

Early Resolution for Family Law Cases in Alaska's Courts

Stacey Marz

Family law cases can be among the most protracted and stressful proceedings for litigants. Court systems across the country are looking for ways to handle family law cases more effectively and efficiently, especially when the people involved are representing themselves. In Alaska, family law cases have comprised nearly 25 percent of the caseload of judges for a number of years, and over 75 percent of these cases have involved self-represented (also called *pro se*) litigants. The Alaska Court System established the Family Law Self-Help Center (FLSHC) in 2001 as a free web and telephone helpline service to assist self-represented persons in family law cases in all of Alaska's courts. Based in Anchorage, the FLSHC does not provide legal advice or legal strategies, but through the website and the toll-free helpline individuals can receive legal information about procedures, as well as forms and educational materials. (<http://courts.alaska.gov/selfhelp.htm>, ph 866-279-0851).

Although the FLSHC responds annually to nearly 7,000 phone calls and their webpage is visited by over 60,000 individuals, the opportunity to provide additional services in some family law cases became apparent over time. In 2009, the FLSHC created the Early Resolution Program (ERP) as a pilot project in Anchorage. This unique program, the first of its kind in the nation, was developed to provide free unbundled legal assistance or mediation to parties in selected family law cases who were not represented by lawyers. The court system anticipated that early intervention in the case process and the help of legal professionals could encourage parties to settle their issues rather than go through a protracted court trial. The result would be faster resolutions

in which the parties create their own solutions after benefitting from legal advice, mediation or a settlement conference, and a lessening of workload for the courts.

In ERP, court staff at the FLSHC screen newly filed divorce and custody cases involving two self-represented litigants to determine the likelihood of settling any or all the issues. Once a case is accepted for ERP, the court sends the parties a scheduling notice to appear at an ERP hearing, along with information about the program. (Attendance at the hearing is required, but the case is removed from ERP if one or both parties hire an attorney.) Each case is included with up to seven other selected cases and placed on the court calendar for the same hearing timeslot. The parties appear before a settlement judge along with volunteer attorneys or court mediators who are available to work with the litigants to arrive at a resolution of the issues. Since 2012, cases involving motions to modify custody and/or child support are also considered for ERP in some court locations. Representatives from the Alaska Child Support Services Division (CSSD) are available at Anchorage modification hearings to provide information about parties' earnings, child support payment history, and to help with child support calculations. There is no cost to the parties for attorney or mediator assistance. The process is swift, and the parties often leave the courtroom with all issues settled and signed copies of all the necessary paperwork for the settlement.

The 2009 pilot project was successful — with six to eight cases heard monthly and the majority settling by the end of the hearing — and was approved to continue in Anchorage. To date nearly 800 cases have been handled by the ERP, and the program currently operates in the three state courts

with the highest caseloads — Anchorage, Palmer, and Juneau—with plans to expand to Kenai.

This article looks at the goals and development of the Early Resolution Program, how cases are screened and processed, data on cases, and the observations of a number of the judges who are part of this innovative program.

Goals of ERP

There are three goals of ERP. First, the program is designed to provide self-represented litigants with assistance from legal professionals at the hearing to help them resolve their issues. The legal professionals may be volunteer attorneys, court mediators, and/or a settlement judge. Depending on their role, these legal professionals may provide legal advice, facilitate communication, or suggest options to consider.

The second goal is to resolve and close cases at the end of a hearing, if possible, thereby reducing stress for litigants who can quickly receive final judgments and move on with their lives.

The third goal is to help free up time on congested court dockets for more complex cases. Cases that resolve within the course of one court hearing avoid further proceedings and trials. If full resolution is achieved at the end of one hearing, the paperwork (Findings of Fact and Conclusions of Law, Decree, Child Support Order) is finalized and distributed in the courtroom to the parties and no further work is needed in the case. If there is no full settlement, the parties often leave ERP with partial final orders or interim orders that may limit the scope of future proceedings. In the case of

Please see *Early resolution*, page 14

Early Resolution Program Timeline

Nov 2009–Dec 2010. Third Judicial District Superior Court Judge Stephanie Joannides begins hearing dissolution cases in Anchorage with self-represented parties. She uses a prototype of what will become the Early Resolution Program (ERP). The Family Law Self-Help Center (FLSHC) provides staffing. Local volunteer attorneys and court mediators assist parties. (FLSHC staff, volunteer attorneys, court mediators, and settlement judges remain a constant as the program develops.)

Dec 2010–June 2011. The ERP Pilot Project is approved by then Third Judicial District Presiding Judge Sharon Gleason in December 2010.

June 2011. ERP is fully integrated into the Anchorage court calendar—two hearings (6–8 cases at each hearing) are scheduled monthly. Anchorage judges, including the Chief Justice of the Alaska Supreme Court, hear cases.

Feb 2012. ERP begins in the Palmer court presided over by Palmer Judge Vanessa White. FLSHC from Anchorage provides staffing. Hearings are scheduled once per month.

April 2012. ERP begins in Juneau. Anchorage Judge Stephanie Joannides (Ret.) flies to Juneau once per month and begins hearing cases as a pro tem judge. Modification requests are included in these hearings. FLSHC from Anchorage provides staffing.

Dec 2012. The Modification Resolution Program (MRP), modeled on the ERP, begins as a pilot program. It is approved to continue by then Third Judicial District Presiding Judge Sen Tan to assist solely with modifications to child custody, support, and visitation orders. The program operates in Anchorage, and later expands to Juneau. Magistrate Judge Suzanne Cole presides over the majority of these hearings with self-represented parties. A staff attorney screens cases. The Alaska Child Support Services Division (CSSD) sends representatives to each hearing to assist.

August 2014. The MRP is formally merged into the ERP. FLSHC and trial court staff now work together to schedule cases and facilitate hearing days. Additional hearings are added to the court calendar in Anchorage. The merged ERP/MRP program continues in Juneau.

Early resolution (continued from page 13)

modifications to orders regarding child support, custody, and visitation, it usually takes one hearing to resolve issues and have the modification order signed and paperwork given to the parties.

Beginning of ERP

Starting in November 2009, Anchorage Superior Court Judge Stephanie Joannides worked with the FLSHC to develop a pilot project to manage family law cases assigned to her that did not have attorneys representing either of the parties. When Judge Joannides first put forward the idea of ERP for self-represented litigants in family law cases, she was prompted by the belief that early intervention, providing legal assistance and mediation, and modeling positive behavior for the litigants during the hearings could lead to swifter resolution of cases and greater satisfaction among the participants. She borrowed from the success of certain strategies she had learned while presiding in the court system's therapeutic courts: the focus on early intervention and the use of a group calendar to have the individuals in a number of cases appear before the bench at the same time.

Parties in the various cases assigned to an ERP hearing timeslot appear at the same time before the judge. Prior to the individual cases being brought before the judge, everyone listens to the judge's explanation of what the rules and goals are for the hearing. As each case is heard, the individuals in the courtroom observe how the parties interact with the judge, and how others are willing to be flexible to reach a satisfactory outcome. Careful screening to determine which family law cases are best suited for this type of process is key to the success of the program. Judge Joannides stresses that the role of the ERP judge is to make sure any property agreement is fair and any parenting plan is in the best interests of the children involved. Working with the judge, volunteer attorneys, and mediators, litigants can get closure. Judge Joannides tells the litigants in her courtroom, "I am here to help you get a resolution."

The FLSHC engaged the Alaska Pro Bono Program (APBP) to recruit, train, and coordinate volunteer attorneys to assist the parties. The Alaska Pro Bono Program ceased operations in 2012, and the Alaska Legal Services Corporation (ALSC) has taken over the responsibility for recruiting volunteer attorneys and providing malpractice insurance. ALSC works with the Family Law Self-Help Center to provide training for volunteers.

Volunteer attorneys worked with the litigants at each ERP hearing, providing *unbundled legal services* (a limited scope representation) at the courthouse outside of the hearing. If agreements were reached, Judge Joannides heard the case as a settlement judge and issued appropriate orders, distributing the paperwork to the parties in the courtroom who were then able to leave knowing the exact outcome of the case. Prior to ERP, the parties would leave the courtroom, and the judge would later prepare the final orders which would be mailed to them possibly weeks later.

The success of the pilot project led then Third Judicial District Presiding Judge Sharon Gleason to approve the expansion of ERP to all newly filed divorce and custody cases involving self-represented parties in Anchorage. The expanded ERP began in December 2010 with hearings on two Friday afternoons each month. At one of these hearings, volunteer attorneys were available to provide free limited scope representation. At the other ERP hearing, court mediators worked with the parties to resolve the cases.

Approximately 50 percent of the newly filed divorce and custody cases involving two self-represented litigants went through ERP during the first year of expansion of the program. Significantly, since the program began in November 2009, there has been an almost 100 percent appearance rate at hearings, with very few cases in which the parties failed to appear and did not participate. In the first year of the expanded calendar, ERP heard 150 cases: 120 (80%) settled fully and closed, 21 (14%) were sent back to the assigned judge because the case didn't settle in ERP, and 9 (6%) were classified as partial settlements.

After Judge Joannides' retirement in January 2011, ERP continued in Anchorage with other Superior Court judges and magistrate judges presiding, as well as Judge Joannides participating as a pro tem judge. Due to the success in Anchorage, ERP expanded to the Palmer court in February 2012 where there is one ERP calendar a month, presided over by Palmer Judge Vanessa White. In April 2012, the Juneau court began monthly ERP calendars with Judge Joannides presiding as a pro tem judge, and includes cases in which post-judgment motions have been filed. Recently the Juneau ERP has been including cases filed in Ketchikan. In November 2014, there are plans to establish the program in Kenai which will also include Homer cases.

Screening Considerations

The FLSHC staff attorney and director screen family law cases for suitability for ERP. They review the court files and Court-

View (the court's electronic case management system) to determine if the participants have been involved in any domestic violence cases, or any other cases that might indicate criminal problems, instability, financial problems, drug or alcohol issues, or child abuse and neglect. The goal is to get as complete a picture as possible of any allegations and the disposition or rulings in any other cases related to the parties. The screeners start with the assumption that most cases can resolve without a trial and can benefit from mediation, legal advice, and a settlement judge. During the screening, they look for reasons not to take a case into ERP. Factors that may cause a case to be screened out as inappropriate for ERP include:

- Current and serious domestic violence incidents, especially if there are minor children involved.
- An undisposed criminal case for one or both parties that is relevant to the family law case or serious criminal history that may affect the availability of a parent to participate in ERP.
- A pending Child In Need Of Aid (CINA) case.
- One parent is incarcerated, and cannot participate easily in the hearing.
- An unaddressed serious drug or alcohol abuse allegation.
- An unaddressed serious mental health allegation.
- Issues requiring evidentiary findings such as a challenge to the court's jurisdiction.
- The parties have complicated financial situations (e.g., they own a business that needs to be divided, or there is a very long marriage with substantial assets) that require additional discovery or will take too long to go through during an ERP hearing.
- A relocation issue in a custody case.
- A third party such as a grandparent has filed a motion to intervene in a custody case.
- A special needs child in a custody case that requires expert testimony.

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

- The parties appear to agree (the complaint and the answer request similar relief).
- The parties do not agree on all issues, but the disagreements are relatively simple and a workable solution seems obvious (e.g. legal custody, uncomplicated physical custody issues, few or low value assets/debts).
- The parties agree on the custody and visitation arrangement, but there is an issue with child support; basically

Table 1. Early Resolution Project Statistics through August 2014

Program start	Anchorage		Palmer		Juneau		Total	
	Dec 2010		Feb 2012		Apr 2012		N	Percent
	N	Percent	N	Percent	N	Percent		
Settled fully	442	78.1 %	113	76.9 %	79	79.0 %	634	79.9 %
Partially settled	20	3.5	8	5.4	—	—	28	3.5
Sent to assigned judge	75	13.3	17	11.6	17	17.0	92	11.6
Continued to second ERP hearing	7	1.2	3	2.0	4	4.0	11	1.4
At least one party failed to appear	12	2.1	5	3.4	—	—	17	2.1
Other	10	1.8	1	0.7	—	—	11	1.4
Total cases heard in ERP	566		147		100		793	

Source of data: Family Law Self-Help Center, Alaska Court System

the question is how much the child support amount will be.

- The parties largely agree on which items should be divided. This often includes division of household items, vehicles, car loans, credit card debts, and medical bills. However, disputes about marital homes and retirement accounts are commonly resolved.
- The parties are young, unmarried parents of a baby, have many years to parent the child together, and could benefit from learning how to work together to co-parent.

How ERP Works

Once a family law case is selected for ERP, an FLSHC attorney sends a scheduling notice to the parties for a hearing that is usually within the next month. The notice explains that ERP is a special hearing designed to help the parties reach a resolution. It tells the parties what documents they need to bring with them to file with the court and includes contact information for an FLSHC attorney the litigants can call with any questions. The parties are also given a phone call two or three days before the hearing reminding them about the time and location, explaining the ERP and the documents they need to have with them, and encouraging them to think about workable solutions specific to the issues in the case. At the ERP hearing, depending on the case's complexity and dynamics, volunteer attorneys, a court mediator, or a settlement judge may work with the parties to see if any issues can be resolved.

If the case is a request for modification to an existing order for child support, custody, or visitation, the judge, staff attorney, court mediators, and representatives from Alaska Child Support Services Division may work with the parties to reach an agreement.

How Cases are Assigned

The linchpin of ERP is the early screening done by Family Law Self-Help Center staff. There are three tracks for assignment

of cases: to an attorney, a mediator, or a judge. Assignment depends on the issues involved and how close the parties appear to be to settlement.

If it is determined that the parties would benefit from legal advice, each litigant is provided with a free volunteer attorney for the hearing. Public and private attorneys are in the recruitment pool, including state assistant attorneys general whose participation in ERP is supported by the Alaska Attorney General. The volunteer attorneys provide unbundled legal services. Under this limited scope representation, the attorneys provide advice to their client for the ERP hearing only and negotiate with the opposing party's volunteer attorney to see if any agreements can be reached. Sometimes, due to issues in the case or if there are not enough volunteer attorneys to be assigned to each party, a volunteer attorney may function as a neutral, not advising either party, but acting as a mediator to help facilitate communication to see if any issues can be resolved. In cases where the legal issues are relatively simple and the parties have minor children, mediators from the court's Child Custody Visitation and Mediation Program assist the litigants. These mediators have completed 40 hours of mediation training and have experience mediating domestic relations cases.

Some cases are not assigned attorneys or mediators if there is nothing in dispute or relatively few or simple issues to be decided. At every hearing, there are usually one or two cases in which the parties had short marriages, no children, and agree there is no property or debt to be divided. These cases can be finalized by the judge very quickly. In other cases involving few disputed issues, the ERP judge acts as a settlement judge at the hearing and works directly with the parties to help resolve the case. FLSHC staff is at the hearings and available to assist attorneys, mediators, and the settlement judge in preparing final documents and calculating child support.

If the parties reach an agreement, the ERP judge makes sure it meets the legal require-

ments and the parties memorialize it on the record. FLSHC staff draft the orders based on the agreement, including a child support order, Findings of Fact and Conclusions of Law, and final Decrees (or interim orders). The judge signs all documents at the hearing's conclusion and distributes the paperwork to the parties in the courtroom.

Working with ERP Clients

When the attorney arrives at ERP to volunteer, FLSHC staff provides a prepared packet of information for the assigned case. The packet includes a one-page screening sheet that a FLSHC attorney develops from the court file, which summarizes the paperwork (complaint, answer, any financial documents or property/debt worksheets, any motions and responses). The screening sheet notes demographic information about the parties and their children, summarizes the issues as presented in the filed documents, and provides information about previous court cases. The packet also includes copies of the relevant paperwork. Finally, for cases involving child custody matters, the packet includes a blank parenting plan with many possible options and open-ended sections for parties to write up any agreements regarding specific topics.

The attorney reviews the packet in advance and then meets the client at the hearing. The attorney explains the limited scope of the representation, making it clear that the representation is for that day's hearing only. They review together an acknowledgment of limited legal services document that explains clearly the limited nature of the representation, and the client signs the agreement if he/she consents. The volunteer attorney listens to the client's concerns and desires, and they discuss any pending proposals and/or what to propose to the other side. The attorney asks questions to spot issues that affect analyzing the case. Important issues to consider include safety concerns, practicality (including enforcement issues), likelihood of the court accepting an agreement, legal appropriateness (best interest guidelines, fair and equitable property/debt divisions, child support calculations according to Civil Rule 90.3), and whether there is an actual or potential separate case (bankruptcy, domestic violence, Child in Need of Aid (CINA), tort claim, criminal charge). The goal is to see if the parties can reach agreement, and not get sidetracked on minor issues. Volunteer attorneys help clients identify what issues, if any, are worth fighting about in future contested hearings. (See "Issues in an ERP Case" on p. 27 of the web supplement ac-

Early resolution (continued from page 15)

companying this issue.)

Some clients need a “reality check” conversation about how the law impacts their wishes—and what a judge is likely and not likely to approve. Parties may or may not be able to make a decision about how to best resolve their case after this conversation, but at least they have been informed. Once the attorney works with the client, the attorney meets with the other party’s volunteer attorney to discuss the clients’ respective positions and begin negotiations to see what agreements may be reached. Depending on the complexity of the issues and the parties’ positions, this process may take anywhere from thirty minutes to over three hours.

If the parties cannot reach agreement, they leave the ERP, but hopefully they are more focused, and have more realistic expectations for future proceedings before their trial judge.

Outcomes in ERP

Since its inception, the Early Resolution Program has proven to be an effective settlement tool in approximately 80 percent of the 800 cases assigned to the program in all three program locations: Anchorage, Juneau, and Palmer. (See Table 1.) Over 50 percent of the eligible cases in Anchorage and Palmer have gone through ERP. Significantly, there has been a 98 percent appearance rate by the parties. Volunteer attorney participation has been impressive, with over 50 volunteers regularly donating their services since the program began in 2009.

Long-term ERP Results

Cases that settle at ERP show remarkably little post-judgment activity. Although there are no direct measures of participant satisfaction, very few of the parties return to the court asking for a change in the settlement of the issues. Eighty-eight percent of the cases have no post-judgment activity. Ninety-five percent of cases either require no action within one year of ERP, or if a motion is filed, it is resolved without a hearing or at only one uncontested hearing.

Modifications to Custody and Child Support Orders

Following the success of the ERP, an early resolution program for requests by self-represented litigants to modify child custody, visitation and /or child support was established in Anchorage in December 2012—a Modification Resolution Program (MRP). Cases are screened and accepted for this program using the same process as ERP. Some cases began in ERP and then

return for modification. But many cases are also assigned to MRP in which the parties were initially represented by attorneys and are now self-represented.

After an initial pilot project, then Third Judicial District Presiding Judge Sen Tan approved MRP as a separate program for the Anchorage court. Representatives of the Alaska Child Support Services Division (CSSD) attend the hearings and are available to quickly confirm any arrearages (money still owed) in child support, provide earning history, and calculate the actual amount of child support due. The agency and the court work together with the parties, and communication among all the parties and the court is improved. The CSSD representative is someone in authority who can negotiate payment plans for child support still owed, and in some cases will discuss forgiveness of unpaid child support. This significant partnership between the agency and the court helps deliver a swift resolution.

Starting in August 2014, the MRP program has been combined with ERP so hearings now include both new family law cases and those involving modification requests. The number of hearings scheduled by ERP each month has been increased to accommodate hearings for modifications. Requests by self-represented litigants for modifications to domestic orders had been limited to just one hearing date per month, and the staff attorney was able to only accept 21 percent of the cases submitted for review. With the expanded number of hearings, more requests for modifications can be processed each month, and it is estimated that the ERP may be able to accept up to 50 percent of the modification cases it receives. From 2012 through August 2014, 368 cases have been screened for an Anchorage hearing, and 78 (21% of the cases) were accepted and put on the MRP calendar. Sixty cases have settled completely or in part—a resolution rate of 77 percent. (See Table 2.) Initially, Magistrate Judge Suzanne Cole presided over all the MRP modification hearings; she currently hears about one-third of all modification cases. From the bench Magistrate Judge Cole has seen how this process benefits the parties, and notes, “the sooner we can meet with the parties, the better chance we have to keep them from polarizing.”

Program Benefits

The benefits of ERP are numerous from the perspectives of the litigants, volunteer attorneys, and the court. The benefits to the litigants include:

- Parties have access to early resolution, with assistance from a volunteer attorney, mediator, or settlement judge.

Table 2. Modification Resolution Program (MRP) Statistics, Anchorage

December 2012 to August 2014

Cases screened	Cases accepted	Cases resolved (in whole or in part)	
		N	Percent of cases accepted
368	78	60	76.9 %
<i>Source of data: Family Law Self-Help Center, Alaska Court System</i>			

- Parties have a “reality-check conversation” when working with a volunteer attorney or a settlement judge.

- Interim, final, or modified child support orders are issued more quickly.

- A private consult with an attorney can unveil issues, such as coercion or hidden legal problems that parties do not think are relevant—such as the wife being pregnant by someone other than the husband, disclosure of all property, and retirement, tax, and medical benefit issues.

- Parties get a mini-legal diagnosis and can make an informed choice about whether hiring an attorney for further assistance would make a difference in their case.

- All of the above helps triage the case to the proper resolution method.

- Consultations with attorneys include enforcement analysis, resulting in orders crafted to avoid obvious enforcement pitfalls.

- Parties get advice on post-judgment issues, most importantly child support modifications, which often are complicated when parties delay seeking adjustments.

- In the case of modifications, the Child Support Services Division can help facilitate the resolution of child support issues during the hearing itself.

Benefits of this program from the perspective of the volunteer attorney include:

- Immediate gratification while working as a real-time problem solver.

- Collegial experience working with other ERP attorneys results in more collegial relations with attorneys in non-ERP cases.

- Training and experience in providing unbundled legal services—that is, clearly defined parts of or issues in a case.

- A well-defined opportunity to provide pro bono legal services with responsibilities for the case that last only as long as the hearing.

- An established timeframe for the work. No preparation or follow-up are required. The attorneys receive a file with summarized information and come to court ready to advise the parties on whatever questions come up. The attorney’s role ends when the hearing ends.

- Regular scheduling because calendars run routinely on the same days in a month.
- The opportunity to make a significant contribution to access to justice for individuals who otherwise would not have the benefit of advice from a legal professional.

From the court's perspective, the benefits include:

- Parties get legal advice or go through mediation, which provides satisfaction and confidence in settlement outcomes.
- Early resolution of cases frees judicial resources for more complex cases.
- Administrative time is reduced because the file is handled fewer times.
- Accurate child support orders are issued at the hearing.
- Final documents are fully completed at the hearing and given to the parties eliminating the need to mail orders.
- Attorney assistance allows the settlement judge to more easily maintain the court's neutrality.

Judges who have presided over ERP cases are unanimous in their support of the program and praise for the FLSHC staff, the volunteer lawyers and mediators, and the support provided by Alaska Legal Services Corporation. From the bench, judges report seeing a high degree of collegiality among attorneys who have worked in ERP cases and then find themselves as opposing counsel in non-ERP cases. The non-adversarial tone of ERP proceedings appears to create a less adversarial relationship in other court hearings for those lawyers who have volunteered to take an ERP case.

Conclusion

The Early Resolution Program has been very successful in assisting self-represented litigants to reach resolutions in their divorce and custody cases. This success can be attributed to many factors including scheduling cases for hearings soon after they are filed and providing volunteer attorneys, mediators, and a settlement judge for litigants to work with. Engaging in a resolution process that allows the parties to make decisions as opposed to a trial judge imposing a ruling results in the parties having control over the outcome of their case and creates buy-in to the resolution.

ERP would not be possible without the dedication, commitment, and creativity of all the people involved in establishing and building the program. The volunteer attorneys generously give their time and many show up every month to help people who otherwise would be navigating the court process on their own. The mediators are

expert in helping people to communicate, express their interests and concerns, and ultimately craft provisions in agreements that meet their and their children's needs and desires. In modification cases, the representatives from of the Child Support Services Division are in the hearing ready to provide data and facilitate the resolution of child support issues that might otherwise take months to work their way through the standard channels. The settlement judges keep the proceedings moving smoothly, juggling many cases in each ERP session, listening respectfully to litigants' concerns and issues, and suggesting creative workable options when litigants get stuck.

The Alaska Court System has worked diligently to make this innovative program available to citizens. Alaska Supreme Court Chief Justice Fabe recently visited the Kenai Bar Association to encourage the lawyers there to participate in a local ERP program, and she has presided over ERP cases. One of the greatest strengths of the ERP process, according to Chief Justice Fabe, is that "people are much more willing to follow [court] orders they have a hand in crafting." Palmer Superior Court Judge Vanessa White calls ERP "civilized negotiation for the greater good"—a non-adversarial process that allows all the parties to work together toward a common goal of settlement. The Early Resolution Program is one of several programs that Third Judicial District Presiding Judge William Morse notes is being utilized by the court system to "identify the procedures that each case deserves or needs." ERP is now active in three cities and will soon be up and running in a fourth. The goal of ERP is to work with other courts around the state to bring this option to more communities. The success of this program has been recognized nationally by professionals in the justice system, and the FLSHC has been asked to make presentations at national meetings about this program's implementation, processes, and success.

ERP continues to make a significant contribution to ensuring effective and timely resolutions for self-represented litigants in family law cases. As Chief Justice Fabe noted in her 2013 State of the Judiciary address to the Alaska Legislature: "The Early Resolution Project has taught us the immense value of early intervention in some of the most heated conflicts that come before us: divorce and custody disputes...[I]t turns out that in these difficult cases, early intervention works, and it works overwhelmingly well."

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Professor Lindsey Blumenstein, Ph.D., joined the Justice Center faculty in Fall 2014 as an assistant professor. Professor Blumenstein is a graduate of the University of Central Florida and received her doctoral degree in sociology. Her areas of expertise include intimate partner violence, sexual assault and the college population, kidnapping, and research methods.

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Issues in an ERP Case — Web Supplement

The following accompaniment to the article “Early Resolution for Family Law Cases in Alaska’s Courts” by Stacey Marz was prepared for the Spring/Summer 2014 issue of the *Alaska Justice Forum*, but could not be included in the print edition for reasons of space.

Issues in an ERP Case

Below is a brief outline of how the attorneys and judges approach various issues in a case at an ERP hearing. The attorneys need to address with the clients all of the matters that the judge needs to review in order to make a determination and issue final orders in the case. Depending on the case type, this means discussing custody, child support, and property and debt allocation.

Cases involving child custody. For a divorce involving children or a custody case between unmarried parents, the attorneys discuss custody related issues: decision making, parenting time, and child support. Throughout the process, the attorneys are mindful of domestic violence concerns.

Divorce cases involving marital property and debt allocation. Volunteer attorneys advising clients in divorce cases work with the client to understand what marital property and debt exists. Once the attorneys and clients identify the marital property and debt, they negotiate a fair and equitable allocation according to the statutory factors, including specific values of assets, bills, and loan amounts.

Addressing potential enforcement issues. Volunteer attorneys have been very helpful in this area. For example, if one parent has been unreliable in having parenting time with the children and the other parent is concerned about the parent always being late, the agreement may include language to address that “if the parent is more than 15 minutes late to pick up the children without notifying the other parent, the parenting time will not happen.” Similarly, if one spouse is supposed to refinance a loan/mortgage into his/her name, the agreement may state, for example, “if wife is unable to refinance the car loan into her name within 60 days, they agree to sell the vehicle and split the proceeds, if any.”

Partial settlements. If the parties reach a partial settlement, the attorney can make a clear statement on the record about what is settled and outline the remaining issues so the trial judge and parties know how to prepare for the subsequent proceeding.

Additional documentary evidence needed. If additional documentary evidence is needed, an attorney’s explanation to the client of why this is important can help the client actually complete the task. For example, if the parties have not prepared a Qualified Domestic Relations Order (QDRO), which is necessary to divide a retirement account, or talked to the mortgage company about refinancing a loan before their ERP hearing, they can still reach agreement on the issues, but will need to complete the required tasks before the matter can be finalized. In matters that have been largely settled and only require additional documentary evidence, it is often appropriate to reschedule the case for a future ERP hearing. The attorney’s explanation of these types of issues keeps the

case proceeding as it should through the system.

Need for an evidentiary hearing. If there is a dispute over an issue of fact in the case, the matter needs to be scheduled for a future evidentiary hearing. The attorney’s ability to give the basis for the dispute and make the request helps the court and parties. For example, if the father in a custody matter questions if he is really the biological father, the attorney can bring the issue of paternity establishment to the court’s attention. The ERP judge can order DNA testing, and the parties can potentially return to a later ERP hearing once paternity is known.

“Test drive” agreements. If the parties are struggling or would benefit from “trying out” a parenting schedule, the attorneys may suggest the parents agree to an interim arrangement, including child support, and come back to ERP at a future date to finalize the agreement. Often after building trust, and seeing how a parenting schedule works, the parents return to ERP after a defined time appropriate to the circumstances of the case (e.g., three months, six months, etc.), to finalize or change the interim schedule.

Modifications. Volunteer attorneys explain the legal basis for modifying custody and child support orders. Once a client understands the legal standards to modify custody (change of circumstances) and child support (15% change in support order amount or change in parenting plan), they are able to focus on their children’s needs for the immediate time period. This is important so clients know that agreements are not permanent, and they are aware of the need to come back to ERP if things change in their lives.

Legal advice. Attorneys advise clients about the importance of legal advice and how to seek additional legal advice if warranted. The list of attorneys in the Alaska Bar Association’s Unbundled Legal Services Section whose practice includes limited scope representation is available as a handout. Sometimes issues may arise that are too complicated to move forward to resolution at ERP. In some cases, the parties may be discussing whether to file for bankruptcy, and a referral to a bankruptcy attorney is essential to make sure the parties do not adversely affect their interests by proceeding with the property and debt division at that time.