Family Law Section

Family Law Section of the Washington State Bar Association

July 22, 2021

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929,

supreme@courts.wa.gov.

GR 40 – Informal Domestic Relations Trial (IDRT)

Dear Supreme Court Justices:

The Family Law Executive Committee (FLEC) has unanimously endorsed the following comments and concerns regarding GR 40 and requested that I forward these comments and concerns on behalf of FLEC to you via email. A related supplemental memorandum will be mailed through the US Postal Service.

Comments And Concerns Regarding Proposed GR 40
Informal Domestic Relations Trials (IDRT)

1. Incorporate comments submitted by Superior Court Judges Association, including
    a. Retitling IDRT to IFLT (Informal Family Law Trial).
    b. Incorporating "plain language" in rules and pleadings.
2. Incorporate appropriate provisions from existing informal trial procedures in King County [LFLR 23] and Thurston County [LSPR 94.03F].
3. The existence or limitation of appellate options should be expressly identified in materials for attorneys and prospective participants, including any explicit waiver of evidence rules and evidence-based appeals.
4. Include provision that judges can, at any stage of proceeding, expand – but not further limit - the role of attorneys.
5. If the case includes the determination of a parenting plan or residential schedule, the judge shall review and consider the JIS (criminal history) of both parents and other adults in each parent's household in the determination of whether an informal trial is appropriate or should occur and, if so, the judge shall take into consideration the relevance

of such history during the proceeding and in the determination of a parenting plan or residential schedule.

6. Enhance the orientation and education for judges, for attorneys and the public (who may be represented clients or pro se).
    a. This could include a short video, in multiple languages.
    b. NW Justice's Washington Law Help website is a good example with the following language options: American Sign Language / Amharic አማርኛ / Arabic العربية / Cambodian / Khmer / Chinese (Traditional) 中文 / Farsi / فارسی) / Hindi / हिन्दी / Korean 한국어 / Laotian ພາສາລາວ / Mandarin Chinese 官話 / Marshallese / Kajin Ṃajeḷ / Oromo ኦሮምኛ / Punjabi ਪੰਜਾਬੀ / Russian Русский / Samoan Gagana Samoa / Somali Soomaali / Spanish Español / Tagalog Pilipino / Tigrinya Ge'ez / Ukrainian Українська) / Vietnamese Tiếng Việt.
    c. It is particularly important that the judge presiding over an informal trial should have as much possible knowledge and experience in family law issues, including domestic violence (as defined by RCW 26.50.010 – as amended in 2021 - See 1320-S2.SL) and its impact upon participants in family law proceedings.
7. Uniformity across the state to provide consistency and avoid conflicts or confusion.
    a. Allowing some flexibility for counties, e.g., time to opt in.
8. Budget/allocate funds to
    a. survey judges, attorneys and parties who have participated in informal trials.
        i. Particular emphasis and focus should be on types of cases, e.g., domestic violence, advantage/disadvantage in case where one party is pro se and the other is represented by counsel, complex issues, multiple experts, etc.
    b. Obtain statistics from county court clerks.
        i. regarding number and ratio of informal trials vs. regular trials.
        ii. judicial efficiency (reduction of caseloads and back logs).
9. Any informal trial process should be for a limited time period such as two years and then not resumed until and unless there is a meaningful review of the results.
    a. Such review should include judicial officers, lawyers, and clients as well as other named stakeholders.

b. The review should monitor results state-wide, including stakeholder survey(s) and monitor national trends re informal trials; additional state adoptions; and modifications, enhancement or curtailment of existing informal trial programs.

c. A report should be submitted not later than two years to the Supreme Court, including successes, failures, suggestions for improvements, recommendation for continuing program or elimination.

Sincerely,

/s/ 

Christopher J. Fox, WSBA 7345
Washington Family Law Executive Committee

TO: WSBA FAMILY LAW EXECUTIVE COMMITTEE
FROM: CHRIS FOX
RE: Informal Domestic Relations Trial (IDRT)
June 30, 2021

Informal Family Law Trials have been adopted in two Washington State superior courts.

Thurston County Superior Court LSPR 94.03F. Adopted effective September 1, 2017. Amended effective September 2019 and amended effective January 13, 2020. Scope: To resolve all issues in original actions or modifications for dissolution of marriage, paternity, parenting plans, child support, and non-parental custody.

King County Superior Court LFLR 23. Adopted September 24, 2020 and effective January 2, 2021. Scope: To resolve issues in actions for divorce, parentage, parenting plan and child support, relocation, and non-parental custody, and modification of parenting plans or non-parental custody orders.

- Information for Party Re Formal & Informal Trial
- Informal Trial Selection Form

Acting on the **December 2020 proposal by Spokane attorney** Dennis "D.C." Cronin, WSBA No. 16018 for a general statewide rule for Informal Domestic Relations Trial (IDRT), the Washington State Supreme Court published in April 2021 **the following proposed rule**.

SUGGESTED [NEW] GENERAL RULE 40
INFORMAL DOMESTIC RELATIONS TRIAL (IDRT)

(1) Upon the consent of both parties, Informal Domestic Relations Trials (IDRT) may be held to resolve any or all issues in original actions or modification for dissolution of marriage, separate maintenance, invalidity, child support, parenting plans, residential schedules, and child custody filed under chapters 26.09; 26.19; 26.26A; 26.26B; and 26.27 RCW.

(2) The parties may select an IDRT within 14 days of a case subject to this rule being at issue. The parties must file a Trial Process Selection and Waiver for IDRT in substantially the form specified at _____. This form must be accepted by all superior courts.

(3) The IDRT will be conducted as follows:

(a) At the beginning of an IDRT, the parties will be asked to affirm that they understand the rules and procedures of the IDRT process, they are consenting to this process freely and voluntarily, and they have not been threatened or promised anything for agreeing to the IDRT process.

(b) The Court may ask the parties or their lawyers for a brief summary of the issues to be decided.

(c) The moving party will be allowed to speak to the Court under oath concerning all issues in dispute. The party is not questioned by counsel, but may be questioned by

the Court to develop evidence required by any statute or rule, for example, the applicable requirements of the Washington State Child Support Schedule if child support is at issue.

(d) The parties will not be subject to cross-examination. However, the Court will ask the nonmoving party or their counsel whether there are any other areas the party wishes the Court to inquire about. The Court will inquire into these areas if requested and if relevant to an issue to be decided by the Court.

(e) The process in subsections (3)(c) and (3)(d) is then repeated for the other party.

(f) Expert reports will be received as exhibits. Upon request of either party, the expert will be sworn and subjected to questioning by counsel, the parties, or the Court.

(g) The Court will receive any exhibits offered by the parties. The Court will determine what weight, if any, to give each exhibit. The Court may order the record to be supplemented.

(h) The parties or their counsel will then be offered the opportunity to respond briefly to the statements of the other party.

(i) The parties or their counsel will be offered the opportunity to make a brief legal argument.

(j) At the conclusion of the case, the Court shall render judgment. The Court may take the matter under advisement, but best efforts will be made to issues prompt judgments.

(k) The Court may modify these procedures as justice and fundamental fairness requires.

(4) The Court may refuse to allow the parties to utilize the IDRT procedure at any time and may also direct that a case proceed in the traditional manner of trial even after an IDRT has been commenced but before judgment has been entered.

(5) A party who has previously agreed to proceed with an IDRT may file a motion to opt out of the IDRT provided that this motion is filed not less than 10 calendar days before trial. This time period may be modified or waived by the Court upon a showing of good cause. A change in the type of trial to be held may result in a change in the trial date.

Informal family law trials currently exist in Alaska, Idaho, Iowa and Utah, and in one Oregon county. The following tables contained in Informal Domestic Relations Trials, published January 26, 2021 by the National Center for State Courts, identify and provide information about the rules and procedures in each program.

	Primary Citation(s)	Status	Form of Adoption
Alaska	Alaska Rules of Court Rules of Civil Procedure Rule 16.2 – Informal Trials in Domestic Relations Cases	Applies to entire state Effective April 15, 2015 Review and report after three years	Statewide court rule
Idaho	Idaho Rules of Family Law Procedure Rule 713. Informal Trial	Applies to entire state Effective statewide July 1, 2015 (Originally adopted as IRCP Rule 16 (p) in 2008)	Statewide court rule
Oregon	11th Judicial District	Pilot in Deschutes County	Local court rule

	Deschutes County Circuit Court Supplementary Local Rules Rules 7.045 and 8.015	Effective May 29, 2013 Statewide rule under consideration	(Statewide court rule under consideration)
Utah	Judicial Council Rules of Judicial Administration Rule 4-904. Informal trial of support, custody and parent-time.	Applies to entire state Effective April 12, 2012	Statewide court rule

	Case and Hearing Types	How Selected	Waiver
Alaska	Trials in actions of divorce, property division, child custody, and child, including motions to modify.	Opt-in. In a case proceeding to trial, the court may offer the parties the option of electing the informal trial process.	Parties must consent to the process. An explicit waiver of the rules of evidence is not included in the rule.
Idaho	Trials in actions for child custody and child support.	Opt-in. Parties must waive the application of the Idaho Rules of Evidence and the normal question answer manner of a trial.	Consent and waiver to be given verbally on the record or in writing on a form developed by the Supreme Court.
Oregon	Trials in original actions or modifications for divorce, separate maintenance, annulment, child custody and child support.	Forced choice/opt-in. Parties must select the type of trial they would like at the pre-trial conference. Both parties must select an informal trial, otherwise a traditional trial is scheduled.	Not explicitly required in the rule, however the trial selection form contains a written waiver and it is the practice of the court to engage the parties in an oral waiver on the record at the time of trial.
Utah	Trials in actions for child support, child custody and parent-time.	Opt-in. Upon waiver and stipulated motion, orally or in writing, by the parties.	The court must find that the parties have made a valid waiver of their right to a regular trial.

	General Process	Evidence	Witnesses
Alaska	Opening (summary of issues to be decided), the parties' present case in turn, opportunity to respond to factual information presented by opposing party, closing.	Parties may offer any relevant documentation. Court will determine admission and weight. Court may require additional documentation. Letters	Only the court may question a party. Parties may advise the court of additional questions or issues they would like the court to address with the opposing

		from children regarding custody discouraged.	party. Exclusion of witnesses is implicit.
Idaho	The moving party speaks to the court regarding their position(s). The Court questions the party to develop required evidence. Process repeats for opposing party.	Parties may offer any documentation they wish the court to consider. Court shall determine weight, if any, given to each document. Court may order the record be supplemented.	Only the court may question a party. Parties may advise the court of additional questions or issues they would like the court to address with the opposing party. Exclusion of witnesses is implicit.
Oregon	Opening (summary of issues to be decided), the parties' present case in turn, opportunity to respond to factual information presented by opposing party, closing.	Parties may offer any relevant documentation. Court will determine admission and weight. Court may require additional documentation. Letters from children regarding custody discouraged.	Only the court may question a party. Parties may advise the court of additional questions or issues they would like the court to address with the opposing party. Exclusion of witnesses is implicit.
Utah	The moving party speaks to the court regarding their position(s). The Court questions the party to develop required evidence. Process repeats for opposing party.	Parties may offer any documentation they wish the court to consider. Court shall determine weight, if any, given to each document. Court may order the record be supplemented.	Only the court may question a party. Parties may advise the court of additional questions or issues they would like the court to address with the opposing party. Exclusion of witnesses is implicit.

	Expert Witnesses	**Role of Attorneys**	**Other**
Alaska	Expert reports may be admitted without testimony. If expert testifies, all parties, their attorneys and the court may question the expert.	May provide opening summary, propose questions for the court to ask of the opposing party or issues to explore, question expert witnesses and closing statement.	Court may disallow a request to withdraw from the procedure if it would prejudice the other party or postpone the trial date absent a showing of good cause.
Idaho	Guardian ad Litem and expert reports may be admitted without testimony. If expert testifies, all parties, their	May propose questions for the court to ask of the opposing party or issues to explore, question expert	

	attorneys and the court may question the expert.	witnesses and make legal argument.	
Oregon	Expert reports may be admitted without testimony. If expert testifies, all parties, their attorneys and the court may question the expert.	May provide opening summary, propose questions for the court to ask of the opposing party or issues to explore, question expert witnesses and make legal argument.	A party who previously agreed to the informal trial may motion the court to opt out of the informal trial not less than 10 days prior to trial. The Court will make effort to issue prompt judgments. The Court may modify procedures as justice and fundamental fairness requires.
Utah	If there is an expert, any report is entered as the Court's exhibit and the expert may be questioned by the parties, their attorneys and the court.	Following the opposing party's testimony, may identify areas of inquiry and the Court may make the inquiry.	Entry of an order by the court is explicitly included in the Rule. If the order is a final order, it may be appealed on any grounds that do not rely upon the Utah Rules of Evidence.

Additional Resources

Alaska

- Getting ready for Hearing or Trial
- Domestic Relations Trials: Understanding the Two Options
- Family law hearing and trial prep videos

Idaho

- March 2014 Evaluation Report - Informal Custody Trial

Iowa

- Informal Family Law Trial Pilot Project, Final Report (June 2018)

Oregon

- Informal Domestic Relations Brochure and Information for Selecting Which Type of Trial.
- Oregon Judicial Department, Uniform Trial Court Rule 8.120 on Informal Domestic Relations Trials.
- Oregon's Informal Domestic Relations Trial: A New Tool To Efficiently And Fairly Manage Family Court Trials, By William J. Howe Iii And Jeffrey E. Hall

Utah

- Article from the Utah Journal of Family Law written by Commissioner Cathy Conklin and now-retired Judge Ben Hadfield.
- Results of attorney survey from 2016
- Rule 4-904
- Waiver & consent form

Post Informal Trial Adoption Reports

Idaho

March 2014 Evaluation Report - Informal Custody Trial
[*Excerpts*]

Judges were asked 16 questions regarding their interaction with and utilization of the ICT model in their courtroom. Questions ranged from asking about their process of utilization to perceptions of forms and perceptions of potential advantages and disadvantages of the ICT model.

Most judges reported that a typical ICT lasted anywhere from two hours to half a day, and 78% of judges (14) agreed that the process was more efficient than a traditional court trial. Additionally, a majority of judges interviewed believed the ICT was a more effective use of judicial time. A small percentage (less than 20%), were either unsure or had not done enough ICTs to accurately gauge whether or not it was a more effective use of judicial time.

While the ICT was considered potentially beneficial, it was not recommended for all cases. The majority of judges did not feel that it was a good option for cases involving domestic violence, or cases with a history of alleged child abuse or mental health or substance abuse issues. One judge specifically indicated that the ICT was probably not the best process for a case that had pending criminal charges. Also, the inability of an individual to provide adequate testimony as a result of limited cognitive capacity should be considered.

Regarding the Consent and Waiver form, none of the judges had concerns with the form or suggestions for ways to improve it.

The majority of judges reported that the ICT model was introduced and discussed at the litigant education class and was introduced again at the scheduling conference. Of the 18 judges interviewed, 11 indicated that they also introduced it at the pre-trial conference. However, some concerns were raised by two judges as to the best time to introduce the ICT process. These judges were of the opinion that it was best not to introduce the ICT until later in the case (right before trial), and should not be an option early on in the process.

Factors that indicated a particular case was especially well-suited to an ICT, as reported by judges, included self-represented litigants and simple-issue custody cases, including modification cases. **Several judges commented that the process was not well-suited for cases that presented with domestic violence or mental health issues because it was difficult to get at the bottom of**

these issues without expert witnesses. Also, parties generally did not understand that all evidence was not given equal weight. Most judges commented that they felt that ICTs were especially well-suited to modifications or initial filings that involved only custody and visitation disputes. [*Emphasis added*]

However, some judges felt that there were no factors that could "disqualify a case from an ICT". **Additionally, a few judges indicated that they had used the ICT very successfully in high-conflict cases, including a case involving domestic violence.** [*Emphasis added*]

To ensure the parties understood the ICT process prior to agreeing to participate, 17 of the 18 judges (94%) indicated they used the Waiver and Consent form that had been developed for the ICT process, in addition to a verbal review of the process with the parties. Another 44% of judges (8) indicated that when parties were represented by attorneys, they asked the attorneys to review the ICT process with their clients.

Influence of ICT on Conflict

Half of the judges believed the ICT process reduced conflict, 33% were unsure, and 17% believed that it did not reduce conflict. The judges primarily believed it reduced conflict because parties were not subject to cross-examination, were not able to question each other, and both parties were able to freely tell their side of the story without objection or argument. Other ways judges believed the ICT reduced conflict included:

1. **How the case was managed.** One judge attempted to make the experience positive by asking the parties to name positive aspects about the other party and attempted to help parties see their requests from the other party's perspective. Another judge believed that to the extent the parties felt they had been heard and that the judge had listened to them, it enhanced the likelihood of acceptance of the decision which potentially reduced conflict.

2. **Reducing courtroom time.** One judge believed the ICT reduced conflict by reducing the number of times parties were in courtrooms involved in high stress conversations. For those who did not believe the ICT reduced conflict, reasons provided were that both parties are experiencing hurt in both the ICT and the traditional process regardless of how the case is tried and that the potential to increase conflict is actually raised by the ICT because of the difficulty of controlling the amount of venting, or "mudslinging," the parties did during the hearings.

Oregon

Oregon's Informal Domestic Relations Trial: A New Tool To Efficiently And Fairly Manage Family Court Trials
Family Court Review, Vol. 55 No. 1, January 2017 70–83
[Excerpts]

Initially IDRT was conceived as a process to more efficiently manage the crushing family court docket and also as a way to relieve judges of the discomfort and concern over whether relaxing the rules of evidence or assisting in the preparation of judgments would violate judicial ethics rules.

It immediately became obvious that the benefits of IDRT were far greater than judicial economy and avoiding judicial ethics heartburn. This process was greeted by litigants as affording access to justice in a way that SRLs, even more than represented litigants, felt was more understandable. Furthermore, procedural fairness was advanced, as litigants felt and experienced being heard directly by the person who possessed the power to resolve the dispute.

Deschutes County Circuit Court proposed a Supplemental Local Rule (SLR 8.015) establishing IDRTs in 2012.13 The court did so in collaboration with Oregon's Statewide Family Law Advisory Committee (SFLAC).14 Since 1997 the SFLAC has generated many of Oregon's family law reforms and innovations. SFLAC was assisted in the IDRT innovation by IAALS.15 This rule was approved by Chief Justice Balmer and went into effect on May 29, 2013. *[Emphasis added]*

...

Factors In Cases That Affect Suitability For An IDRT

The broadest category of cases that are appropriate for the IDRT process are those where neither party is represented, where the marital assets are reasonably straightforward, and where no nonexpert witness testimony was critical to achieving a just result. Most cases involving two SRLs followed this pattern. IDRT was appropriate in these cases because most SRLs did not have sufficient familiarity with the law to effectively present their case, use witness testimony, operate within the confines of the rules of evidence, and focus on the statutory factors a judge must consider in deciding the issues presented.

Cases involving domestic violence where both parties are self-represented are viewed as particularly well suited for the IDRT process. The IDRT rules allow the victim to introduce medical and law enforcement reports without having to call a witness to establish foundation. Additionally, the IDRT process allows the victim to avoid cross-examination by the perpetrator, and the judge is able to maintain a level of control in directing the lines of inquiry and focus of the trial, thus mitigating the inappropriate exercise of power and control by a perpetrator during the conduct of the trial. *[Emphasis Added]*

Of the forty IDRTs conducted between June 2013 and December 2015, one or both parties were represented in as many as nine cases.22 The IDRT process proved appropriate in cases where one or both litigants were represented, when the parties could not afford counsel for a traditional trial, where the trial was focused on a narrow issue, or where legal strategy suggested the IDRT process would allow evidence to be introduced that might otherwise be excluded in a formal trial process. allow evidence to be introduced that might otherwise be excluded in a formal trial process.

...

When initially implemented, some worried that the IDRT process would not be appropriate in cases involving high-value marital assets. These concerns were refuted by a self-represented divorcing couple who had worked together to resolve all issues, except the division of several parcels of real estate valued in excess of one million dollars. The parties had carefully researched the law, but arrived at different conclusions on how to correctly value the real estate. They simply wanted a judge to tell them who was correct and successfully used the IDRT process to bring that one issue before a judge.

There were no cases in which the IDRT process was initiated, but during the trial or hearing the

judge found this process to be unfair or inappropriate. The judges and attorneys participating in the evaluation agreed that the traditional trial process was more appropriate for cases in which both parties were represented, where there were significant and complex marital assets, where nonexpert testimony was critical in achieving a just result, or where there were complexities surrounding the issues of child custody and support.

...

Conclusion

Deschutes County's IDRT process is an innovative option for courts seeking to better serve the public and provide greater access to justice and procedural fairness in any family law matter. While no panacea, this important innovation provides a less adversarial and more user-friendly family law dispute resolution regime for many disputes. It is particularly attractive to SRLs who struggle to navigate the complexities of the traditional trial model. Families reconstellating and requiring the assistance of the court need and deserve accessible, fair, and customer-friendly innovations like IDRT.

Perspectives:

Judicial

Commissioner Jennie Laird, King County Superior Court
June 24, 2021 (email)

"I communicated with Judge Sutton so far, and she believes there has been about 6-8 of these informal trials so far. The couple she has done, she reports went well. ...

I can tell you generally that the SCJA FJLC will be writing a letter in support of the statewide rule and proposing some comments to make the rule more "plain language" and also to incorporate some of the provisions from King and Thurston counties (such as an explicit waiver of the evidence rules and appeal based on the ERs, as an example). And to change the name from IDRT to IFLT, given "domestic relations" is an antiquated or at least non-plain language term. And the acronym flows a little better.

We had a subcommittee meeting yesterday, and judicial officers from both KC and TC reported positive experiences with their county rules. Permitting some flexibility for the details, in particular the timing of parties opting in, also seems important, given each county sets trial dates differently (some with a case schedule, some requiring a trial setting filing)."

Commissioner Catherine S. Conklin, Domestic Relation, Second District Court, Utah
May – June 2021 (email thread excerpts)

From Commissioner Conklin: The informal trials are a great tool for the right cases."

To Commissioner Conklin: Thank you very much for your email and for the accompanying documents. This is very helpful information which I have shared with members of the WSBA Family Law Executive Committee.

A number of WSBA attorney members have expressed concern about the imbalance of power and language disparities that exists in many relationships. The following comment by one member illustrates that concern:

> The power imbalance that I see as problematic is not a division of chores and child-rearing in a marriage. A problematic power imbalance can be DV, history of controlling or intimidating behavior, vast disparity in education or employment that results in one spouse being far more skilled at paperwork and organization and speaking, etc. Language disparities can create a situation where one spouse cannot effectively communicate his/her position, cultural differences that require explanations and on and on.
>
> The materials that are presented by courts thus far encourage parties to choose informal trials without identifying potential problems. Even more concerning, they do not spell out the responsibilities of a judge to protect against informal trials where unfair decisions can result from a power imbalance. A process that, in effect, requires a vulnerable spouse to identify problem areas before trial in front of the other spouse so as to avoid the informal trial does not understand the issues. In a world where many judges are not experienced with family law or, worse yet, have little interest in learning the intricacies of family law, such a new process as informal trials needs to be more protective of vulnerable spouses.

The law journal article that you sent includes a memo by Idaho Judge Simpson on his state's ICT model. His comments about screening identify some of the concerns, but it appears his comments are directed to counsel for the parties. However, in many cases there is no attorney and one or both parties are pro se. Should judicial officers perform the screening? It would be helpful to know if this is a concern in Utah and, if so, how it has been addressed.

From Commissioner Conklin: The type of screening you mention is performed by the judge or commissioner at the time of pre-trial. We have 8 judicial districts in Utah, and there are domestic relations commissioners in the 4 most populous districts. The commissioners handle only family law cases, so there is some expertise there. We have the ability to focus on one area of the law, while the judges have to do a little of everything. That is part of the reason for amending the rule on informal trials to make it clear that commissioners can do them.

But the power imbalance you describe will be present no matter what format the trial follows. It is easier for the parties to sit at their separate tables, with all of their notes and paperwork, and have the judge or commissioner asking questions instead of being on the witness stand and cross-examined by the opposing party. Like everything else in life, it's a tradeoff."

To Commissioner Conklin: Is there/should there be:

- advance orientation or training for judges preparing them for the informal trial process and procedures?
- Standardized form with post-trial survey questions posed to participating attorneys seeking comments and possible suggestions for improvements?

From Commissioner Conklin: Yes, to both of your questions. I have taught a couple of classes at our judicial conferences about informal trials, but we haven't done a survey since 2016 or so. We should do another one.

Attorneys

John Ferguell
Kent Attorney, WSBA 26461
June 24, 2021 (email)

"In general, I thought it worked out very well. The process was as the (proposed GR 40) states. ... My case involved a dissolution, with kids. Child support, property/ debt division, maintenance and Parenting were all contested. The wife was not represented by counsel and frankly, was not prepared; however, it was not from her good faith effort to prepare. She just did not do much of anything during the whole case."

Notes from 6/27/21 PC: One informal trial. 25-year experience. Client felt got "his day in court." Informal trial option presented at pretrial hearing. Significant cost and time saving. Client (Petitioner) wanted to minimize cost. Had faith in Judge Sutton and comfortable having judge make call and question parties. Judge controls process. Judge controls questions: attorney submitted questions and judge asked questions she felt to be relevant. Wouldn't discount use of informal trials in DV cases; provides more protection for victim and avoids cross examination. Formal documents presented prior to trial: trial brief, financial declaration, proposed orders, etc. Ruling made at conclusion of trial. Petitioner's attorney instructed to make changes to proposed documents to conform to ruling. May not be favorable option with complex case with high valued estate and multiple experts. *[Emphasis added]*

Kiona Gallup, Kent Attorney, WSBA# 51997
Community Advocates Northwest
June 28,2021 (email)

"I did just complete my first informal family law trial in King County.

Overall, it was a great experience. The only issue was a Final Parenting Plan modification, with .191 restrictions for chemical dependency and abusive use of conflict.

The opposing party represented themselves *pro se*. Had we gone through a formal trial, it would have been beyond challenging to get through trial efficiently.

I prepared my client prior on what to expect from Judge Sutton asking questions, rather than me. They did well, but I also had little to no concerns going in as to their credibility and ability to tell their story through testimony. It really was great having Judge Sutton ask the questions for which she needed the answers without all the red tape around evidentiary issues and hearsay. Follow-up questions from both sides went smoothly and elicited the necessary information.

This case had a lot of CPS records and police reports – it was wonderful not having to issue subpoenas to all the state agencies.

A lot may disagree, but I thought it was great that child hearsay statements could come in. Obviously, they both disagreed on what the child had to say, but it was left to the Court to determine credibility. Far too many people have a difficult time not testifying about their child's statements.

I think this is a wonderful tool and should be selected more often. I had zero problem being there to advise my client and let the Court put in the most "effort" in asking questions. Very rarely do parties (the majority of my client base) in family law have the financial or time resources to go through a formal trial.

I very much hope GR 40 is approved."

Suggestions

Idaho Suggestions for Improvement

- Suggestions that judges provided for improving the ICT model included:
- Attorney training from the Idaho State Bar
- Enhanced judicial education
- Allow the ability to include expert testimony in proceeding
- Discussion of ways to filter the information coming in to the Court
- Set date for exhibits to be submitted by parties to allow judges adequate time to review exhibits and prepare for the decision
- Enhanced flexibility with the process
- Development of a "how-to" for self-represented litigants

Idaho March 2014 Evaluation Report - Informal Custody Trial

Oregon Suggestions For Improvement

- The Deschutes County Court is in the process of developing a trial preparation outline for SRLs.
- There are excellent materials available, including those from the National Judicial Institute in Canada.
- When developed, the trial preparation outline would be of particular benefit to SRLs selecting either trial process, but these materials would be available to all litigants and lawyers.
- The attorney group felt that allowing the judge to review and consider any available mediator's report could help to narrow the issues for trial. Mediation proceedings in Oregon are confidential.

- As such, mediation reports are inadmissible unless both parties consent to their admissibility. Therefore, either the IDRT waiver would need to include the stipulation that mediator reports are admissible, or the mediation confidentiality statute would have to be amended.

Oregon's Informal Domestic Relations Trial:
A New Tool To Efficiently And Fairly Manage Family Court Trials - 2017

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