

Poor Management Caused Court Backlog

Warning to anyone about to file a divorce proceeding in certain of the larger county superior courts: Your case will not be heard in any reasonable amount of time. You will likely not have a trial that will last for less than a year. You cannot have a motion heard and completed in any reasonable period of time. Expect any orders to show cause that you may have filed to be continued, and continued, and if they are ruled upon at all, it won't happen for at least six or seven months, maybe a year. There are only two ways to get around this: Either you have enough money to hire your own judge privately, or you have little to no money, and don't speak English. In that case, the court may hear your matter ahead of other people so as to accommodate the court interpreter.

It may sound drastic, but this is actually what is going on in parts of our state – the most populated parts. The family court system has come to a virtual standstill in most of courtrooms. If this sounds like an exaggeration, it isn't. The following are examples from actual pending cases, and give an illustration of what is going on:

Case A was filed on Sept. 5, 2007. It is still not resolved. Husband filed an order to show cause for support orders and custody orders in December of 2007. It has never been ruled upon. The trial in the case began on April 15, 2009. It is now February, and the trial is still not finished. It is on calendar again for early March, now having been transferred to a different courthouse entirely, as the judge who was presiding over the case got transferred there when she asked to be taken out of family law.

Case B was filed on May 15, 2006. It is still not resolved. Trial began on June 15, 2009. It was set to go day to day until completed in a "long cause" trial department (the department assigned to hear cases of over five days in length, intended not to be interrupted by the never ending stream of ex parte applications and domestic violence petitions, which are heard in the other family law departments).

However, on June 18, 2009, the court stated it was recessing the trial, as the

court had to hear a custody case. The case was ordered to resume in late August. The case has been tried in short spurts here and there between now and that date. It is now scheduled to resume for several dates in early and late March, 2010.

Case C was filed in June of 2009. An order to show cause for custody and support was filed at that time. It has never been ruled upon. There have been a myriad of court proceedings regarding the same that have all resulted in interim stop-gap arrangements being entered as orders, which the court cajoled the parties into agreeing upon. On more than one occasion while the case was being argued, counsel and the parties were told to step back to allow for cases to be called that involved the Spanish interpreter. The order to show cause is now continued to possible dates in April or May. It will be a year before any orders are made. In the meantime, the family is left in limbo and the fees continue to escalate each time the lawyers have to gear up again to return to court, only to have to come back yet another time.

Allegedly, these delays are the result of budgetary issues. The courts do not have enough staffing, the number of filings and people without lawyers have increased. The number of family law judges has not. The days on which the court can operate are now fewer. While all of these may be true, they are not the real cause of the problem. The real cause of the problem is lack of management of our family law courts. Rather than implementing systems that would at least place some controls over calendar management, most of the courtrooms are left in the direct calendaring quagmire that is set up for failure. Whereas there used to be a department to deal with ex partes, a department to deal with motions, and many departments reserved for actual hearings – that is no longer the case.

Each individual judge is expected to juggle all of these simultaneously, and to also manage hearings on orders to show cause and trials. In the midst of all of this, judges are told to give priority to domestic violence cases (many of which involve parties without counsel who often do not speak English), and cases involving the court interpreters who arrive in the courtrooms at various, random

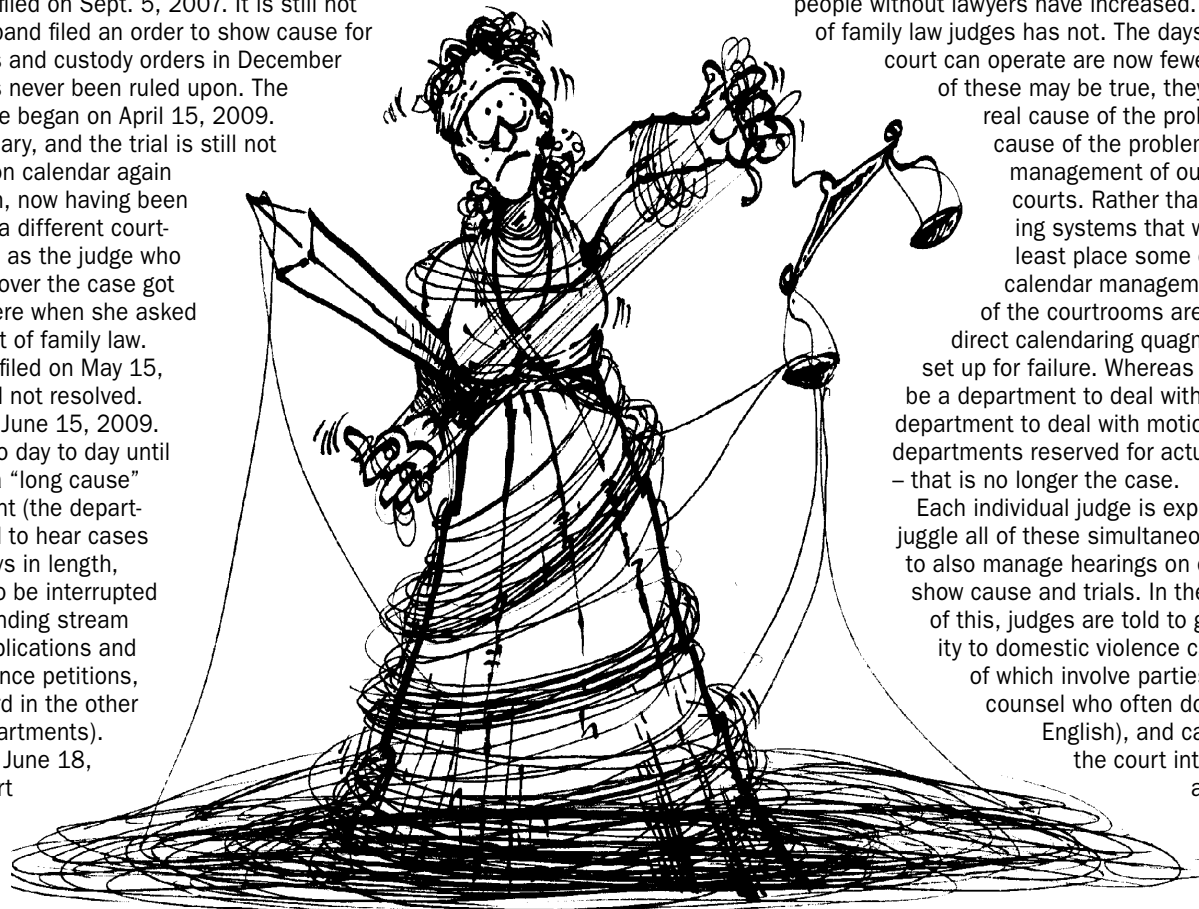
times throughout the day.

While the court could address this situation by designating certain types of matters to certain courtrooms so that cases that are actually ready to be heard can keep on moving through the system, court management continues to refuse to do so. Instead, apparently court management believes that the better course of action is to leave everything unmanaged and simply blame the budget cuts as the problem. The truth is, that the present situation is one that has built up over many years of poor management, which began long before the current financial crisis.

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Aside from the numerous problems that every litigant and lawyer now faces in most California family courts, there is the absurdity of a lack of a judicial system that can actually provide justice in a fair manner to Californians of all socioeconomic statuses. The backlog creates a multi-tiered system of justice. Rich people have their cases heard privately, expeditiously, and expensively. Those who cannot afford this luxury or do not feel that they should have to pay for justice, are caught up in the scenarios described above. Those that do not speak English get a slight advantage on things moving forward since the courts give priority to cases requiring an interpreter. This is hardly the system of justice that our constitution envisions, and certainly not one that Californians can be proud of.

It is time for drastic action. Our court system needs to be managed. So far, neither the Legislature nor court management has been willing to resolve the problem. Perhaps it is time for the public to make its dissatisfaction known.



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