.</p> <p>FLEXCOM appreciates the goals of this proposed rule, but believes this rule needs to be modified to contain opt-out provisions. As is indicated below, practitioners who appear in counties that currently have case management have experienced judicial officers who believe that the fast track for family law must be adhered to, regardless of the circumstances of the particular family involved and thus, practitioners have heard: “set it for trial or dismiss” when the circumstances do not warrant such drastic action.</p> <p>1. (b)(2) and (3) distinguish between a status conference and a case resolution conference, though it is unclear in the former if the intention is that no bench officer is involved or if it is anticipated that a commissioner as opposed to a judge would be involved. If no bench officer is involved, the process of advising the court of the status is not specified. There should be a later section clarifying the process post-status conference.</p>	<p>Disclosure will be added.</p> <p>It is vital to the family law courts that all cases move forward in an orderly and reasonably timely manner. Family Code sections 2450 and 2451 provide judges with the authority to make family centered case resolution orders without the necessity of agreement from the parties or their attorneys. The proposed rule does not mandate compliance with the timely disposition goals it sets out. Unlike the fast track legislation, there is no requirement that the Judicial Council monitor compliance with these goals, nor are there any sanctions against parties for the purpose of enforcing them. Please see previous response.</p> <p>There is nothing in the rule that requires a status conference to be conducted by a judicial officer. Currently different courts are using different methods of tracking status on cases. Family centered case resolution conferences are different in that the rule requires that they be conducted by a judicial officer (see section (d)(2) of the rule.) Depending on the needs of the case a series of status conferences might be most effective while in another case with more complex issues, a family centered case resolution conference would be more effective. The task force and the committee wanted to leave the most flexibility possible within the rule for court to design their own systems of family centered case resolution.</p>

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			<p>2. (c)(2): Our concern with this series of mandated review hearings is that there is nothing stated as to how parties or counsel would advise the court of that progress other than attending what could be an unnecessary review hearing. We propose in the first instance an ability to “opt out” by agreement of both parties/counsel (for reasons such as progress is being made, the case is being negotiated or the parties are attempting a reconciliation), as well as a procedure by which the court could be advised of progress by some means other than attendance at a hearing (i.e. joint letter submitted to the court). We would like to see more language added to ensure courts do not simply default to regular reviews when counsel are involved and feel it is unnecessary. The reference to review hearings taking place every six months, then two times per year presumably anticipates reviews that occur with more or less time between, however the language should be clarified as on first reading that would appear to be the same time frame.</p> <p>3. (c)(3) addresses a scenario whereby 18 months have passed from the filing date of the Petition and both parties have failed to participate in any of the reviews. At that stage, the court's obligation to review the status is relieved. Our concern with this language is that it creates a situation where a case is then in limbo and the court is unaware of why that is so.</p>	<p>The task force and the committee want the courts to have the greatest possible leeway within the rule to design and implement processes by which they monitor the progress of cases and ensure that they are moving forward in a reasonably timely manner. Therefore, there is nothing in the rule that would prohibit a court from designing a process by which litigants or their attorneys could simply report by letter or telephone call that the case was progressing forward reasonably given the specific circumstances of the case – such as attempts at reconciliation or significant progress in negotiation.</p> <p>The case only goes into the holding pattern without further review if no litigant or attorney has participated in the case resolution process at all after 18 months have passed since filing. Notification to the court that the case is progressing forward would prevent that.</p>

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			<p>With counsel, that could be solved by a letter to the court, though with self-represented parties, that would not necessarily be the case. We do not have an immediate suggestion to solve this short of having the court contact one of the parties, but that seems an unlikely solution with the current budgetary crisis.</p> <p>4. (c)(4) set forth a series of steps that “should be” considered or “should be” taken. Consideration should be given to breaking down this rule to steps that are mandated to be done within a certain time frame (i.e. filing a proof of service, serving a preliminary declaration of disclosure) as opposed to those steps which are encouraged within a certain timeframe (i.e. entering a default or a judgment post-default). As written, it sounds mandatory though it is unclear and again, may not be appropriate in certain circumstances. The mandatory steps should be amended to allow an 'opt-out' by agreement (i.e. parties are reconciling or in process of negotiating an agreement).</p> <p>5. (c)(4)(c) sets forth the requirement that PDDs should be served within 60 days. This timeframe is fine, but the rule should be amended to also add “unless the parties agree to an extension of this time.”</p> <p>6. (c)(5)(a)(b)(c) sets forth the goals of the process to finalize 20% of cases within 6 months, 75% within one year and 90% within</p>	<p>The procedural milestones set out in the rule are not mandatory. There is no requirement that the Judicial Council monitor compliance with them, nor are there any sanctions against parties for the purpose of enforcing them. The list is not an exclusive list. The task force and the committee intend the procedural milestones set out in the rule to serve as a framework that courts can use to assess their effectiveness in moving family law cases forward in a timely manner.</p> <p>There is nothing in the rule that would prohibit extending the time set out in 5.83(c)(4)(c) by written agreement or order of the court.</p> <p>The proposed rule does not mandate compliance with the timely disposition goals it sets out. There is no requirement that the Judicial Council</p>

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			<p>18 months. We feel these time frames are unrealistic for most cases with counsel. With that said, we are fine with these figures as goals as long as counsel are not held to these by judicial officers who perceive the schedule as a directive or a mandate that must be adhered to in all circumstances. Anecdotally, one member cited an instance where counsel was advised if a certain step was not taken within a defined period of time that the case would be dismissed in its entirety, and we are concerned that these time frames will be used in that or similar ways.</p> <p>7. (d) sets out the process and parameters of case resolution conferences which appear to be fine as written. (f) gives the court discretion to determine that appearances are not necessary at a case resolution conference, but again should refer back to a method by which parties or counsel could opt out or postpone a possibly unnecessary hearing. (g) identifies information a party should be provided at the time of the first filing which should, in our opinion, be very helpful.</p>	<p>monitor compliance with these goals, nor are there any sanctions against parties for the purpose of enforcing them. Family Code section 2450 and 2451 provide judges with the authority to control the pace of cases. The task force and the committee intend the procedural milestones and disposition goals set out in the rule to serve as a framework that courts can use to assess their effectiveness in moving family law cases forward in a timely manner.</p> <p>There is nothing in the rule that would prevent a court from designing a process by which family centered case resolution conference can be easily continued. Further, section (d)(2) allows for FCCR conferences to be held by phone or other means in order to reduce the necessity of trips to the courthouse.</p>
12.	<p>Superior Court of Contra Costa County Kathleen Shambaugh Business Operations Administrator Martinez</p>		<p>Rule 5.83: Providing information and education at the beginning of a case and assistance to self-represented litigants during the process is the best way to ensure that cases are processed in a timely manner. Form FL- 107-INFO will be very helpful. However, the rules for family centered case resolution are unrealistic given the reduction in court staff over the past few years.</p>	<p>The task force and committee agree that giving information to litigants at the start of the case is important, but it has not resulted in addressing the issue of judgments that do not get entered for years, or sometimes not at all. The protracted lingering of unresolved cases creates a workload impact on staff. Available data indicate that caseload management in family law actually</p>

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			<p>Rule 5.83 c. 2 requires review cases every 180 days for 18 months. This involves checking</p>	<p>reduces staff workload overall. The task force and committee believe that any workload impact would be offset by savings in future calendar reduction, and reduction of overall family law inventory. One study reviewed by the task force and the committee reported that when one court ceased conducting its status conferences, its OSC calendars began increasing significantly so that 24 additional judge days were needed by the end of a year. Another court reported that due to their caseload management system the disposition rate at one year had increased by 22% for cases involving at least 1 self-represented litigant and by 23% for 2 attorney cases. While recognizing that there are up-front resources required to change a business practice and transition to a family centered case resolution caseload management system, the Trial Court Presiding Judges Advisory Committee (TCPJAC)/ Court Executives Advisory Committee (CEAC)/ Joint Rules Working Group concluded that this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload.</p> <p>There are many courts that have already implemented periodic case reviews, some more</p>

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			<p>ticklers, sending notices, pulling files, having staff available to assist the bench officers, preparing an order after the hearing, calendaring the next hearing and returning the files to Court Records. Requiring review of a case every 180 days is the most resource-intensive solution to the problem of moving cases through the court system. It is simply unrealistic to expect that courts will be able to provide the sort of ongoing monitoring required by this rule. Added to that, many litigants fail to appear at these hearings, so much of this staff time is wasted.</p>	<p>often that every 180 days. Not all use the same method of review. Some schedule cases for status conferences at the time of filing and require that the notice be served with the petition. This requires no tickling or additional notice. Others have successfully used their case management systems to only notice those cases they determine are not moving forward in a timely manner. Two of our larger courts have created models that do not require the production of a minute order. Almost no current model uses an order after hearing unless the case has been deemed to need a family centered case resolution (case management) plan. One court studied cases in which litigants failed to appear and found that those litigants were also completing their cases after receiving the notice of the status conference, presumably due in part to the information contained in the notice. The court did not consider failure to appear as an indicator of a waste of the court's time.</p> <p>The task force and the committee understand that timing of implementation of family centered case resolution is an important factor. While the current budget constraints make the need for this change critical, those courts that are currently without a family centered case resolution caseflow management system will need time for a strategic transition that integrates caseflow management into operations. There are already models of caseflow management operating in California courts that are not significantly resource intensive</p>

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				<p>from which other courts can learn. The task force and the committee anticipate facilitating connections among the courts and providing education and technical assistance.</p> <p>In recognition of the need for a strategic transition period, the task force and the committee will modify the implementation dates currently set out in the rule. The requirement that cases be reviewed periodically will apply to cases filed on January 1, 2013 rather than January 1, 2012. This provides an additional year for courts to develop the most efficient models for this purpose. Further, the disposition goals set out in 5.83(c)(5) will apply to cases filed on January 1, 2014 rather than January 1, 2012. This provides the courts with two years to work on their family centered case resolution caseflow management systems.</p>
13.	Superior Court of Los Angeles County	AM	We have several comments on the proposed rule.	

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			<p>1. The definition of “disposition” should not be so narrow. It is appropriate to exclude as “disposition” judgments on status only; however our experience is that litigants frequently are not prepared to or do not wish to resolve issues such as spousal support or the disposition of certain assets when they proceed to judgment on all other issues, and they never return to court on those reserved issues. Forcing individuals to litigate or settle such issues adds nothing to the process but increases litigant and judicial dissatisfaction. Furthermore, this narrow definition would require judicial officers to search all stipulated judgments for reserved issues and reject or set for trial those that purport to reserve on any issue. The same would be true for default judgments in which issues such as child support and spousal support are frequently reserved. With few exceptions, these cases are truly “disposed of” just as much as any other case in which no issues are “reserved.” We suggest revision of Section (b)(2) to read “ ‘Disposition’ refers to final judgment on all issues (other than those issues specifically reserved either by mutual agreement or court order upon a showing of good cause), dismissal, change of venue, etc. ”</p> <p>2. We have a concern that the type of assistance described in items (c)(6)(A) may suggest that the court would take a more active role in a case than we are ethically permitted to do. For</p>	<p>The task force and the committee agree to expand the definition of “disposition” to include status only judgments; and to add language expressly allowing courts to maintain cases in the family centered case resolution process post-disposition as deemed appropriate.</p> <p>The task force and the committee contend that exparte communication between court staff and litigants or their attorneys is appropriate as long as the content is limited to procedural matters. An</p>

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			<p>example, this implies that the court staff could discuss a case with a party ex parte and suggest steps that could be taken to obtain certain kinds of relief. We have made suggested changes in Section 6 (see below) to make clear that such communications may only relate to court-imposed procedural requirements and may not be ex parte.</p> <p>3. We are unclear as to the meaning of the factor set forth in Section (c)(7)(J) and why it is included. There is no such consideration of whether there is a likelihood of writ or appeal included in the civil case management rules. We suggest deleting it.</p> <p>4. It is unclear what a “court-connected” provider of ADR services is (see Section (d)(4)(B). We could find no definition. If intended to encompass volunteer attorneys, we are comfortable with the requirement of training in domestic violence only if left as stated here which suggests the local courts may determine the appropriate training. See our comment to proposed rule 5.420 SPR 11-36.</p> <p>5. The language in Section (c)(4) is wordy and somewhat confusing. We have suggested a revision below (adopting the phrasing used in the civil case management rules).</p> <p>6. Based on two years of piloting various case management models at our court, it is clear that</p>	<p>example of this would be the probate paralegals in many courts that let litigants know whether or not the procedural precedents have been met that will allow for a hearing on the merits as scheduled. The language in the rule will be modified to clarify that only procedural information is intended.</p> <p>It is agreed that subdivision (c)(7)(J) can be deleted.</p> <p>The subdivision would include volunteer attorneys working as settlement attorneys/officers; however, proposed rule 5.420 has been modified to be consistent with the provisions of this rule.</p> <p>See response to suggested wording below.</p> <p>Several different commentators have suggested</p>

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			<p>self help assistance programs cannot provide sufficient assistance timely to meet the time lines proposed. In our experience, while more than 20% of cases can reach disposition in the first 6 months, those litigants that do not meet that goal usually need significant assistance (e.g. help with service by posting/publication, or letters rogatory) or court interventions such as ADR or hearings. This assistance cannot be provided rapidly enough to complete 75% of the cases in twelve months even here in Los Angeles where we believe we have robust self help. We would suggest somewhat different standards: 30% completed at 6 months, 60% at 12 months and 90% in 24 months. We believe that these goals are realistic and in line with the training provided at the Family Law Overview Course to the effect that for many people it takes two years from the date of separation to be ready to conclude their cases.</p> <p>7. The self represented would benefit if there were a Judicial Council form to use in notifying the court when a case is being mediated.</p> <p>8. As a general comment on the forms, they do not have space to indicate the department number.</p> <p>Below is suggested rewording of the Rule. Rule 5.83 Family Centered Case Resolution</p> <p>(a) Purpose</p>	<p>several alternate dispositional goals for the proposed rule. The time goals were based on available data from California courts and other jurisdictions and were set out in the recommendations of the Elkins Task Force. Please note that these timelines are not mandatory but serve as guidelines that a court may use to assess its effectiveness in moving its family law cases forward in a reasonably timely manner.</p> <p>The suggestion of the commentator will be referred to the task force and the committee for development in a future RUPRO cycle.</p> <p>The forms will be modified to include space for the department number.</p> <p>The re-wording of the rule involves a number of significant changes that cannot be incorporated without re-circulating it for comment. These changes will be referred to the task force and the</p>

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			<p>This rule establishes processes and procedures for courts to manage cases from initial filing to final disposition in an effective and timely manner. It is intended to advance the goals of Family Code section 2450(a) and Standards of Judicial Administration, standard 5.30.</p> <p>(b) Definitions (1) “Family centered case resolution process” refers to the process employed by the court to ensure that family law cases move through the court process from filing to final disposition in a timely, fair, and effective manner.</p> <p>(2) “Disposition” refers to final judgment on all issues (other than those issues specifically reserved either by mutual agreement or court order upon a showing of good cause), dismissal, change of venue, or consolidation of the case into a lead case. It does not include judgments terminating marital status only.</p> <p>(3) “Status conference” refers to court events scheduled with the parties and attorneys for the purpose of identifying the current status of the case and determining the next steps required to reach disposition; a judicial officer need not be involved in a status conference.</p> <p>(4) “Family centered case resolution conference” refers to a meeting scheduled with parties, attorneys, and a judicial officer to develop and implement a family centered case</p>	<p>committee for consideration in a future RUPRO cycle.</p> <p>The rule has been modified to include status only judgments.</p>

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			<p>resolution plan under Family Code section 2451.</p> <p>(c) Family centered case resolution process (1) For all dissolution, legal separation, nullity, and parentage cases filed on or after January 1, 2012, courts must implement a family centered case resolution process (“the Process”).</p> <p>(2) Each case subject to the Process shall be reviewed within 180 days from the date of the initial filing and at a minimum, at least every 180 days thereafter until disposition. The purpose of the review is to determine if the case is progressing in a timely, fair, and effective manner. For any case not progressing in a timely, fair, and effective manner, the court shall schedule either a Status Conference or a Family Centered Case Resolution Conference. Nothing in this Rule prohibits courts from setting more frequent review dates.</p> <p>(3) If, after 18 months from the date the petition was filed, both parties have failed to participate in the case resolution process as determined by the court, the court’s obligation for further review of the case is relieved until the case qualifies for dismissal under Code of Civil Procedure section 583.210 or 583.310, or until the parties reactivate participation in the case, and the case is not counted toward the goals or disposition set out in (c)(5).</p>	<p>This reflects the content of the rule, except that the task force and the committee have modified it to make it applicable to cases filed on January 1, 2013.</p> <p>This reflects the content of the rule.</p> <p>This reflects the content of the rule.</p>

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			<p>(4) In deciding whether a case is progressing in a timely, fair, and effective manner, the court should consider both procedural milestones and case-specific issues. The procedural milestones to be considered include the following or such milestones as the court may adopt in local rules or otherwise:</p> <p>(A) Whether the proof of service has been filed within the first 60 days following the initiation of the case;</p> <p>(B) If no response has been filed and no extension of time to respond has been filed, whether a request to enter default has been submitted within 60 days after the date the response was due;</p> <p>(C) Whether petitioner has served a preliminary declaration of disclosure within 60 days of the initiation of the case and Respondent has served a preliminary declaration of disclosure within 60 days of filing the response;</p> <p>(D) Where a default has been entered, whether a judgment has been submitted within 60 of entry of such default;</p> <p>(E) Whether a trial date been scheduled.</p> <p>(F) Whether the parties have notified the court that they are actively negotiating or mediating the case, and, if so, whether (i) a written</p>	<p>This reflects the content of the rule.</p>

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			<p>agreement for judgment has been submitted within six months of the date the petition was filed, or (ii) a request for trial date has been submitted.</p> <p>The case-specific issues to be considered include but are not limited to the following:</p> <p>(A) Difficulty in locating and serving the respondent; (B) Complexity of issues; (C) Nature and extent of anticipated discovery; (D) Number and locations of percipient and expert witnesses; (E) Estimated length of trial; (F) Statutory priority for issues such as custody and visitation of minor children; (G) Extent of property and support issues in controversy; (H) Existence of issues of domestic violence, child abuse, or substance abuse; (I) Whether some or all issues can be arbitrated or resolved through other alternative dispute resolution processes; (J) Pendency of other actions or proceedings that may affect the case; and (K) Any other factor that would affect the time for disposition.</p> <p>(5) For dissolution, legal separation, and nullity cases initially filed on or after January 1, 2012, the goals of any family centered case resolution process should be to finalize dispositions as</p>	<p>The task force and the committee agree that the individual case characteristics as set out in the comment and in the rule would need to be considered in determining the progress of a case. They are included in the rule for the purpose of determining whether or not a judicially supervised family centered case resolution conference and plan should be implemented. Many cases do not need this sort of individualized plan and evaluation of their progress can be made on the basis of general procedural steps.</p> <p>The rule has been modified to apply disposition goals to cases filed on or after January 1, 2014. Please refer to previous responses about the dispositional goals.</p>

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			<p>follows:</p> <p>(A) At least 30 percent are disposed within 6 months from the date the petition was filed;</p> <p>(B) At least 60 percent are disposed within 12 months from the date the petition was filed; and</p> <p>(C) At least 90 percent are disposed within 24 months from the date the petition was filed.</p> <p>(6) The court may provide assistance as part of the Process provided that it does not involve any ex parte communications. Types of assistance that can be provided as part of the Process include following:</p> <p>(A) Notifying the parties and attorneys by mail, telephone, email, or other electronic method of communication of the current status of the case and any court-imposed requirements to reach disposition.</p> <p>(B) Implementing a schedule of status conferences for cases to identify the status of the case and determine the next steps required to progress toward disposition;</p> <p>(C) Providing assistance to the parties at the time scheduled for hearings on requests for orders to identify the status of the case and determine any court-imposed requirements to reach disposition;</p> <p>(D) Providing financial and property settlement opportunities to the parties and their attorneys with judicial officers or qualified attorney settlement officers;</p> <p>(E) Scheduling a family centered case resolution conference to develop and implement a family</p>	<p>Please see previous response regarding the comment on ex parte communications.</p>

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			<p>centered case resolution plan under Family Code section 2451.</p> <p>(d) Family centered case resolution conferences</p> <p>(1) The purpose of a Family Centered Case Resolution Conference is to develop a specific case plan to ensure that the case will progress in a timely, fair, and effective manner. Once developed, the plan becomes an order of the court in that case. The conference is not intended to be either an evidentiary hearing or a settlement conference.</p> <p>(2) Family centered case resolution conferences must be heard by a judicial officer. On the court’s initiative or at the request of the parties, to enhance access to the court, the conference may be held in person, by telephone, by videoconferencing, or by other appropriate means of communication.</p> <p>(3) At the conference, counsel for each party and each self-represented litigant must be familiar with the case and must be prepared to discuss the party’s positions on the issues.</p> <p>(4) Nothing in this Rule limits or prohibits the inclusion of child custody mediation and/or alternative dispute resolution (ADR) in a family centered case resolution plan.</p> <p>(5) Nothing in this rule prohibits an employee of the court from reviewing the file and notifying the parties of any deficiencies in their paperwork before the parties appear in front of a judicial officer at a family centered case resolution conference. This type of assistance</p>	<p>This reflects the content of the rule.</p> <p>This reflects the content of the rule.</p> <p>This reflects the content of the rule.</p> <p>There is nothing in the rule that would prohibit this. It is, however, made clear in the rule that the provisions of the rule related to ADR do not apply to mandatory child custody mediation.</p> <p>This reflects the content of the rule.</p>

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			<p>can occur by telephone, in person, or in writing, on or before each scheduled family centered case resolution conference. However, this type of procedural assistance is not intended to replace family centered case resolution plan management or to create a barrier to litigants' access to a judicial officer.</p> <p>(e) Family centered case resolution plan order (1) A Family centered case resolution plan as ordered by the court must be in writing and must comply with Family Code sections 2450(b) and 2451. (2) The family centered case resolution plan order should set a schedule for subsequent family centered case resolution conferences and otherwise provide for management of the case.</p> <p>(f) Family centered case resolution order without appearance If the court determines that appearances at a family centered case resolution conference are not necessary, the court may notify the parties and, if stipulated, issue a family centered case resolution order without an appearance at a conference.</p> <p>(g) Family centered case resolution information (1) Upon the filing of first papers in dissolution, legal separation, nullity, or parentage actions the court must provide the filing party with the following: (A) Written information summarizing the</p>	<p>There may be no need for subsequent family centered case resolution conferences.</p> <p>This reflects the content of the rule.</p> <p>This reflects the content of the rule.</p>

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			<p>process of a case through disposition; (B) A list of local resources that offer procedural assistance, legal advice or information, settlement opportunities and domestic violence services; (C) Instructions for keeping the court informed of the person’s current address and phone number, and e-mail address; (D) Information for self represented parties about the opportunity to meet with court self-help center staff or a family law facilitator; and (E) Information for litigants on how to request a status conference or a family centered case resolution conference earlier than, or in addition to, any status conference or family centered case resolution conferences scheduled by the court.</p>	
14.	Superior Court of Monterey County by Minnie Monarque, Director, Civil & Family Law Division Monterey	AM	<p>There is a need for there to be more discretion in the implementation of the sections relating to Family Centered Case Resolution. The fiscal impact of implementing these rules to the extent that they are mandatory requires increased resources and staff at a time when the court’s budgets are being cut. Additional discretion within these rules will allow courts of varying sizes with varying resources available to them to implement the rules in the most practical way possible. Of concern, in reviewing the rules as stated herein, is that in the effort to provide litigants with access to the courts that the guidance the rules of court provides are being lost, to the disadvantage of those most in need of the guidance that clear rules provide. In order to create that clarity, harmonizing the</p>	<p>The proposed rule addresses the existing burden on the courts, of lingering and unfinished cases continuing on within the family court system for year after year, sometimes indefinitely. Undisposed family cases 20 and 30 years old can be found in the inventories of most courts. As a result inventories of unfinished cases assigned to individual family law judges are remarkably higher than the case inventories for judges in civil and criminal assignments. This also leads to problems of records management and storage, the filing of multiple cases by self-represented litigants because they do not understand the process, repeated motions to modify temporary orders, and an overall increase in the litigation loads on the family courts. In one court it was found that when the family law status conference</p>

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			procedures for case management with those used in civil cases, generally with those in Family Law may be something for the council to consider.	<p>calendar was discontinued, the OSC/motion calendars began to grow and over the next three months had increased to the extent that an additional 24 judge days per year would be required to handle them. Furthermore, the numbers were continuing to grow. Given the current budget constraints, the task force and the committee concluded that courts can no longer afford to continue to reasonably conduct family court business without actively managing the caseloads. In response to this reality, many courts have already begun programs to actively track and manage these cases. While recognizing that there are up-front resources required to change a business practice and transition to a family centered case resolution caseflow management system, the Trial Court Presiding Judges Advisory Committee (TCPJAC)/ Court Executives Advisory Committee (CEAC)/ Joint Rules Working Group concluded that this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload.</p> <p>The Elkins Family Law Task Force addresses the issue in Recommendation 1A which calls for the courts to actively manage their caseload, and for the legislature to authorize judges to implement a case management plan without the requirement of a stipulation from the parties. Proposed rule 5.83 implements Elkins Recommendation 1A, and the legislature's intent in eliminating the need of a case management plan stipulation. AB939 (1)(c),</p>

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				reads in part as follows:” <i>By eliminating the current ability of one party to drag out a case for years, the Legislature intends that all parties participate in, and benefit from, family centered case resolution.</i> ”
15.	Superior Court of Orange County Family Law Operations Staff Santa Ana	AM	Form FL-172 • Item 11, this title, “Related Cases” is incorrect; it should be a reference to Custody and Parenting Time. Form FL-174 • Item 2, “Date Time Dept Room” should be included on first line (Dept and Room should be combined as Dept/Room); they are on the same line as 2(a) which leaves no room for information associated with 2(a).	It is agreed that the correction will be made. It is agreed that this addition will be made.
16.	Superior Court of Orange County Family Law Judicial Panel Orange	AM	1. Case management in family law matters was previously prohibited by statute, except by stipulation of the parties. We often felt that case management was appropriate in certain cases, however, not in all. To go from a complete prohibition to a mandatory requirement is contrary to the purpose of the new legislation. FC sections 2450 and 2451 use permissive language, not mandatory. We suggest changing the proposed CRC regarding case management to contain permissive language such as “may” rather than “shall” or “must”. Until we obtain the necessary resources to ensure success, case management should be discretionary.	The proposed rule addresses the existing burden on the courts, of lingering and unfinished cases continuing on within the family court system for year after year, sometimes indefinitely. Undisposed family cases 20 and 30 years old can be found in the inventories of most courts. As a result inventories of unfinished cases assigned to individual family law judges are remarkably higher than the case inventories for judges in civil and criminal assignments. This also leads to problems of records management and storage, the filing of multiple cases by self-represented litigants because they do not understand the process, repeated motions to modify temporary orders, and an overall increase in the litigation

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				<p>loads on the family courts. In one court it was found that when the family law status conference calendar was discontinued, the OSC/motion calendars began to grow and over the next three months had increased to the extent that an additional 24 judge days per year would be required to handle them. Furthermore, the numbers were continuing to grow. Given the current budget constraints, the task force and the committee concluded that courts can no longer afford to continue to reasonably conduct family court business without actively managing the caseloads. In response to this reality, many courts have already begun programs to actively track and manage these cases. While recognizing that there are up-front resources required to change a business practice and transition to a family centered case resolution caseflow management system, the Trial Court Presiding Judges Advisory Committee (TCPJAC)/ Court Executives Advisory Committee (CEAC)/ Joint Rules Working Group concluded that this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload.</p> <p>The Elkins Family Law Task Force addresses the issue in Recommendation 1A which calls for the courts to actively manage their caseload, and for the legislature to authorize judges to implement a case management plan without the requirement of a stipulation from the parties. Proposed rule 5.83 implements Elkins Recommendation 1A, and the</p>

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			<p>2. Additionally, we believe that the CRC should include a provision that requires all Presiding Judges to make “every reasonable effort” to comply with the allocation of resources suggested by the Commission. The Elkins Commission recommended additional judicial officers, specifically suggesting that not less than 19% of our bench officers be devoted to family law matters. It is for this reason that we suggest the above language. Common sense indicates that when we invite hundreds of litigants to court for case management we will experience an increased work load for judges and staff. Such has not been considered when requiring mandatory case management without providing for additional resources.</p> <p>3. Proposed form 172 is unnecessary and duplicative of other information readily available. This should not be a mandatory form.</p>	<p>legislature’s intent in eliminating the need of a case management plan stipulation. AB939 (1)(c), reads in part as follows:” <i>By eliminating the current ability of one party to drag out a case for years, the Legislature intends that all parties participate in, and benefit from, family centered case resolution.</i>”</p> <p>The allocation of judicial resources is not the subject of this proposed rule and is under study separately by the task force and the committee.</p> <p>Proposed form FL-172 is an optional form.</p>

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17.	Superior Court of Riverside County Staff Sherri R. Carter Court Executive Officer	A	No narrative comments submitted.	No response required.
18.	Superior Court of Sacramento County, Staff Dennis Jones	N	<p>Below is a preliminary analysis by my Family Law staff of the cost of implementation of the proposed rule changes contained in SPR-11-46. I do not intend to speak on the value of the policy decision that more active case management of family law cases is needed. There may be benefits in more rigorous case management. Right now, I do not have enough staff to file family law cases without people waiting in line for 4-5 hours to be served by the few family law staff that are left to provide that service.</p> <p>It appears that the legislature and governor have determined that the courts should be permanently operated at a reduced cost-as they continue to make permanent reductions to the judicial branch’s budget. It would be helpful if the various standing committees changed their focus from incremental improvements-that may have incremental increased costs-to helping court efforts to streamline their current policies and procedures so meaningful services can be performed with significantly fewer staff.</p> <p>Preliminary Analysis:</p>	<p>As stated previously, the proposed rule addresses the existing burden on the courts, of lingering and unfinished cases continuing on within the family court system for year after year, sometimes indefinitely. Undisposed family cases 20 and 30 years old can be found in the inventories of most courts. As a result inventories of unfinished cases assigned to individual family law judges are remarkably higher than the case inventories for judges in civil and criminal assignments. This also leads to problems of records management and storage, the filing of multiple cases by self-represented litigants because they do not understand the process, a revolving door of repeated rejections of default and uncontested judgment paperwork by all types of litigants, repeated motions to modify temporary orders, and an overall increase in the litigation loads on the family courts.</p> <p>Available data has been reviewed by the task force and the committee. Greacen & Associates conducted a cost benefit analysis of services provided to self-represented litigants in six Central Valley courts. This study reported data from one court where assistance on case disposition was provided to self-represented</p>

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		<ol style="list-style-type: none"> 1. If implemented, the new rule will likely cost our court \$500,000 annually in staffing costs. Given our fiscal crisis, implementation of the new rule would not be feasible. 2. New rule 5.83 mandates case management for family law cases. As written, the rule requires the court, for cases filed on or after January 1, 2012, to review all dissolution, legal separation, nullity and parentage cases without a disposition at least 180 days from the date of filing, with reviews every 180 days thereafter until the case is 18 months old. It also imposes rules related to handouts that must be created by local courts and handed out at front counters upon the filing of first papers. The disposition goals that are presently established are as follows: <ol style="list-style-type: none"> 3. At least 20% of cases within 6 months of filing; 4. At least 75% of cases within 12 months of filing; and 5. At least 90% of cases within 18 months of filing. 6. To figure out the rough costs associated with implementation staff reviewed 	<p>family law litigants at the first court hearing. This process saved the need for future hearings overall. The report found that for every \$.45 the court spent on providing this assistance \$1.00 was saved. If the cost to litigants of attending the eliminated hearings was included in the analysis, the cost of service fell to \$.14 per \$1.00 saved. In another of the courts studied in the Greacen Central Valley study, assistance was provided to contested cases on a case management calendar. The benefit to the court was assessed to be a savings of \$40.65 per case. In an additional review of local court data by Greacen and Associates, it was found that in one court when the family law status conference calendar was discontinued, the OSC/motion calendars began to grow and over the next three months had increased to the extent that an additional 24 judge days per year would be required to handle them. Furthermore, the numbers were continuing to grow.</p> <p>Additional data considered by the task force and the committee include observations made by judges and court executive officers in courts that have already implemented methods to organize, track and review their family law cases. Among the benefits to the courts that have been reported was a reduction in ex parte requests because issues were settled at status conferences that would have otherwise developed into requests for ex parte orders. Also, the family centered case resolution caseflow process allows courts to</p>

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		<p>dissolution, legal separation, nullity, summary dissolution and private paternity cases filed in January 2011 to identify the pending caseload. That month was reviewed to determine what percentage of cases are still pending today to represent the 180 day review that would need to be done on all cases that are pending at that time. Of those, 76% are still pending. We made an assumption that six months after cases are filed 76% would still pending and would need to be reviewed.</p> <p>7. We reviewed the same case types filed in June 2010 to identify the pending caseload. That month was reviewed to determine the number of cases that would still be pending when they are 360 days old and needing to be reviewed. Of those, 24% were still active so we then made an assumption that that number of cases would need to be reviewed.</p> <p>8. The above case review is based on one month only because we have no automated program that is capable of identifying our pending caseloads. We did not review cases filed in January 2010 to find out how many of those cases were still pending and would need a 560 day review. The new rules</p>	<p>leverage resources by grouping cases that are alike and thereby restructuring calendars far more efficiently. Child custody matters can be handled promptly, before they become increasingly complicated due to lack of resolution. Courts report that the total numbers of OSC/motions are reduced because of the stipulations reached at status conferences. One court mentioned that more cases get completed and put into permanent storage at a lower cost to the court.</p> <p>The task force and committee appreciate the analysis provided by the commentator, however it does not reflect the experiences of many of the courts already conducting family centered case resolution caseload management procedures.</p> <p>For example, courts managing their cases report that the rate of disposition completed within one year increase; that is, they do not have the same number of cases pending at 360 days as they currently have. One court that has implemented a family centered case resolution caseload process reports that due to their caseload management system the disposition rate at one year had increased by 22% for cases involving at least 1 self-represented litigant and by 23% for 2 attorney cases. Data suggests that this decline may be apparent as early as the 180-day review after a program has been in effect for a while and word gets out about it.</p> <p>Additionally, not all courts employ family</p>

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			<p>require review of all pending cases every 180 days.</p> <p>9. Based on an average number of filings per month for those case types with an average of 680 new case filings per month, we calculated the number of cases that would have to be reviewed and set for hearing. Those numbers are as follows:</p> <p>10. 180-day review: approx. 480 per month (70% pending ratio),</p> <p>11. 360-day review: approx. 120 per month, (assuming 20% pending ratio). With the 180-day review in place, it is difficult to measure the impact on the volume to be reviewed at 360 days.</p> <p>12. We then calculated some very rough costs for the 180 and 360 day reviews as follows:</p> <p>13. 180 day review - for deputy clerks to pull files, send notices, file documents, calendar and provide courtroom support it would take approximately 395 hours. This equates to 2.35 FTE or \$19,583 per month. For the courtroom clerk to prepare the file and perform other related tasks, it would add approximately 190 hours to their</p>	<p>centered case resolution procedures that require every case to come in for a hearing. Some allow submission of written or telephonic status reports.</p> <p>Further, even when cases are asked to come in for status review, they are not always reviewed in the courtroom. Some programs direct self-represented litigants to the family law facilitator. One court has created a “virtual” courtroom with staff available to provide assistance without the need of producing any minute orders. Under the proposed rule, only the family centered case resolution conferences are required to be heard by a judicial officer. The model requiring all cases be heard in a courtroom tends to inflate the amount of courtroom support time required.</p> <p>Several courts do not “tickle” the cases or send out notices. In these family centered case resolution caseflow management procedures a time for an initial review is set at the time of filing, the notice is required be served along with the Summons and Petition.</p> <p>The task force and the committee believe that it is important to consider the benefits accruing to the court from organizing and controlling the flow of it family law cases. While recognizing that there are up-front resources required to change a business practice and transition to a family centered case resolution caseflow management system, the Trial Court Presiding Judges Advisory Committee (TCPJAC)/</p>

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		<p>workload. This equates to 1.54 FTE or \$11,583 per month. The total is \$31,166 (\$65 per case). This assumes that we have an automated system that can generate notices. We have not yet established if our system can support this workload but if it does, we will have to enter all party addresses before generating notices which will add about 2 minutes per case plus whatever else we need to do to interact with the system. These numbers were calculated using the \$100,000 per FTE, which is the standard we were directed to use when looking at layoffs.</p> <p>14. In six months, when the 360-day review is conducted, we will have approximately 600 cases per month. For the deputy clerks to perform the same tasks as noted above we would incur another 494 hours or 2.94 FTE adding another \$24,500 per month. The courtroom clerk functions would add another 238 hours to the workload, which equates to 1.93 FTE or almost \$16,083 per month. The grand total is \$40,583 per month or close to \$500,000 annually.</p> <p>15. Implementing a new program at this time would be catastrophic for any court that does not presently have a case</p>	<p>Court Executives Advisory Committee (CEAC)/ Joint Rules Working Group concluded that this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload. (Also, please see above potential benefits to the court.)</p> <p>Courts are using a variety of models to organize, track and review the status of their family law cases. There is not one model that will fit every court. The task force and the committee wanted the courts to have the flexibility within the rule to design the most effective model for their court. Timing of implementation of family centered case resolution caseflow processes is an important factor. While the current budget constraints make the need for this change critical, those courts that are currently without a family centered case resolution caseflow management system will need time for a strategic transition that integrates caseflow management into operations. There are already models of caseflow management operating in California courts that are not significantly resource intensive from which other courts can learn. The task force and the committee anticipate facilitating connections among the courts and providing education and technical assistance.</p> <p>In recognition of the need for a strategic transition period, the task force and the committee will modify the implementation dates currently set out in the rule. The requirement that cases be</p>

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			management program in Family Law. I would appreciate any assistance that you can provide to help urge the Judicial Council to either provide funding to implement the new rule or hold off on implementation until we are more fiscally sound. Please let me know if you have any further questions.	reviewed periodically will apply to cases filed on January 1, 2013 rather than January 1, 2012. This provides an additional year for courts to develop the most efficient models for this purpose. Further, the disposition goals set out in 5.83(c)(5) will apply to cases filed on January 1, 2014 rather than January 1, 2012. This provides the courts with two years to work on their family centered case resolution caseflow management process.
19.	Superior Court of San Bernardino County, Staff Debra Meyers, Director	AM	Form: Case Information, page 2, Item 8 – augment the language to explain what is FC 2107 in case a self represented person is filing it. Suggestion: after it says “FC 2107 request granted”, add “(request to waive disclosure)”	The task force and committee agree to make this change on the form.
20.	Superior Court of San Diego County Mike Roddy, Court Executive Officer	AM	Rule 583(c)(3): Can the case be dismissed for other reasons, such as CCP § 575.2 or any other reason? If so, this should be clarified so it does not read as if a dismissal is limited to CCP §§ 583.210 and 583.310. Rule 5.83(d) (4) – Should child custody recommending counseling be used instead of child custody mediation?	The task force and committee did not want to include any particular discretionary sanctions in the rule for lack of compliance with local rules regarding the court’s caseflow management procedures. The dismissal references in the rule relate only to the mandatory 3-year and 5-year dismissals for failure to serve and prosecute the case. There is nothing in the rule that would prevent a court from dismissing a case under CCP section 575.2. Since child custody recommending counselors actually fill the statutory requirement for mandatory child custody mediation, the task force and the committees want to maintain the term “mandatory child custody mediation” so that both confidential and recommending processes will be included.

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			<p>Rule 5.83(g) (1) (A) – Is this a reference to SPR11-40 – Family Law Information Sheet FL-107, or something the court is supposed to prepare locally?</p> <p>FL-172, Item 11: Should clarify mediation as including child custody recommending counseling.</p>	<p>It is intended that the Family Law Information Sheet (form FL-107-INFO) would meet the requirement set out in proposed rule 5.83(g).</p> <p>Recommending child custody counseling is within the statutory definition of mandatory custody mediation.</p>
21.	<p>Superior Court of Santa Clara County Family Court Superior Court Judges: Hon. Mike Clark, Hon. Mary Arand, Hon. Neal Cabrinha, Hon. Mary Ann Grilli</p>	AM	<p>Rule 5.83 Family Centered Case Resolution – The following comments are offered with our strong support for the need for a case resolution rule.</p> <p>Amend subdivision (a) to add: “Courts may adopt local rules and forms consistent with this rule.”</p> <p>Amend subdivision (b)(2) to define “disposition” as a judgment, period. In other words, disposition should include a status judgment. It is unrealistic to think that a final judgment on all issues should be accomplished within the arbitrary time frames specified in (c)(5).</p> <p>Amend subdivision (c)(2) to require a review “no later than 180 days” rather than “at least 180 days” from the date of initial filing. The</p>	<p>The issue is being dealt with in another section of the family law rules of court.</p> <p>The task force and the committee agree to expand the definition of “disposition” to include status only judgments; and to add language expressly allowing courts to maintain cases in the family centered case resolution process post-disposition as deemed appropriate.</p> <p>The changes in wording seem to further the goals of the rule without creating controversy; however, it is not clear that the change is necessary given</p>

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			<p>phrase “at least 180 days” suggests that counties must wait at least 180 days before scheduling a review, but if the goal is to dispose of a designated percentage of cases within 180 days, then the review hearing must be conducted well in advance of 180 days.</p> <p>Further amend (c)(2) to stroke the redundant period following the word “conference” on line 40.</p> <p>Subdivision (c)(5) should be deleted. What research supports these arbitrary time lines? The time lines assume that the summons will be served at or near the time the petition is filed, but this is often NOT the case.</p> <p>Form FL-172 Case Information – Family Law - Comment: Who will complete the form? Should this be reformatted to be a checklist rather than a form to be filed?</p> <p>Form FL-174 Family Centered Case Resolution</p>	<p>the existing language in section (c)(2) stating that nothing in the section would prohibit a court from setting more frequent review dates.</p> <p>There does not appear to be a redundant period at the location identified by the commentator.</p> <p>The time goals were based on available data from California courts and other jurisdictions and were set out in the recommendations of the Elkins Task Force, received by the Judicial Council. Please note that these timelines are not mandatory but serve as guidelines that a court may use to assess its effectiveness in moving its family law cases forward in a reasonably timely manner.</p> <p>Form FL-172 is to be filled out by the court. It is a case information form that is intended to be the repository of procedural information that is frequently needed by judicial officers at the time of hearings. Keeping this information on a case information form will help alleviate to look up this information repeatedly in the file as it is needed on each occasion.</p> <p>The changes to the form suggested by the</p>

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			Plan - Recommendation: amend section 8.a. on page three under “Trial Setting” to add the following: Date, time and department for trial; time estimate for trial; and issues for trial. Amend 8.b. to add “Settlement conference statement must be filed by (date).”	commentator further the effectiveness of the form and are unlikely to cause controversy. The changes should be made as suggested.
22.	Superior Court of Santa Clara County Superior Court Judges: Hon. Mary Ann Grilli Hon. Mary E. Arand Hon. L. Michael Clark Hon. Neal Cabrinha	AM	RULE 5.83- There should be a clear statement that courts may have local rules concerning case resolution conferences, status conferences, and settlement conferences. 5.83 (b)(2): “disposition” should be any judgment, including a status judgment. It is unrealistic to think that a final judgment in a family case on all issues can be accomplished within the arbitrary time frames specified in (c)(5). 5.83(c)(2): this should be amended to “no later than” 180 days, rather than “within” 180 days. Courts should be permitted to review cases in increments shorter than 180 days, particularly if the rule expects any case to be disposed of within 180 days. 5.83(4)(c), the word “Petitioner’s” should be inserted before “Preliminary”. 5.83(5)(A) assumes that cases, particularly dissolution cases, can be fully resolved within 6	Please see previous response Please see previous response Please see previous response This change clarifies the section and is unlikely to cause any controversy. The change should be made as suggested by the commentator. The time goals were based on available data from California courts and other jurisdictions and were

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		<p>months, an impossible goal. This could technically occur only if the Respondent was served on the same date that the Petition was filed, which is actually rare. The goals for resolution should be supported by additional investigation and research over time. The standards in (B) and (C) have been taken directly from the Civil Rules governing case management, without reflection on the significant differences between civil cases and family cases.</p> <p>Query: what are the consequences if these goals are not met? For example, a number of parties reconcile after the filing of their cases and do not dismiss the actions. What happens if the percentage goals are not met in these and other matters?</p> <p>The rule, as proposed, would make ADR participation totally optional. A number of courts, including Santa Clara County that has</p>	<p>set out in the recommendations of the Elkins Task Force, received by the Judicial Council. Please note that these timelines are not mandatory but serve as guidelines that a court may use to assess its effectiveness in moving its family law cases forward in a reasonably timely manner.</p> <p>The proposed rule does not mandate compliance with the timely disposition goals it sets out. There is no requirement that the Judicial Council monitor compliance with these goals, nor are any sanctions against the parties provided for the purpose of enforcing them. The task force and the committee intend the procedural milestones and disposition goals set out in the rule to serve as a framework that courts can use to assess their effectiveness in moving family law cases forward in a timely manner. This rule recognizes that some cases need significantly more time than others because of the complexity of the issues or desire of the parties to have additional time to attempt reconciliation. It also provides the opportunity for those litigants who would like to have their matter resolved to have it heard promptly.</p> <p>The ADR section of the rule is not intended to apply to mandatory settlement conferences. Mandatory settlement conferences were not</p>

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			<p>had a case management program for many years, have mandatory settlement conferences. The Court does not consider these optional and courts need to have the ability to continue to mandate settlement conferences. Santa Clara County also has a settlement officer and here again, referrals to the settlement officer should not be simply optional.</p> <p>Rule 5.83(d)(2), the rule requires that all case resolution conferences be with a judicial officer. There should be some flexibility to utilize trained staff in conjunction with judicial officers to manage the cases. Courts need to have some flexibility to work with staff and the parties to create a program that works in their communities.</p>	<p>considered to be within the definition of ADR by the task force or the committee, but were interpreted to be part of the judicial adjudication process.</p> <p>The task force and committee agree with the commentator. There is nothing in the rule that would prevent the use of qualified, trained staff to work with judicial officers on family centered case resolution conferences. Toward this end, the rule has included section (d)(5) to set out some examples of how staff can be utilized in family centered case resolution conferences. The task force and committee agree that the court should have the greatest flexibility possible within the rule to design a program that works in their community.</p>
23.	Superior Court of Shasta County Stacy Larson, Family Law Facilitator	AM	<ul style="list-style-type: none"> In subsection (3) of CRC 5.83, what is meant by “if . . . both parties have failed to participate in the case resolution process as determined by the court . . .”? Additionally, what does it mean for “the parties [to] reactivate participation in the case”? This standard is extremely broad and could include a range of options from missing one status conference/family centered case resolution process or failing to participate in the review process for the entire 18 months. Leaving room for the courts to tailor their own processes is a good thing, but it appears 	<p>Section (c)(3) specifically states that “participation in the case resolution process” is to be defined by the local courts. The task force and committee expect that courts are most likely to draft their own local rules to address the issues raised by the commentator. The intention of this rule is not to design the family centered case resolution procedures for the courts with any significant specificity because each court must be able to create a program that works best for their community. Therefore, very little standardization has been included in the rule.</p>

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			<p>important to provide some standardization is necessary to ensure that cases are shepherded through the process rather than simply placed on “roll call” calendars that fail to provide meaningful guidance for completing the case and accountability for failing to make progress on taking the case to completion. Upon reactivation, what is the court’s renewed responsibility pertaining to case management?</p> <ul style="list-style-type: none"> • Subsection (4)(F) “Whether a trial date has been scheduled” is ambiguous as a criterion. The court can easily set trial dates, which would seem to satisfy this factor; however, trial dates are worthless and simply congest calendars if the parties and the case are not ready to go to trial. It would seem to be relevant whether trial dates have been previously continued. • In subsection (4)(F), parties are required to file judgment within six months of the date the petition was filed. This timeline appears to be a bit short given the fact that it may well take forty-five days from the date the petition is filed to have the party served and final judgment make require first going through the mediation process, which in our court can require a four-month delay from the time the Court refers the parties to mediation. Trial dates may be repeatedly continued and reset due to unavailability of courtrooms or judicial officers. • A subsection (4)(G) should be added to 	<p>The procedural milestones set out in the rule are not intended to be exclusive. There is nothing in the rule that would prevent a court from using the number of trial continuances as an additional factor in determining whether a case was moving forward in a reasonable manner.</p> <p>This is merely a procedural milestone to help a court assess its effectiveness in moving cases forward. It is not mandatory. The rule does not include or suggest any sanctions for failure to comply with any milestone or disposition goal. Courts are free to set their own procedural milestones in a manner that makes sense for them given their own circumstances.</p> <p>These procedural milestones are not an exclusive</p>

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			<p>include a criterion pertaining to the possibility that the parties are attempting reconciliation. It would be unfortunate if the criteria encourages pushing the parties to complete their cases without considering the optimistic possibility that they may wish to attempt reconciliation prior to disposition.</p> <ul style="list-style-type: none"> • Subsection (5)(A) also appears overly optimistic as the mediation process alone would appear to require longer than six months to complete a significant percentage of cases. Default judgments, nullities, summary dissolutions, and legal separations may likely fall within this 20%, but these cases can easily become derailed if the parties decide to amend legal separation petitions to dissolution petitions or nullity petitions to dissolution petitions, etc. • Subsection (5)(C) requires 90% to be disposed of within 18 months from the date the petition was filed. Our unlimited civil case management standard is for 85% to be disposed of within 18 months. Family law issues are at least as important and difficult to resolve as many unlimited civil cases, and it would seem prudent to make the two standards the same—85%. • Subsection (6) is missing the word “the” in the last sentence (e.g., “Types of assistance that can be provided include the following:” • There is an extra space in subsection (7) 	<p>list. If parties in a case are attempting reconciliation, they may simply notify the court of this fact and the court can determine that they are adequately meeting procedural milestones.</p> <p>The time goals were based on available data from California courts and other jurisdictions and were set out in the recommendations of the Elkins Task Force, received by the Judicial Council. Please note that these timelines are not mandatory but serve as guidelines that a court may use to assess its effectiveness in moving its family law cases forward in a reasonably timely manner.</p> <p>Please see previous response related to the disposition goals.</p> <p>The commentator is correct and the word will be added.</p>

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			<p>between the words “including” and “the.”</p> <ul style="list-style-type: none"> • A comma is needed in subsection (g)(1)(E) as follows: “Information for litigants . . . earlier than, or in addition to, . . .” • Case management of these types of cases should begin with a court date being set at the time the initial petition is filed, and a new control or action date being set at every hearing thereafter under judgment is entered. • On FL-172, the caption for “Petitioner/Plaintiff” and “Respondent/Defendant” should include a place for “Other Party” as so many cases are either filed by DCSS or involve intervention by DCSS. • On FL-172, more space is needed in the area of (3)(b) as many marriages have multiple dates of separation. • On FL-172, subsection (4), we should add a box for unborn children. • On FL-172, we should include a bold heading for subsection (6) entitled “JUDGMENT” to be consistent with the rest of the form. • On FL-172, we should have a section that clarifies whether DNA testing has been done, a POP declaration signed, and/or parentage has 	<p>The commentator is correct and the correction will be made.</p> <p>The commentator is correct and the correction will be made.</p> <p>The commentator makes an excellent suggestion; however, this is a program design issue that the task force and committee want to leave to the discretion of the local courts.</p> <p>The change suggested by the commentator appears to clarify the party designation and will be included in the caption section of the form.</p> <p>There is limited space available on the form without having to create a third page. Multiple separation dates can be set out and referenced in the “Other” section in item 13.</p> <p>A box is unnecessary. “Unborn” can simply be entered under the birthdate.</p> <p>This change will be made.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a</p>

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			<p>been established for parentage cases.</p> <ul style="list-style-type: none"> • On FL-172, we may need a section pertaining to judgment being set aside on a specified date. • On FL-172, it may be helpful to add a section pertaining to previously set trial dates to help track how many times the case has been set for trial and/or continued. • On FL-172, subsection (e), we should have a place to enter the date that default was entered, so the judge can easily see whether default judgment was entered within 60 days in accordance with CRC 5.83(4)(D). • On FL-172, subsection “(2) PETITION” should appear directly above subsection (7) SERVICE AND RESPONSE” so the judge can easily see if the timelines of CRC 5.83(4) are being complied with. • On FL-174, the caption for “Petitioner/Plaintiff” and “Respondent/Defendant” should include a place for “Other Party” as so many cases are either filed by DCSS or involve intervention by DCSS. • On FL-174, we may want to move the “Date: . . . Time: . . . Dept.: . . . Room: . . .” line about 	<p>future RUPRO cycle.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a future RUPRO cycle.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a future RUPRO cycle.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a future RUPRO cycle.</p> <p>This would affect the order of the information on the form in a manner that should be available to the public for comment. It should be deferred to a future RUPRO cycle.</p> <p>See previous response to this same issue. The change will be made.</p> <p>The changes to the form suggested by the commentator further the effectiveness of the form</p>

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			<p>(a)-(c) so it the next court date will be clear and we can check a box under (a) – (c) to establish what type of hearing will occur on the next court date.</p> <ul style="list-style-type: none"> • On FL-174, we could group (a) and (b) to save space and to allow room. For example: a. <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent must serve the other party with the . . . by (date):_____.” • On FL-174, we could group (a) and (b) to save space and to allow room to add “other party” in cases where DCSS filed the parentage case. For example: a. <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Other Party must serve and file a current . . . by (date):_____.” • FL-174 seems to apply only to, or at least primarily to, dissolution cases, yet the proposed 5.83 (c)(1) indicates that it can be used for parentage actions or nullities as well. If multi-petition use is intended, we need to include categories common to other types of cases such as DNA testing for parentage actions. 	<p>and are unlikely to cause controversy. The changes should be made as suggested.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a future RUPRO cycle.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a future RUPRO cycle.</p> <p>This may be a good suggestion, but it actually affects the content of the form and should be available for comment. It should be deferred to a future RUPRO cycle.</p>
24.	Superior Court of Tuolumne County Jeanne Caughell Court Executive Officer	NI	The Tuolumne Superior Court has the following comments to proposed rules to implement revised Family Code Sections 2450 and 2451	Most courts that are currently implementing

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	Sonora		<p>mandate family centered case resolution:</p> <p>1. The proposed rules require that cases be reviewed no later than six months after filing, and at least twice a year thereafter until final disposition. Final disposition means that judgment has been entered on all issues, not just a status only judgment. We believe that the first review at six months is too soon. Many dissolution actions have judgment entered between six and nine months after the case has been opened. As marital status cannot terminate for six months after service, many people do not submit their paperwork until after marital status can terminate. Requiring review of all at six months would mean that the court would be spending time on needless review, regardless of how that review is conducted. Having the first review at eight or nine months would be a more productive use of court resources.</p> <p>2. Rule 5.83(c)(4) sets forth certain procedural milestones for a court to consider in determining whether the case is progressing in an effective and timely manner. These milestones are remarkably similar to those in Delay Reduction, while the subject matter is not remarkably the same. The court should not be placed in a position of rushing parties to judgment in a family law matter.</p>	<p>family centered case resolution caseflow management processes schedule an initial review earlier than 180 days. A common time for an initial status review is at 120 days from filing. A few courts have suggested reviews at 60 days to look specifically at the issue of service of process. Based on available data from existing operational models, the task force and the committee determined that an initial review not less than 180 days would be an appropriate time segment for review. Many cases need assistance with procedural steps along the way to final disposition, many as early in the process as accomplishing service of summons. The task force and the committee believe that significant numbers of cases will be delayed by waiting eight or nine months to first review a case to see if assistance is needed.</p> <p>The task force and the committee agree and the rule is not intended to “fast track” family law cases. Please note that the proposed rule does not mandate compliance with the procedural milestone or timely disposition goals it sets out. Unlike the fast track legislation, there is no requirement that the Judicial Council monitor compliance with these goals, nor are any sanctions against the parties provided for the purpose of enforcing them. The procedural milestones and disposition goals set out in the rule are intended to serve as a framework that courts can use to assess their effectiveness in moving family law cases</p>

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			<p>3. Since there are goals for disposition established, what are the ramifications to a court if those goals are not met?</p> <p>4. Who will determine if procedural milestones are being met? The rules refer to “the court” but exactly who is to open the case and make the determination that the procedural milestones are being met, or a status conference is required, or a family centered case resolution conference is required.</p> <p>5. A family centered case conference is reserved for those cases with more complex issues – who will be making the determination that the case has more complex issues, and at what point – especially if no OSC or motion hearings have previously been set.</p> <p>6. What exactly is a “court event scheduled with parties and attorneys” as a status conference is defined? Who is to be in charge of this event?</p> <p>7. Family centered case resolution conferences are to be heard by a judicial officer. “Judicial officer” has not been defined. Would</p>	<p>forward in a timely manner.</p> <p>The questions posed by the commentator about the processes involved should be determined at the local level. The task force and the committee wanted the local courts to have the greatest possible flexibility to design a process that will work best for their courts.</p> <p>Who in the court would make the determination setting a family centered case resolution conference would be in the discretion of the court as they set up their model. Since judicial officers are required to hear family centered case resolution conferences, it is likely that they would often be the ones making that determination; however, it seems possible that cases might be referred to judicial officers for that purpose by self-help staff or family court services.</p> <p>A “court event” is an event scheduled by the court. Who is in charge of a status conference would be decided by each court as they designed the model they want for their own court. Family centered case resolution conferences need to be heard by a judicial officer.</p> <p>A judicial officer would be a judge or any stipulated subordinate judicial officer, including a pro tem.</p>

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			<p>this include a pro tem?</p> <p>8. The family centered case resolution conference is not intended to be an evidentiary hearing or a settlement conference. What really then is the purpose? This conference will not replace a noticed motion or a contested hearing. It will consume court resources in terms of time, personnel, hearing rooms, etc. Such a conference would require a calendar, a room, a judicial officer, a bailiff, a courtroom clerk. Time before the conference would be required for review of each file to determine what is going on in each case.</p> <p>9. How will the form FL-172, case information sheet be completed and updated? The form indicates it is for court use only. Is it intended to be confidential? It is not identified as such.</p> <p>Operational Impact Summary:</p> <p>1. Potential Fiscal Impact: yes. Court</p>	<p>The family centered case resolution conference was not intended to replace a hearing on a noticed motion, nor a mandatory settlement conference scheduled prior to a trial date. The family centered case resolution conference can address procedural issues as set out in Family Code section 2451 and the proposed rule. Even though the family centered case resolution conference does not replace a mandatory settlement conference, discussion of possible stipulations are often a significant benefit of these conferences.</p> <p>Currently, courts must access the information contained on FL172 from the case file ad hoc, repeatedly at various times in the process of the case – at the filing of motions, during hearings, when judgment paperwork is submitted. Form FL172 is intended to provide the procedural data needed at these various times on one form that can be accessed easily in the file. The information has to be found in the file only once rather than every time it is needed for one or another purpose. Overall, there should be a significant time savings.</p> <p>As stated previously, the proposed rule addresses the existing burden on the courts, of lingering and unfinished cases continuing on within the family</p>

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		<p>resources diverted for this purpose from other areas.</p> <p>2. Impact on existing Automated Systems: unknown</p> <p>3. Changes to Trial Court labor or employment related concerns: impact unknown as staff duties for this new process are undefined.</p> <p>4. Require development of Local Rules or Forms: most likely yes.</p> <p>5. Increased training needs requiring the commitment of staff time and court resources: yes. New policies and procedures will have to be developed and implemented to meet the specific goals established by the rules.</p> <p>6. Increase to existing court staff workload: yes. Doubtful that the family centered case resolution process would decrease the number of OSC and noticed motion hearings, or contested hearings or court trials.</p> <p>7. Changes in responsibilities of the presiding judge and/or supervising judge: yes. This process will require additional hearings and will mean more people in the courthouse.</p> <p>8. Impact on local or statewide justice partners: perhaps an impact on child support services with push to have all issues resolved more quickly.</p>	<p>court system for year after year, sometimes indefinitely. Undisposed family cases 20 and 30 years old can be found in the inventories of most courts. As a result inventories of unfinished cases assigned to individual family law judges are remarkably higher than the case inventories for judges in civil and criminal assignments. This also leads to problems of records management and storage, the filing of multiple cases by self-represented litigants because they do not understand the process, a revolving door of repeated rejections of default and uncontested judgment paperwork by all types of litigants, repeated motions to modify temporary orders, and an overall increase in the litigation loads on the family courts.</p> <p>Available data has been reviewed by the task force and the committee. Greacen & Associates conducted a cost benefit analysis of services provided to self-represented litigants in six Central Valley courts. This study reported data from one court where assistance on case disposition was provided to self-represented family law litigants at the first court hearing. This process saved the need for future hearings overall. The report found that for every \$.45 the court spent on providing this assistance \$1.00 was saved. If the cost to litigants of attending the eliminated hearings was included in the analysis, the cost of service fell to \$.14 per \$1.00 saved. In another of the courts studied in the Greacen Central Valley study, assistance was provided to</p>

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				<p>contested cases on a case management calendar. The benefit to the court was assessed to be a savings of \$40.65 per case. In an additional review of local court data by Greacen and Associates, it was found that in one court when the family law status conference calendar was discontinued, the OSC/motion calendars began to grow and over the next three months had increased to the extent that an additional 24 judge days per year would be required to handle them. Furthermore, the numbers were continuing to grow. One court that has implemented a family centered case resolution caseflow process reports that due to their caseflow management system the disposition rate at one year had increased by 22% for cases involving at least 1 self-represented litigant and by 23% for 2 attorney cases.</p> <p>Additional data considered by the task force and the committee include observations made by judges and court executive officers in courts that have already implemented methods to organize, track and review their family law cases. Among the benefits to the courts that have been reported was a reduction in exparte requests because issues were settled at status conferences that would have otherwise developed into requests for ex parte orders. Also, the family centered case resolution caseflow process allows courts to leverage resources by grouping cases that are alike and thereby restructuring calendars far more efficiently. Child custody matters can be handled promptly, before they become increasingly</p>

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				<p>complicated due to lack of resolution. Courts report that the total numbers of OSC/motions are reduced because of the stipulations reached at status conferences. One court mentioned that more cases get completed and put into permanent storage at a lower cost to the court.</p> <p>While recognizing that there are up-front resources required to change a business practice and transition to a family centered case resolution caseflow management system, the Trial Court Presiding Judges Advisory Committee (TCPJAC)/Court Executives Advisory Committee (CEAC)/Joint Rules Working Group concluded that this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload.</p>
25.	Superior Court of Ventura County Caron Smith, Family Law Case Coordinator Ventura	N	<p>1. The goal of Family Code section 2450, et seq. is to empower judges, at their discretion, to order a family centered case resolution plan. The legislation does not include a mandate to establish a family centered case process for all family law cases.</p>	<p>Family Code section 2450 and 2451 provides judges with the authority to control the pace of cases. The task force and the committee intend the procedural milestones and disposition goals set out in the rule to serve as a framework that courts can use to assess their effectiveness in moving family law cases forward in a timely manner. The proposed rule does not mandate compliance with the timely disposition goals it sets out. Unlike the fast track legislation, there is no requirement that the Judicial Council monitor compliance with these goals, nor are any sanctions against the parties provided for the purpose of enforcing them.</p>

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				<p>In addition to Family Code sections 2450 and 2451, the recommendations of the Elkins Task Force, received by the Judicial Council, propose caseload management as a priority for family law. The Public Trust and Confidence Study of 2005 reported litigants rate their ability to obtain timely dispositions as among their highest unmet expectations. The input received by the Elkins Family Law Task Force from the public, both represented and unrepresented, and from a survey of family law attorneys mirrored this same frustration with the frequent inability to move cases forward in a timely manner. The task force and the committee noted that unlike general civil, complex civil, juvenile, probate, mental health, or criminal cases, family law is the last general jurisdiction case type in California that does not provide standards for the fair, timely, and efficient disposition of a case. It is not unusual for family law cases to linger in the judicial system for years. This rule recognizes that some cases need significantly more time than others because of the complexity of the issues or desire of the parties to have additional time to attempt reconciliation. It also provides the opportunity for those litigants who would like to have their matter resolved to have it heard promptly</p> <p>In case types other than family law, statutes, the California Rules of Court, and the California Standards of Judicial Administration firmly establish caseload management rules, goals, and standards used to promote the timely disposition of cases in a manner that protects the due process</p>

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			<p>2. Assuming arguendo, the intent of the legislators was not to establish a comprehensive Family Center Case Resolution FCCR process; the rule, however, has created a system, which requires significant resources without the requisite funding.</p> <p>3. The rule has structural problems that will impede the creation of an effective FCCR process. For example, courts are not given any time, prior to implementing the process, to meet with key players, e.g., court staff, supervisors, and the local bar to build a collaborative with shared goals.</p> <p>Goal of Family Code sections 2450-2452 Family Code section 2450(a) states the FCCR purpose is to “benefit the parties by providing</p>	<p>rights of the parties. Family law deserves nothing less. Based on current information and procedures in effect in other jurisdictions, the goals set out in this rule are realistic for reasonable case completion.</p> <p>The protracted lingering of unresolved cases creates a workload impact on staff. Available data suggest that caseload management in family law actually reduces staff workload over time. The task force and committee believe that any workload impact would be offset by savings (Please see previous response to workload benefits from family centered case resolution caseload processes.)</p> <p>Many courts are already meeting with collaborative justice partners to structure caseload management processes, now referred to as family centered case resolution processes. Regardless of the existence of a rule related to family centered case resolution, meeting with justice partners to discuss the best way to accomplish timely disposition of family law cases is an effective practice. The committee is also proposing that the implementation date be deferred for a year to allow these discussions.</p> <p>Family Code sections 2450 and 2451 do not mention complex cases as differentiated from</p>

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			<p>judicial assistance and management.” The statute focuses solely on the management of complex cases; cases in which the judge “may” order an FCCR plan in complex cases, or may not in the court’s discretion. Family law judges can now exercise their discretion to order an FCCR plan and actively manage the case. Prior to this amendment, a case management plan had to be ordered if the parties stipulated. It also could be terminated by the stipulation of the parties. The legislators were correcting an incongruity in the law. Parties in a family law case were given power to thwart the Judge's ability to order or not to order a case management plan. This anomaly is not allowed in other civil cases. Judicial officers in other types of civil cases can make such order without the stipulation of the parties.</p> <p>It is very instructive to evaluate which parts of the statute were amended and which parts were not. The amendments essential are: to allow judicial officer to make these orders absent the stipulation of the parties; change the name of the orders from case management to FCCR; to indicate this change does not “provide the court any additional authority;,” that the FCCR plan must be consistent with due process; and a requirement for the Judicial Council to adopt statewide rules. None of the amendments addresses the creation of a wide-ranging FCCR process. Therefore, the rules inappropriately use this statute as springboard to create a</p>	<p>other family law cases.</p> <p>It is true that beginning January 1, 2012, Family Code sections 2450 and 2451 provide judges with the authority to manage the pace of a case without the need of a stipulation from the parties.</p> <p>The amendment actually reads “does not provide the court with additional authority to appoint experts.....” This section of the statute was taken from the Elkins Task Force recommendations and based on a significant amount of negative input from attorneys and the public about the role that experts, particularly in child custody matters, play in family law court.</p> <p>The rule is based on the Elkins Family Law Task Force Recommendations and on the amendments to Family Code sections 2450 and 2451.</p>

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			<p>statewide case management process. Rather than implementing the section, the proposed rule creates a comprehensive FCCR “process” to manage all family law cases. The FCCR “process” is the umbrella for the family law case management structure. The FCCR plan, the complete focus of Family Code sections 2450-2452, is only one part of the “process.”</p> <p>The FCCR process requires that all family law cases be reviewed at least 180 days from filing. According to the rule, the review must include a status conference or an FCCR conference. The rule also includes standards for timely disposition, a timeline for procedural milestone. All standard requirements for an effective case management system.</p> <p>The majority of the cases filed will likely not be scheduled for an FCCR conference. Most family cases go by default. Family Code section 2450 et. seq, is not directed at simple or default cases. The legislators list orders that may be part of a FCCR plan including: limitations on discovery; how expert witness are selected, and bifurcation of issues for trial. These orders are irrelevant to a simple case.</p> <p>Much of the proposed rule is taken from Government Code sections 68600-68620 and rule 3.720 et seq, the case management rules for</p>	<p>A status conference is only required if the court determines that a case is not moving forward in a reasonably timely manner.</p> <p>It is not possible to determine at this point how individual courts will implement family centered case resolution. Some of the courts are currently using a model in which a judicial officer hears all case status reviews. These models make wide use of family centered case resolution conferences, they are simply referred to as status conferences. Procedural orders are made at these events. In simple cases, the orders tend to be more simple. Conversely, in more complex cases, the orders are more complex.</p> <p>The task force and the committee did not rely on the trial delay reduction statutes in drafting this</p>

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			<p>civil or fast-track rules. The purpose of these rules and the code sections were to establish a case management system for all civil cases. Unlike Family Code sections 2450 et seq, Government Code sections 68600-68620 are quite extensive and very clear that the statute applies to all cases. The fast-track rules focus on creating procedures to implement Government Code section 68600-68620. For example, rule 3.720 establishes when notices must be sent for the initial conference, when the parties must send the case management statement, which mandatory forms to use and what the content must be. Rule .5.83 does what rule 3.720 does, but without the legislative mandate.</p> <p>No Additional Funding</p> <p>The Ventura Superior Court has long supported the need for family law case management. The Ventura Superior Court has considerable experience in creating and implementing a family law case management system. We know the great expense associate with successfully operating a system. In 2000, the court started a family law check-point system. In 2007, the court devoted more resources, hiring a full time attorney to coordinate, design, and implement a comprehensive case management system. The Family Law Case Coordinator Attorney has a calendar four days a week. A judicial assistant works with her to write the minutes and mail</p>	<p>rule. The proposed rule does not mandate compliance with the timely disposition goals it sets out. Unlike the fast track legislation, there is no requirement that the Judicial Council monitor compliance with these goals, nor are any sanctions included for the purpose of enforcing them.</p> <p>There are many models for caseflow management currently in use in California. Not all have had the same experience, nor have they all had the same impact on workload or resources. The resources required to implement a caseflow management system are dependent on the model created and the processes employed. Ventura has indeed created an interesting and innovative model, but not all courts will be able to afford to replicate it. Less resource intensive models will be required.</p>

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			<p>them to the parties. The initial conferences are scheduled by the filing department. The filing department also sends reminder notices to the parties. All case are pulled and refilled by the records department. Judicial officers, court staff and supervisors regularly meet to develop and evaluate the system. As can be seen a tremendous amount of recourses are required to make the system successful.</p> <p>Rule 5.83 has several mandates for courts, yet, does not provide the requisite funding to meet these mandates. The first required step is to “implement” and “assist” all family law cases “towards disposition effectively in a timely manner.” This is an enormous mandate. To begin to accomplish this task at the Ventura Superior Court, the self-help center staff would have to double, along with the resources for case management team. To “implement” a process, presupposes you have a process. Again, a great deal of staff time is needed to develop a well thought out plan.</p> <p>Structural Problems that Will Impede the Creation of an Effective FCCR Process</p> <ol style="list-style-type: none"> 1. Not Enough time: Rule 5.83 requires that all cases filed on or after January 1, 2012, be reviewed in 180 days. This does not give courts adequate time to establish a successful process. To meet the January 1 deadline there must be a 	<p>Please see previous response with regard to the need for less resource intensive approaches to the process.</p> <p>Please see previous response regarding the practice of meeting with other justice partners.</p> <p>Family Code section 2451 requires the Judicial Council to adopt a statewide rule by January 1, 2012. In recognition of the need for a strategic transition period, the task force and the committee will modify the implementation dates currently set out in the rule. The requirement that cases be</p>

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			<p>system in place in order to process the cases. This is impossible, local rules must be written, reviewed, and adopted before the process can be implemented. Procedural milestones must be set and a process for determining if a case is meeting the milestones, e.g., how does the court know if the proof of service is filed within 60 days if the first review is set for 180 days? There are many more aspects to developing a case management process, such as training staff, scheduling judicial officers, etc. Meeting with the local bar to introduce the plan and receive their feedback is crucial. Baseline data needs to be collected. Statistics gathered to evaluate the process must be determined and collected. There are many more features of the system that should be considered. Courts need much more lead in time.</p> <p>It could be argued that there is more time, since cases are not required to be reviewed until 18 months after filing. This amount of time is not sufficient either. Cases need to be as quickly as possible plugged into a system. More cases are being filed each day. The cases will continue to build until the system is created. The requirement to hand out information cannot be met; litigants and attorneys will not be informed</p>	<p>reviewed periodically will apply to cases filed on January 1, 2013 rather than January 1, 2012. This provides an additional year for courts to develop the most efficient models for this purpose. Further, the disposition goals set out in 5.83(c)(5) will apply to cases filed on January 1, 2014 rather than January 1, 2012. This provides the courts with two years to work on their family centered case resolution caseflow management process.</p> <p>The additional time to implement this rule being recommended by the Committees should be of</p>

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			<p>of the milestones, etc. It would be very difficult to have a start date for an FCCR process and not have a process.</p> <p>2. Need to build Partners, not enemies: It will take time to change the local bar and court culture to accept family law case management. In Ventura, the bar, some court staff, and some judges were very hostile to family law case management. The bar saw it as invasion of their ability to manage a case as they saw fit. At an early meeting with the attorneys about the process to be implemented in 6 months, attorneys voiced their displeasure with case management. Attorneys felt too many resources were already spent on self represented litigants. Case Management would “stir them up and then they will take up our time with the court.” One attorney defined access to justice as “keeping the doors to the court unlocked.” The court staff and supervisors viewed the case management process as more work being dumped on them without more resources. To successfully begin the process, allies must be built and shared goals must be developed. Multiple meetings, brown bags, bar dinners, and power point presentations were part of the process. After two years of implementation, the staff and attorneys</p>	<p>assistance in building relationships with the bar and staff. The courts are also in a different position implementing legislation and California Rules of Court than Ventura was when they began developing their Case Management system.</p> <p>The Elkins Task Force heard from both attorneys and litigants that the inability to move cases forward in a timely manner was frustrating and expensive for them. In fact, in an attorney survey, respondents reported that one of the main reason they went to private judging was the ability of the judge to effectively manage the case. Procedures should be established that do not require unnecessary court appearances, and facilitate communication with the court through more efficient means such as telephone, writings, etc. When over 80% of family law cases have at least one self-represented litigant, and in some courts this percentage is higher, allocating time to the management of their cases makes sense for everyone, including the attorneys.</p> <p>The comment points out the real benefits of case management.</p>

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			<p>have completely shifted their views. Attorneys regularly state the process has helped them manage their cases more efficiently, manage opposing council, and manage their clients. Court staff feels their job is easier. They are regularly consulted about how the system is working and what changes are needed to be made. Staff feels respected and appreciated. People need to feel that they have a part in creating and refining a plan. Forcing courts to implement this process on a short timeline with significant mandates, without time to build the support of the local bar and court staff and judicial officers, will set up many courts for failure. Resentment and resistance will grow, almost predetermining a failure. The resistance will also make future attempts to institute an FCCR process even more difficult.</p> <p>3. Not clarifying the distinction between a Status Conference and an FCCR Conference</p> <p>There are 2 types of conferences in a case management system. The first is the procedural review, or the status conference, the second is the FCCR plan, as defined in Family Code sections 2450-2452. The proposed rule does not clearly explain this and does not distinguish</p>	<p>The rule defines both a status conference and a family centered case resolution conference in subdivision (b). The commentator has set out a particular system which may not be employed by all courts. For example, courts might employ a system in which the majority of cases do not need to have a family centered case resolution conference at all. And a system in which status conference are not needed in all cases may also be implemented under the rule.</p> <p>The Family Code sections cited by the commentator make no mention of complex cases as distinguished from other family law cases. It is true that the issues cited by the commentator are commonly found in the more complex family law cases.</p>

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			<p>between these two very different types of management functions. The first scheduled conference should always be a status conference. It is usually too early in the process to determine if the case needs an FCCR plan. However. The case can always be reviewed to see if an FCCR plan is the best next step.</p> <p>The only type of review mentioned in Family Code sections 2450-2452 is the FCCR plan, which is developed for complex cases. Although substantive orders will not be made, many substantive issues must be evaluated by a judicial officer to determine how they will affect the plan. For example, an order may include bifurcation of issues for trial, the complexity of the issues, nature and extent of anticipated discovery, the likelihood of review by writ or appeal. If a management plan is pursuant to subdivision (d) of Section 2032 or subdivision (b) of Section 2034 cited in Family Code section 2450, the judicial officer will need to look at facts involved in the case. These statutes refer to complex issues such as to “request the court to make a finding that the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support.” The FCCR plan will not include making substantive rulings, however, the judge will need to evaluate facts to determine if deciding the order should be included in the plan and at what stage.</p>	<p>The commentator may be correct that status conferences are more procedural. It is not true, however, that they always occur early in a case. A status conference may be an excellent event at which to accomplish a default or stipulated judgment. Assistance from the self-help center would be very effective to support status conferences. Setting of additional status conferences would be determined by the needs of the individual case. However, these are decisions to be made at the local level.</p> <p>As stated, the task force and the committee want to leave the greatest possible flexibility to the courts to design their own processes rather than</p>

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			<p>The purpose of the status conference and the FCCR plan are very different. At the status conference the issues are: Has the proof of service been filed? Has the default been filed, or has a response been filed? Have the preliminary declarations of disclosure been filed? Should the parties be referred to self-help? When should we set the next status conference?</p> <p>It is important to understand the difference between these functions. It impacts how the FCCR process needs to be designed. The rule does not help courts appreciate this difference.</p> <p>4. Review to Determine if Procedural Milestones are being met . If a case is meeting procedural milestones, the proposed rule seems to indicate that there is no need to schedule a conference. In practice, this will likely be difficult to implement and will create double work to achieve. Moreover, it does not seem advantageous to litigants. All cases will first need to go through this review; those that are meeting milestones will not have a conference. The cases not set on a conference schedule will need to be somehow tracked. Cases will need to be pulled regularly to re-evaluate them and</p>	<p>setting them out in detail in the rule.</p> <p>As stated, the milestones set out in the rule are neither mandatory nor exclusive. The court may set whatever procedural milestones it determines will help it move cases forward most effectively. There are currently courts that use this system to avoid bringing in cases that are moving forward according to the criteria they have established. It may be fairly easy to establish procedural milestones that can be track through the registry of actions so that no case file need be pulled at all. As previously stated, the resources required will depend greatly on the model the court develops for itself. Not all possible solutions are as resource intensive as the commentator sets out.</p> <p>Several courts have employed dismissal calendars to attempt to relieve some of the large backlog of cases. Whether or not the notices are returned does not prevent the cases from being dismissed.</p>

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			<p>send out notices if the case is now placed in the FCCR process. The case then will be pulled for the conference. Pulling and refilling cases is time consuming. It also increase time for records to locate cases calendared for substantive matters. If a case is part of the FCCR process and begins to not meet milestones, should it be taken out of the process? This step creates a secondary review system that requires its own resources to maintain. There are many other alternatives to structuring a case management plan.</p> <p>5. Relief from Further Review The rule indicates that if after 18 months, the parties are not participating in the FCCR process; the case can be taken out of the process. The case can be dismissed when it qualifies for statutory dismissal. The parties may also reactive the case, presumably requiring the court to put it back into the FCCR process. This is very problematic. The first suggestion has been used by courts for a long time. A case will be set on a review calendar for 2 or 5 years depending on the procedural status of the case. At the two-year mark, cases must be pulled to see if a proof of service has been filed, or more importantly, if there are orders in the case, which now prohibit the court from dismissing the case. The 5 year dismissal will not need to go through the same</p>	<p>Many cases can be calendared at a time for dismissal making dismissal calendars quite efficient. However, again, this is a matter for individual courts to decide how they wish to address.</p> <p>The purpose of subdivision (c)(3) is simply to relieve the court of having to continually review cases that appear to be abandoned by the parties. The rule does not mandate that they be dismissed at 3 or 5 years.</p> <p>If a case has been put into a status of potential statutory dismissal, this could be entered on the registry of actions. Most cases are reactivated by filing an OSC or motion. It should not be difficult to reenter them into the FCCR process at the time of the hearing. Not all reactivated cases would actually need to be put back into a family centered case resolution process, such as when they are reactivated by proceeding to judgment. As stated, whatever process is used is a decision to be made by the local court.</p>

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			<p>process. The Ventura Court’s case management database can tell you if there is a proof of service and if there are orders, but it does not always indicate what the orders are. The case will need to be pulled and evaluated by someone. Once it is determined the case can be dismissed, notice can go out for a dismissal conference. The majority of these notices are returned to the court as undeliverable, sine it has been 5 years since the case was filed. This type of case handling has created the majority of the backlog of many courts. Moreover, the parties have not been timely assisted. Because of this lack of communication, may believe they are divorced.</p> <p>It is almost impossible to know when a case is reactivated by the parties. Every time an OSC, motion, or other court papers are filed and the FCCR process is inactive on the particular case, somehow the case needs to be placed back into the FCCR process. To do this, someone must determine if a case is not in the FCCR process. Then it is communicated to the person who reviews the FCCR process that a case has been reactivated. The case is then pulled and reviewed and placed back into the FCCR process. Hundreds of court documents are filed each month. Each would have to be checked to see the status of the case. This is a time and resource insensitive process for</p>	

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			<p>very little benefit. Most cases that are inactive are not reactivated. Yet every filing would trigger a review to determine if indeed this case needs to be placed into the FCCR process again.</p> <p>6. Allowing Parties to Request a FCCR Conference or Status conference. It is implicated in the proposed rule that parties are allowed to request earlier or additional a status or FCCR conferences. Although not stated, the rule mandates that all parties be given the information on how to do this at the time of filing. The ability to request either a status or FCCR conference will likely create confusion and frustration for litigants. Many litigants do not understand the nature of a status conference. In Ventura, self-represented litigants frequently believe the conference is to terminate their marriage or make child custody orders, etc. When told why they are at court, frustrates them. Litigants are told and given simple instructions the purpose of the conference, but it is confusing. The self-represented litigants, for the most part, are not repeat players in the judicial system. If allowed to schedule a conference on their own, litigants may think they are setting up a time to terminate their marriage, or receive other orders. They will not know the difference between a status conference and a custody hearing. The</p>	<p>The task force and the committee are confident that local courts can develop an efficient way to handle voluntary status conferences or family centered case resolution conferences.</p>

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			<p>mandatory element will create scheduling problems and will take up considerable resources to manage, perhaps including coveted judicial time. Courts must be trusted to manage the cases appropriately.</p> <p>7. Distributing Materials at time of Filing</p> <p>Requiring courts to distribute extensive materials at the time of filing is counterproductive. Many litigants are overwhelmed by the difficult court forms they have received. In addition, many are emotional, this is an emotionally difficult process to initiate for many litigants. They are likely to feel even more overwhelmed by receiving so much information. All information needs to be very simple and brief. Principles of readability need to be used when writing all handouts. Materials could be made available to the public, allowing those who want the information to take it. Information about self-help and the facilitator's office is useful. Other information can be provided at the self-help center and a case reviews.</p> <p>8. Need to Reduce Frequent Stipulated Continuances.</p> <p>A fundamental step of a successful case management system is to reduce the number of stipulated continuance. This arguably</p>	<p>The task force and the committee agree that materials distributed to litigants should be understandable.</p> <p>The task force and the committee agree that control of stipulated continuances is an important part of a family centered case resolution caseflow process. Many courts have current local rules restricting continuances, but have not been diligent about enforcing them. Including this</p>

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			<p>should be done prior to the implementation of the system. Attorneys prepare for hearings they know will occur, not ones they know they can continue. Courts will either have to write a new local rule or enforce one that already exists. It will take considerable time to convince some judicial officers of the need for this step. Staff will also need to be trained. Attorneys will need to learn to comply with the rule, which creates more resistance and resentment.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 1. Write a rules that comport with the mandate of the legislator to “adopt a statewide rule to implement” the statute. This is not the statute to create a case management system. 2. The FCCR process should first establish pilot projects as was done in establishing the fast track system. The fast track pilots were established in 1986. It was not until 1992 that fast track was applied to all counties. Much could be learned from pilot projects. As the rule notes, there are several models that can be used create effective case management. Courts need time to study these and develop their own system. Additional funding needs to be identified. 	<p>information clearly in judicial education will be important.</p> <p>The rule is intended to implement both Family Code sections 2450-2452 as well as the Elkins Task Force recommendations with respect to caseload management.</p> <p>Many courts have already implemented family law caseload management processes. These courts are beginning to compile data that can be used to work on best practices. In effect, there are already a number of pilot projects currently working.</p>

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			<p>3. The changes identified in the comments need to be made to the FCCR process. Most importantly, courts need more time to implement the FCCR process. In addition, the rules need to identify other important factors courts need to considered, such as who will provide leadership, and how performance will be monitored and measured. There are many more crucial components which should be considered when designing a good case management system.</p> <p>4. Although optional, FL-172 is too detailed to use for a status conference. Much of the information can be quickly learned from looking at the petition. It does not make sense to write it all again. It is not clear how to use the form. Some information will change, some will not. Is the form meant to be filled out again? To make the form useful, it needs to be revised, with most of the information taken out. The form, along with proposed from FL-174 could be field tested in the pilot project.</p>	<p>Most of the factors identified by the commentator were discussed by the task force and the committee, and it was decided that they should be left to the discretion of the local courts. The committee is proposing that full implementation of the recommendations be deferred for a year allowing courts time to address these issues.</p> <p>Judicial officers can choose whether to use it and what information they want to have. It could be placed in the file as a checklist for judicial officers and only updated as necessary.</p>

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26.	M. Sue Talia, CFLS Attorney/Private Family Law Judge Danville	A	<p>While I generally agree with the proposed rule 5.83, and strongly support the idea of firm case management to move cases along, I have serious reservations about how this will work in practice. The form FL-172 says it is "for court use only." What does that mean? That only the judge or court staff can complete it? Where are they going to find the time? They don't have resources to do what they are attempting to do now, and this just adds another layer of paperwork, another box to check, another form to process and file. Our poor family law departments are already so understaffed and overburdened that I shudder to think how they will manage to comply with this mandate.</p> <p>That being said, I have the following specific comments/questions:</p> <p>1. 5.83(d)(3). I strongly support the idea that case resolution conferences can be held by telephone, especially when attorneys are involved. Requiring them to troop down to the courthouse adds an unnecessary layer of cost. Similarly, the judge still has the option of calling people in if they are not complying with the plan, which could serve as an incentive to do so to avoid the cost of a personal appearance.</p> <p>2. Section (f). I find this confusing. If the court allows a telephone conference, does this mean that it can't issue a case resolution order unless</p>	<p>FL-172 is an optional form designed to help courts that choose to use it. Currently, court must access the information contained on FL-172 from the case file ad hoc, repeatedly at various times in the process of the case – at the filing of motions, during hearings, when judgment paperwork is submitted. Form FL-172 is intended to provide the procedural needed at these various times on one form that can be accessed easily in the file. The information has to be found in the file only once rather than every time it is needed for one or another purpose. Overall, there should be a significant time savings.</p> <p>No response required</p> <p>Subdivision (d)(2) provides for appearances at a family centered case resolution case management conference by the parties or their attorneys by</p>

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			<p>the parties stipulate? Doesn't that defeat the purpose of using telephone conferences? I think this needs to be re-thought, especially since most of the parties who rely most heavily on this process will be self represented.</p> <p>3. Section (d)(5). This seems extremely cumbersome. Some clerk will have to review the file to be sure that the milestone has been met. If it hasn't, they email or otherwise notify the parties. That means the email has to be printed and filed so the judge knows it went out. What if the parties still don't comply? Is the case management conference continued? Held anyway? Some of this will work out in practice, but it gives me pause.</p> <p>4 Section (g)(1)(B). I don't see how this will work. Will it be seen as the court recommending certain individual professionals or programs over others? I don't think that would be appropriate. Who is going to keep the list current as professionals and organizations move, change telephone numbers, leave or come into the area? Will they only list certified</p>	<p>telephone, video-conferencing or other appropriate means of communication rather than making a personal appearance. No stipulation from the parties is required for using alternative methods of appearances. Subdivision (f) refers to family centered case resolution case management orders being made by a judicial officer without any appearance by the parties or their attorneys – that would require a stipulation that such orders could be made.</p> <p>The milestones set out in the rule are not mandatory and are only intended for the court to use in assessing its effectiveness in moving cases forward. Courts are free to establish additional or different procedural criteria that can be use, and if a case meets that criteria, no status conference or family centered case resolution conference is necessary at all. The task force and the committee did not want to set out sanctions for non-compliance with guideline procedural milestones or disposition timeline. There is nothing in the rule that would prevent local courts from doing so.</p> <p>The court may handle this subdivision as they please. There may be an existing list of local resources – they may simply provide contact information for lawyer referral services, or refer people to a county resource line. This may differ depending upon the resources in a county. The commentator is correct that the court must maintain its appearance of neutrality in making</p>

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			<p>referral panels, members of local bar associations, or use other criteria? Who sets the criteria?</p> <p>While I don't object to the process and it is clearly well-intentioned, I seriously question the practical ability of the courts to effectively carry out this mandate, especially in light of the massive cuts which are anticipated due to the current budget crisis.</p>	<p>any kind of referrals.</p> <p>The protracted lingering of unresolved cases creates a workload impact on staff. Available data suggest that caseload management in family law actually reduces staff workload over time. The task force and committee believe that any workload impact would be offset by savings in future calendar reduction, and reduction of overall family law inventory. One study reviewed by the task force and the committee reported that when one court ceased conducting its status conferences, its OSC calendars began increasing significantly so that 24 additional judge days were needed by the end of a year. Another court reported that due to their caseload management system the disposition rate at one year had increased by 22% for cases involving at least 1 self-represented litigant and by 23% for 2 attorney cases.</p>
27.	Trial Court Presiding Judges Advisory Committee (TCPJAC)/ Court Executives Advisory Committee (CEAC)/ Joint Rules Working Group	N	While the TCPJAC/CEAC Joint Rules Working Group recognizes that this proposal is statutorily mandated, it cannot adopt an “Agree with proposed changes” position given the numerous and severe challenges facing California’s trial courts. The working group has adopted a “Do not agree with the proposed changes” position because the proposal creates numerous and significant operational and fiscal impacts upon trial courts that are grappling with one of the	The task force and the committee are concerned that the budget constraints identified by the commentator actually make the implementation of family centered case resolution caseload management critically necessary to the family law courts. The task force and the committee do not believe that the challenges of the future for the courts can be met by attempting to continue doing business as we have always done it in the past, only now with significantly less resources. Instead

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			<p>worst economies in recent U.S. history. The new requirements created by the proposals, while well-intended, will only worsen the financial condition of the courts. At a time when courts are facing severe budget reductions, potential layoffs, possible court closures, and other urgent matters, rules of court should not create new responsibilities unless absolutely necessary and driven by statutory mandates. The trial courts must use this time to focus on ensuring continuation of the most critical services rather than on dedicating new resources to new requirements.</p> <p>The working group recommends that the committee re-evaluate how the proposal can be implemented with minimal impact to court operations. The committee could consider only moving forward the most critical and clearly</p>	<p>the reduction in resources is viewed by the task force and the committee as a sign that many operational models might be outdated and require redesign in order to move forward in a reasonable manner.</p> <p>As previously stated, the proposed rule addresses an historical operational model in which the progress of family law cases has largely not been managed within the design of court operations. Time standards for disposition of almost every other case type, criminal, civil, and juvenile, have resulted in the establishment of operational systems within which the court manages the progress of cases. Yet in family law, where approximately 80% of the cases involve litigants without attorneys, the management of case progress has been left up to the parties. Over the years, this lack of control and organization of its caseload has created a significant resource burden on the courts in family law cases, both in the courtrooms and in operations. (The commentator is referred to previous responses setting out those burdens on the courts and identifying the specific areas of benefit to the courts involved with implementation of family centered case resolution caseload management processes.)</p> <p>The task force and the committee agree that timing of implementation of family centered case resolution is an important factor. While the current budget constraints make the need for this change critical, those courts that are currently</p>

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			<p>mandated proposals, moving back or phasing in implementation deadlines, and identifying all available alternatives to lessen negative impacts to the courts.</p> <p>Regarding proposed rule 5.83(c)(2) and (5), the working group requests that the trial courts not be required to review all dissolution, legal separation, nullity, and parentage cases filed on or after January 1, 2012. Instead, the working group requests that the proposal be amended to require such review of cases filed one year later (on or after January 1, 2013). Courts that are able to conduct this review prior to January 1, 2013 would still be able to do so. However, the requirement for cases filed after January 1, 2012 creates significant difficulties for the courts to meet on such short notice.</p> <p>Operational impacts identified by the TCPJAC/CEAC Joint Rules Working Group:</p> <p>Impact on Existing Automated Systems This proposal will likely have an impact on CCMS as well as other case management systems. Examples of this impact include:</p> <ol style="list-style-type: none"> 1. Modifications to current case 	<p>without a family centered case resolution caseflow management system will need time for a strategic transition that integrates caseflow management into operations. There are already models of caseflow management operating in California courts that are not significantly resource intensive from which other courts can learn. The task force and the committee anticipate facilitating connections among the courts and providing education and technical assistance.</p> <p>In recognition of the need for a strategic transition period, the task force and the committee will modify the implementation dates currently set out in the rule. The requirement that cases be reviewed periodically will apply to cases filed on January 1, 2013 rather than January 1, 2012. This provides an additional year for courts to develop the most efficient models for this purpose. Further, the disposition goals set out in 5.83(c)(5) will apply to cases filed on January 1, 2014 rather than January 1, 2012. This provides the courts with two years to work on their family centered case resolution caseflow management process.</p> <p>As previously stated, not all courts implement family centered case resolution caseflow processes have required modification to their</p>

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			<p>management systems to set up calendars/hearings for the status conferences.</p> <p>2. Notice of the proposed hearings and future benchmark reviews will need to be automated to ensure compliance with benchmark time standards and to minimize case processing burdens on staff.</p> <p>3. Tracking of statistics will be a burden if the case management system does not have a mechanism for confirming the ageing of the family law cases per the proposed standards.</p> <p>Increase to Existing Court Staff Workload Calendaring, statistical tracking, and notice requirements for the Case Resolution Conferences will all require additional case processing on the part of court staff if not already being done in some other manner. Specifically, the proposed rule will increase staff workload as cases will need to be reviewed twice a year. Fortunately, this increase will be offset by reduction in continuances as well as reducing OSC calendars, all of which lessen staff workload.</p>	<p>electronic case management systems. Some of the courts simply schedule an initial review date at the time of filing and require that the notice of that date be served along with the Petition and Summons.</p> <p>Please see above response.</p> <p>The proposed rule does not require that courts keep statistics. The procedural milestones and the dispositional goals are not mandatory. Courts are free to maintain whatever statistics they feel are most useful to their own system.</p> <p>The task force and the committee agree that the issues related to workload are more in the nature of a shifting of workload than an overall increase in workload. The commentator is referred to the previous responses about the cost benefits to the courts of implementing family centered case resolution caseflow management processes. The task force and the committee believe that available data suggest that not only would costs be offset, but that the resulting control of the organization and management of its family law cases will result in significant resource savings in many areas.</p>

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			<p>Other Impacts Litigants, particularly pro pers, will benefit from the additional case monitoring. However, there are disparate impacts on the courts depending on whether they currently utilize a similar system for tracking case progress in family law. Many of the larger courts already use a “Case Management Conference” that enables the judicial officer assigned to the case to monitor progress. However, some of the smaller to medium sized courts that have not migrated to this type of review and implementation of the recommendation would require more time, and possibly more staff, to accomplish the goals included in the proposal.</p> <p>One area that is of concern is the statistics. First, if the case management system is not capable of case ageing analysis, this may require the manual tracking of cases that would be a burden on the court’s staff. Second, members of the working group expressed concern over the goals set forth in proposed rule 5.83(c)(5). One judicial member strongly objected to these statistical goals and noted that judges should attempt to address the issues in each case, with regard to the factors in each case. The member added that setting goals with statistical components is starting down a slippery slope. Another member commented that the goals should be precatory and not mandatory.</p>	<p>The task force and the committee agree that additional time for designing and implementing a family centered case resolution caseload management process should be allowed and have so modified the rule.</p> <p>Please see above response related to setting time standards in family law cases. The proposed rule does not make the procedural milestones or dispositional goals mandatory. The rule does not require the court to maintain specific statistical data. Courts are free under the rule to maintain whatever data they think is most useful to them.</p>

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		<p>The working group also recommends the following:</p> <ul style="list-style-type: none"> • Addition of an opt out provision to paragraphs (c)(2) and (3), in the event it is determined that the case is no longer appropriate for family centered case resolution. • Inclusion of the filing of an At-Issue Memorandum in paragraph (c)(4) • Regarding paragraphs (c) (B) and (C), provision of more than 60 days to comply. The current 60-day provisions are too ambitious. 	<p>The task force and the committee want the courts to have the greatest possible leeway within the rule to design and implement processes by which they monitor and assist the progress of cases to see that they are moving forward in a reasonably timely manner. Therefore, there is nothing in the rule that would prohibit a court from designing a process by which litigants or their attorneys could report by letter or telephone call that the case was progressing forward reasonably given the specific circumstances of the case – such as attempts at reconciliation. This would not remove the case from the process. The task force intends that the court be informed about the progress of cases. However, the task force and the committee also support the design of operational models that reduce the need for court appearances.</p> <p>Many courts do not use an At-Issue Memorandum anymore. The task force and the committee simply used the milestone of requesting a trial date. One way would be by At-Issue Memo for those courts still using them.</p> <p>Please note that the procedural milestones are not mandatory but only establish a framework by which a court may assess its progress in moving its cases forward. Some courts review cases at 60 days with the specific focus on those cases that have not yet been served. Courts report that service within 60 days of filing is reasonable</p>

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			<ul style="list-style-type: none"> • Amendment of paragraph (c)(6) to read: “The court may select various procedural milestones at which to attempt to facilitate moving the case forward in an effective and timely manner, including but not limited to:” • Addition of a box for Preliminary or Final to proposed Form FL-172 paragraph (8)(b)(3). 	<p>unless there is some problem with the need for publication, posting, foreign service or other issue. In such cases, assistance can be provided as early as possible to help accomplish service.</p> <p>The task force and the committee intend that the section sets out procedural milestones at which the court might decide that a case needs some assistance in moving forward.</p> <p>This form now contains boxes indicating service of the preliminary and final declarations of disclosure.</p>
28.	Shelly Troop Child Custody Mediator Superior Court of San Joaquin County	AM	This proposal will be very time consuming for staff and will only be able to be enacted if adequate funding is also provided.	The protracted lingering of unresolved cases creates a workload impact on staff. Available data indicate that caseload management in family law actually reduces staff workload over time. The task force and committee believe that any workload impact would be offset by savings in future calendar reduction, and reduction of overall family law inventory. One study reviewed by the task force and the committee reported that when one court ceased conducting its status conferences, its OSC calendars began increasing significantly so that 24 additional judge days were needed by the end of a year. Another court reported that due to their caseload management system the disposition rate at one year had increased by 22% for cases involving at least 1 self-represented litigant and by 23% for 2 attorney

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				cases.
29.	Robert Turner, ASO II Superior Court of Sacramento County Finance Division		<p>Courts do not have the resources to comply with this rule.</p> <p>[SPR11-36] page 50, 4. B: This impacts the pro bono programs requiring additional training. This would jeopardize our pro bono programs depending on the definition of court-connected. The phrase "court-connected" is very unclear, and needs to be further defined. This places new burdens on courts that rely on volunteers. If new requirements continue to be placed on volunteers, they will not continue to volunteer.</p> <p>Pg 51, g. C: If we don't provide family centered resolution conferences then we should not be required to provide information. Courts should be provided options.</p> <p>There such a huge amount of info up front. Should give other options, such as, posting on internet or other means.</p> <p>Shouldn't limit us to handing paper documents to parties.</p>	<p>Please see previous response.</p> <p>The task force and the committee considered the issue of domestic violence to be a critical one when the court was providing ADR services to the public, either by court employees, or by volunteer attorneys. The proposed rule is consistent with the revised version of proposed rule 5.420.</p> <p>There is nothing in the rule that would prevent a court from providing the information online and providing litigants with a link to the website at the time of filing. Also, much of the information required is already contained on proposed form FL-107-INFO which sets out general information about the dissolution process and refers litigants to the internet for additional information.</p>

