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CHAIR'S COLUMN

Family Law Arbitration Statute—Its Time Has Come

by Charles F. Vuotto Jr.

It is axiomatic that alternative dispute resolution in divorce is encouraged by the courts of New Jersey. Such judicial encouragement is highlighted by the rule amendments that became effective Sept. 1, 2006, wherein the Supreme Court adopted a new paragraph in Rule 5:4-2 (Complaint). The new paragraph requires the first pleading of each party in a divorce action to include an affidavit of certification "that the litigant has been informed of the availability of complementary dispute resolution (CDR) alternatives to conventional litigation, including but not limited to mediation or arbitration, and that the litigant has received descriptive literature regarding such CDR alternatives."[1] Although mediation is prohibited in any matter in which a temporary or final restraining order has been entered pursuant to the Prevention of Domestic Violence Act, there is no question that there is strong public policy supporting CDR in divorce litigation, including, but not limited to, the use of arbitration.[2]

As early as 1984, in what has become a landmark decision throughout the country, the New Jersey Supreme Court recognized the enforceability of arbitration agreements in matrimonial litigation in the case of *Faherty v. Faherty.*[3] Recently, in the long-awaited Supreme Court decision of *Fawzy v. Fawzy,*[4] the Court answered the critical question of whether custody matters could be submitted to binding arbitration with a resounding 'yes.' Clearly, the green light has been given for litigants and advocates to take advantage of arbitration regarding all aspects of divorce. The problem, however, is that there has been little guidance regarding the rules to be followed when engaging in arbitration of matrimonial disputes, leading many lawyers and litigants to reject arbitration as a viable option.

Despite the strong judicial approval of arbitration and mediation in divorce, the procedures for implementing these alternative dispute resolution approaches are not clear, and do not address the unique nature of matrimonial disputes. This is especially true with regard to arbitration. Interestingly, there are actually three arbitration statutes, although the third is actually an alternative dispute resolution statute rather than a pure arbitration statute. The fact that there are at least three statutes, as well as special considerations concerning divorce in general (specifically with regard to children) when attempting to arbitrate divorce matters, highlights the need for a specific family law arbitration statute to eliminate confusion and provide a mechanism conducive to the special circumstances involved in family law.

The three arbitration statutes that exist in New Jersey are as follows:

1. N.J.S.A. 2A:24-1 *et seq*. (hereinafter the Collective Bargaining Arbitration Act);
2. N.J.S.A. 2A:23A-1 *et seq.* This statute is known as the New Jersey Alternative Procedure for Dispute Resolution Act (hereinafter APDRA); and
3. N.J.S.A. 2A:23B-1 *et seq*. (hereinafter referred to as the Arbitration Act).

As history reveals, arbitration has been used extensively in connection with labor and contract disputes, where litigants are generally disputing limited financial

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issues and need a relatively quick decision. For example: How much do I owe? To how much am I entitled? What needs to be done to complete this project?

As a result, most of these limited issue arbitrations have historically been subjected to extremely limited rights of review, and have been conducted under the Collective Bargaining Arbitration Act. The Collective Bargaining Arbitration Act traces its legislative roots to laws of 1923. However, in 1987, the Legislature enacted the APDRA, which has distinctly different provisions and rights of review. Finally, in June of 2003, Governor James McGreevy signed into law the Uniform Arbitration Act (Arbitration Act), which took effect immediately and applies to most commercial arbitrations. After Jan. 1, 2005, all commercial arbitration agreements, regardless of when they were made, would fall under the Arbitration Act. The only exception to the coverage of the Arbitration Act is arbitration of issues between an employer and a collective bargaining unit, which remain arbitrated under the Collective Bargaining Arbitration Act.

There is nothing in either the Arbitration Act or the APDRA that precludes their application to matrimonial disputes. However, this column will suggest that the subjective and sensitive issues associated with arbitrating family law matters are not adequately addressed in either of the aforementioned statutes. Therefore, a statute is needed to specifically address arbitration of family law disputes.

Although *Fawzy,* detailed below, has fast become the definitive law on arbitration of matrimonial disputes, a brief history of the law leading up to the seminal Supreme Court decision is provided. Arbitration of matrimonial issues was first discussed in New Jersey in the case of *Wertlake v. Wertlake,*[5] wherein the trial court held that arbitration agreements concerning alimony and child support were not enforceable due to the state's exclusive *parens patriae* obligations.[6] The Appellate Division reversed, holding that since the parties had actually submitted their dispute to the court and had not resorted to arbitration, the Chancery Division's statements regarding the enforceability of arbitration agreements were *dicta*.[7]

The enforceability of arbitrated matrimonial disputes was resolved by our Supreme Court in *Faherty v. Faherty.*[8] There, the Court addressed the enforceability of an arbitration clause in a separation agreement that required the parties to submit any financial disputes arising out of the agreement to arbitration, to be conducted under the rules of the American Arbitration Act. Supporting the use of arbitration in matrimonial disputes, the Court established:

> It is fair and reasonable that parties who have agreed to be bound by arbitration in a formal, written separation agreement should be so bound. Rather than frowning on arbitration of alimony disputes, public policy supports it. We recognize that in many cases arbitration of matrimonial disputes may offer an effective alternative method of dispute resolution…We accordingly hold today that under the laws of New Jersey, parties may bind themselves in separation agreements to arbitrate disputes over alimony. As is the case with other arbitration awards, an award determining spousal support would be subject to the review provided in N.J.S.A. 2A:24-8.[9]

Having established support for arbitration in matrimonial disputes, the *Faherty* Court next addressed the potential conflict between arbitration and the courts' *parens patriae* responsibilities unique to matrimonial matters. Surveying out-of-state decisions and commentators, the Court concluded that:

> Detractors notwithstanding, there has been a growing tendency to recognize arbitration in child support clauses. We do not agree with those who fear that by allowing parents to agree to arbitrate child support, we are interfering with the judicial protection of the best interests of the child. We see no valid reason why the arbitration process should not be available in the area of child support; the advantages of arbitration and domestic disputes outweigh any disadvantages.[10]

Notwithstanding the Court's willingness to allow arbitration of child support disputes, the Court emphasized the "non-delegable, special supervisory function in the area of child support that may be exercised upon review of an arbitrator's award."[11] Thus, to maintain its *parens patriae* responsibility, the *Faherty* Court held that when the validity of an arbitration award affecting child support is questioned on the grounds that it does not provide adequate protection for the child, the trial court should conduct a heightened review of the award. This review would consist of a two-step analysis.

Initially, as with all arbitration awards, the courts should review a child support award to determine whether it should be vacated under N.J.S.A. 2A:24-8. Assuming the award passed muster on those accounts, the court should then conduct a *de novo* review of the child support award, unless it is clear on the face of the award that the award "could not adversely affect the substantial best interests of the child."[12] (It is suggested that these procedures are now moot in light of *Fawzy*, as detailed below.)

Although expressly declining to decide the question of whether arbitration of child custody and visitation issues is permissible, the *Faherty* Court hinted:

> [W]e note that the development of a fair and workable mediation or arbitration process to resolve these issues may be more beneficial to the children of this state than the present system of courtroom confrontation. (citations omitted) Accordingly, the policy reasons for our holding today with respect to child support may be

> equally applicable to child custody and visitation cases.[13]

Pursuant to *Faherty,* arbitration of child support disputes is permissible, and there is judicial support, although in *dicta*, for the arbitration of custody disputes. As detailed below, it was not until *Fawzy* that the Court officially condoned, and even encouraged, arbitration of custody disputes.[14]

Since *Faherty*, child support guidelines have been adopted in New Jersey that presumptively meet the best interest of children whose parents' incomes fall within the guidelines. Presumably, then, an arbitrator's child support award that is within the guidelines will not be subject to review by the court.

As time passes, our collective experiences with alternative dispute resolution are enhanced. A flexible approach is needed. Indeed, *Faherty* recognized the need for flexibility when it suggested that a *de novo* review "may" be needed. What did the court mean by its use of the word may? The answer was suggested by the Court:

> As we gain experience in the arbitration of child support and custody disputes, it may become evident that a child's best interests are as well protected by an arbitrator as by a judge. If so, there will be no necessity for our *de novo* review. However, because of the Court's *parens patriae* tradition, at this time we prefer to err in favor of the child's best interest.[15]

The ambiguity surrounding review of an arbitrator's award in matrimonial disputes is reflected in *Lopresti v. Lopresti*.[16] In that case, the defendant filed a cross-motion opposing an arbitration award of alimony on grounds that the arbitrator failed to supply specific findings of fact. The issue before the court was "…whether or not the arbitrators as a matter of law must set forth findings for their decision to award an amount of alimony."[17]

The *Lopresti* court determined that the law of *Faherty* did not require written findings of fact. However, since the arbitrator had already made findings of fact with regard to the needs of the plaintiff, the court directed that the arbitrator had a duty to also make findings of fact with regard to the defendant's ability to pay.[18] Regarding custody and timesharing at least, this ruling is reversed by *Fawzy*, which requires written findings of fact, as discussed below. The *Lopresti* court further opined that it might also be necessary to "take testimony on the issues of retroactivity and counsel fees at the final hearing date when the divorce is to be entered."[19] The issue of non-reviewability of arbitration decisions appears, once again, clouded.

On July, 1, 2009, the Supreme Court decided *Fawzy v. Fawzy.* Answering the unanswered question raised in *Faherty,* the Court unequivocally approved of arbitration of custody disputes, holding "that within the constitutionally protected sphere of parental autonomy is the right of parents to choose the form in which their disputes over child custody and rearing will be resolved, including arbitration."[20] The Court explained, "just as parents 'choose' to decide issues of custody and parenting time among themselves without court intervention, they may opt to sidestep the judicial process and submit their dispute to an arbitrator whom they have chosen."[21]

The Court provided the following directive regarding the procedure that must be followed:

1. All agreements to arbitrate must be in writing or recorded in accordance with the requirements of N.J.S.A. 2A:23B-1.[22]
2. All agreements to arbitrate must state "in clear and unmistakable language: (i) that the parties understand their entitlement to a judicial adjudication of their dispute and are willing to waive that right; (ii) that the parties are aware of the limited circumstances under which a challenge to the arbitration award may be advanced and agree to those limitations; (iii) that the parties have had sufficient time to consider the implications of their decision to arbitrate; and (iv) that the parties have entered into the arbitration agreement freely and voluntarily, after due consideration of the consequences of doing so."[23]
3. "In the absence of a consensual understanding, neither party is entitled to force the other to arbitrate their dispute. Subsumed in this principal is the proposition that only those issues may be arbitrated which the parties have agreed shall be."[24]
4. "A child custody or parenting time arbitration should be conducted in accordance with the principles established in the Uniform Arbitration Act (Arbitration Act), N.J.S.A. 2A:23B-1 to -32."[25]
5. The parties may "choose to submit discrete issues to the arbitrator. However, "[t]he arbitration agreement should reflect, with specificity, which issues are subject to an arbitrator's decision."[26] (Notably, the Court "commend[ed] the Supreme Court Committee on Family Practice [for] the development of form agreements and scripts for use by lawyers and judges in cases in which the parties seek to bind themselves to arbitration in family law matters.")[27]
6. There shall be a departure from the Arbitration Act in so far as the Arbitration Act does not require the recording of testimony or a statement of findings and conclusions by the arbitrator. It is "mandat[ed] that a record of all documentary evidence adduced during the arbitration proceedings be kept; that testimony be recorded; and that the arbitrator issue findings of fact and conclusions of law in respect of the award of custody and parenting time."[28] Such a requirement is

necessary since "[w]ithout [such a record], courts will be in no position to evaluate a challenge to the award."[29]

7. "Once arbitrated, the matter is subject to review under the narrow provisions of New Jersey's version of the Uniform Arbitration Act (Arbitration Act), N.J.S.A. 2A:23B-1 to -32."[30]
8. The only exception to strict review under the Arbitration Act "is the case in which a party establishes that the arbitrator's award threatens harm to the child."[31] Since the "right of parents to the care and custody of their children is not absolute[.]"[32] the state "has an obligation, under the *parens patriae* doctrine, to intervene where it is necessary to prevent harm to a child."[33] Therefore, "interference with parental autonomy will be tolerated only to avoid harm to the health or welfare of a child."[34]
9. "[W]here no harm to the child is threatened, there is no justification for infringement on the parents' choice to be bound by the arbitrator's decision. In the absence of a claim of harm, the parties are limited to the remedies provided in the Arbitration Act."[35]

Explaining the sole exception to strict review under the Arbitration Act, the *Fawzy* Court directed that the courts must undergo the following two-step process:

1. It must first be determined whether there has been a *prima facie* demonstration of harm. As explained by the Court, "where harm is claimed and a *prima facie* case advanced, the court must determine the harm issue."[36]
2. If the court finds "no finding of harm," then "the award will only be subject to review under the Arbitration Act."[37] "The threat of harm is a significantly higher burden than a best-interests analysis."[38] However, "[i]f there is a finding of harm, the presumption in favor of the parents' choice of arbitration will be overcome and it will fall to the court to decide what is in the child's best interests."[39]

Although *Fawzy* has gone a long way toward providing insight regarding arbitration of family law disputes, there can be little doubt that judicial interpretation of arbitration remains murky, as the Arbitration Act adopted as the appropriate method of arbitration of family law disputes by the *Fawzy* Court is ill-prepared to handle the sensitive and subjective disputes raised in the matrimonial context. Matrimonial arbitration awards cannot be analyzed in the same manner as commercial litigation. Matrimonial litigation rarely involves the type of limited and objective financial disputes found in the commercial litigation that is historically arbitrated under the Arbitration Act.

Strict adherence to the Arbitration Act in family law disputes may lead to confusion, inequitable outcomes and unhappy litigants. As a result, arbitration of family disputes will once again fall to the wayside in favor of the court system. A specific arbitration statute, tailored to the unique nature of family law, is necessary to ensure that both matrimonial litigants and advocates are able to truly reap the awards of effective arbitration.

It is suggested that a family law arbitration statute be enacted that is sensitive to all family matters, including custody and time-sharing disputes. However, such a statute must provide certain safeguards, as suggested by the court in *Faherty,* and as required by the Supreme Court in *Fawzy.* Parents should have the ability to decide how to address issues concerning their children, subject to the *parens patria* jurisdiction of the court. Further, there may be privacy interests that need to be protected. In addition to the requirements dictated by *Fawzy*, statutory safeguards can include, but may not be limited to, the following:

1. The arbitrator (or umpire) shall be an experienced matrimonial attorney or retired judge with at least 10-15 years of experience with his or her primary practice in matrimonial law;
2. The arbitrator (or umpire) shall be required to apply the law;
3. The Rules of Evidence shall apply; and
4. Mental health and other experts shall be employed as they would were the case before the superior court.

Needless to say, all other requirements set forth by the Supreme Court in *Fawzy* should be followed.

CONCLUSION

There are a plethora of reasons for family law litigants to select arbitration in place of the standard litigation approach to the resolution of disputes. These reasons include, but are not limited to, the following:

1. Arbitration allows the parties to select their decision maker or decision makers;
2. Arbitration is usually less costly then litigation, even though the parties must pay for their arbitrator/umpire;
3. Arbitration allows the parties to protect private information;
4. Arbitration allows the parties to control the impact of the litigation on their children due to various factors, including exposure of private matters in a public forum;
5. Arbitration allows the litigants, at times, to avoid the court's obligation to report certain behavior to appropriate authorities (although some may differ on this point);
6. Arbitration allows time-sensitive issues to be addressed on the parties' timetable rather than the court's timetable, and further permits the parties to control the scheduling and continuity of the proceedings at their convenience; and

7. Arbitration assures the parties finality and closure to their dispute by allowing them to define and limit the basis for review of an arbitrator/umpire's decision.

An arbitration statute drafted specifically for resolving family law matters will not only have the advantages stated above, but will also allow parties to resolve their matters within a framework that addresses the special circumstances associated with family law disputes, while also protecting children in the process. It is proposed that a family law arbitration statute, in addition to the standard provisions found within the APDRA or the Uniform Arbitration Act, also contain various sections specifically designed to address issues arising out of the dissolution of a marriage or family-type arrangement, including, but not limited to:

1. Special concerns regarding custody, timesharing and other issues associated with children (see special provisions listed earlier in this column);
2. The ability to award and/or monitor *pendente lite* relief during the arbitration proceedings;
3. Procedures specifically designed to accommodate requests for modification of awards concerning alimony, child support, or child custody based on a substantial change of circumstances;
4. Provisions designed to expedite the arbitration proceedings and protect the privacy of the matters being arbitrated;
5. Provisions designed to ensure that the death of one of the parties to the arbitration agreement does not impair the rights of the other party to the contract; and
6. An overall framework that can be easily referred to by counsel and/or litigants for the arbitration of family law disputes without concern that critical provisions are not adequately addressed.

It is not proposed that the provisions of the family law arbitration statute be mandatory. Rather, they may be discretionary and viewed as default rules that, with the exception of the provisions of the statute concerning adjudication and review of issues related to children, can be modified or waived by agreement of the parties.

The subjective and unique issues raised in matrimonial disputes do not fit into the strict parameters of the existing civil arbitration statutes, which themselves provide little guidance to the family law practitioner. Based upon the foregoing, it is proposed that a specific family law arbitration statute be enacted that incorporates the dictates of the Supreme Court and the recommendations of the NJSBA Family Law Section regarding the procedures and requirements for arbitrating family law disputes and protects children involved in the process. ■

ENDNOTES

1. Rule 5:4-2 (h) (Affidavit of Certification of Notification of Complementary Dispute Resolution Alternatives). The court later adopted a clarifying amendment to that paragraph, changing "descriptive literature" to "descriptive materials."
2. There are basically two forms of arbitration: 1) binding arbitration in which the decision of the arbitrator (except in certain limited circumstances) is final; and 2) non-binding arbitration in which the arbitrator makes a recommendation that can be either rejected or accepted or used as a basis for further negotiations (such as, by way of well-known example in New Jersey matrimonial law, matrimonial early settlement programs). Moreover, there are various forms of CDR beyond arbitration including but not limited to mediation, cooperative divorces and collaborative divorces. In context of this column, unless otherwise stated, reference to arbitration is to binding arbitration.
3. 97 N.J. 99 (1984).
4. 199 N.J. 456 (2009).
5. 127 N.J. Super. 595 (Ch. Div. 1974), *rev'd*. 137 N.J. Super. 476 (App. Div. 1975).
6. 127 N.J. Super. at 599.
7. 137 N.J. Super. at 491.
8. 97 N.J. 99 (1984).
9. 97 N.J. at 107-08.
10. *Id.* at 109.
11. *Id.*
12. *Id.* at 109-10.
13. *Id.* at 110.
14. *Fawzy,* 199 N.J. at 461-62.
15. *Id.* at 111.
16. *Lopresti,* 347 N.J. Super. 144 (Ch. Div. 2001).
17. *Id.* at 131.
18. *Id.* at 147.
19. *Id.* at 149.
20. *Fawzy,*199 N.J. at 461-62.
21. *Id.*at 477.
22. *Id.* at 482.
23. *Id.*
24. *Id.* at 469 (*quoting In re Arbitration Between Grover and Universal Underwriters, Ins. Co.,* 80 N.J. 221, 228-29 (1979)).
25. *Id.* at 462. Although the Supreme Court did not specifically reference the Alternative Procedure for Dispute Resolution Act (APDRA), it is the author's belief that arbitration of custody and parenting issues would be equally permissible under that act.
26. *Id.* at 482.
27. *Id.*
28. *Id.* at462.
29. *Id.*
30. *Id.*
31. *Id.*
32. *Id.* at 474 (*quoting V.C., v, M.J.B.*, 163 N.J. 200, 218 (2000)).
33. *Id.* at 474-75 (citation omitted).
34. *Id.* at 478 (*quoting Moriarty v. Bradt,* 177 N.J. 84, 115 (2003)).
35. *Id.* at 478 (*citing Faherty,* 97 N.J. at 109-110).
36. *Id.* at 29.
37. *Id.*
38. *Id.*
39. *Id.*

An Interview with the Honorable Glenn Grant

The Honorable Glenn A. Grant, the subject of an in-depth interview in this issue of the *New Jersey Family Lawyer*, is known to many as a man with strong family law credentials, having been elevated to administrative director of the court from his position as presiding judge of the Family Division of Essex County. What may not be known to many is that Judge Grant is a snappy dresser, a vegan, a runner, a movie enthusiast, and a card player who loves whist.

Soon after being named administrative director, Judge Grant visited each of the 21 courthouses, speaking to staff and becoming familiar with each county's individuality. This outreach effort—for a man who oversees a court system handling over 7 million cases per year, employs over 9,000 people and has an annual budget of over $500 million per year—is par for the course. His creed is "if something is worth doing, it is worth doing well."

He was a wrestler at Lehigh University, and after college and law school at Catholic University in Washington, D.C., he went to work for the city of Newark, first in the legal department and later as the city's business administrator. After being appointed to the superior court bench in 1998, Justice Deborah Poritz recognized his organizational abilities and leadership strengths by presenting him with an enormous challenge—reorganizing Newark Municipal Court. At the time, the Newark Municipal Court had low morale and a docket of 600 cases a day, resulting in a continual backlog.

While there, Judge Grant used a familiar technique, which he has now used statewide—visiting courtrooms, observing proceedings and listening to concerns of staff personnel.

Judge Grant envisions, even in times of fiscal restraint, an expansion of family drug courts, an outreach to veterans who enter the criminal justice system and improved technology to serve the citizens of New Jersey. Ultimately, Judge Grant's goal is that each person who enters the court system receives service and is treated fairly and justly.

We thank Judge Grant for allowing us to spend time with him. Following is an interview with Judge Grant conducted by Family Law Section members Charles F. Vuotto Jr., Bonnie Frost and Lee Hymerling.

CHARLES VUOTTO: Your Honor, on behalf of the New Jersey State Bar Association and the Family Law Section, I would like to thank you for taking the time to meet with us. The first question is that the general consensus of the matrimonial bar is that matrimonial litigation can be reduced in cost and length if clients are more invested in the litigation process. The family bar believes this can be achieved by judges more regularly granting motions for fees and granting more motions to be relieved as counsel. Would your honor be open to a proposal by the bar to present judicial training in conjunction with experienced family part judges on the economic consequences of divorce, the uneven playing field that is perpetuated on certain litigants by a court's failure to grant fees and the tension between the lawyer and client that results from lawyers not being relieved as counsel?

JUDGE GRANT: In assessing the question, there are certain preconceptions that I think are inaccurate. We have ongoing efforts in terms of training and education for mentoring judges. With respect to training, the Judiciary has a longstanding partnership of doing training with ICLE and the Family Law Section, as well as other sections of the state bar association. However, I don't want the question to be, or the statement to be, accepted that judges are not granting applications to be relieved or not granting applications for fees, because that's not the case. Judges do it every single day. They may not do it to the level or the extent that the bar necessarily would like, but that doesn't mean that they are not doing it right. With respect to training and joint efforts, regardless of the subject matter, the Judiciary is more than committed to doing that.

BONNIE FROST: As a follow up, you mentioned a mentoring program. Maybe you could explain more

about that, because I'm not sure it is something the bar has heard about, and maybe it would be a good thing that we did hear about.

JUDGE GRANT: The mentoring program is partnering a new judge with an experienced judge. The new judge has an opportunity to call the mentoring judge on any issue or questions affecting them as they transition to their new role as judge. This has been a well-established practice where mentoring judges make themselves available any time. The feedback that I have received is that this has been very helpful for new judges.

LEE HYMERLING: Judge, this is a related question, not necessarily on the list that we have. But a perception is that the family assignment will very often be the first assignment a judge has after appointment. Occasionally, senior judges come back, but more often than not it is newly appointed judges. Do you think that calls for any more training—perhaps at the one-year point—particularly for those who have not had any family experience, has learned the ropes but perhaps could benefit from something a little bit more detailed, and to simply talk about what has been the assignment for the year?

JUDGE GRANT: Old perceptions are hard to break. The perception of first assignment being to family by the majority of the judges is not accurate. There are more judges assigned to family statewide. There are some truly dedicated judges who have spent their whole judicial career in family. With regards to additional training, the system believes in training. As you know, continuing legal education is coming for judges as well. The system is predicated on showing that our judges are up-to-date, well-informed and trained with regards to their assignment. It grows as they handle more complex issues; we try to tailor our training to the length of experience the judges have. For the past 10 years, family court judges have had a two-day educational conference. We recognize the importance of continued training. The curriculum is developed not only at judicial college, or after this educational conference, but by the judges in the division. So we have judges, like Judge Diamond, who has been there a long time in terms of the FM work, and we also have a cadre of judges, particularly in the areas in which you are involved, matrimonial, who help develop the curriculum. We have done "How Do You Assess Alimony." We have done "Handling Complex Custody Cases." We have done "Handling an Expert in a Custody Case." So we have done a lot of training. But can we do more? We are always receptive to the idea, and we need to have this blend, because when you look at the system, that system probably has a third of the people who are new, versus those who have been on the bench five or six years, versus those who have been sitting a long time. The training for each group is entirely different, so you have to blend your training efforts to accommodate all of the competing experiences you have in the system.

BONNIE FROST: I know what has been happening is that there has been a push in the court system to do more e-filing.

JUDGE GRANT: Yes.

BONNIE FROST: Maybe you could tell us what you see as the future of e-filing, and how will it affect trial-level filings? How will it affect the Appellate Division and Supreme Court filings? What do you expect will be the timeframe?

JUDGE GRANT: Currently, there is an e-filing solution being developed for the Supreme Court. The chief justice has established an e-filing committee chaired by former Attorney General John Degnan. It has representatives from the state bar, representatives from the attorney general's office, public defender's office, legal services, small practitioners, and large practitioners, looking at ways as to how we can come up with an electronic solution to our various case types. As you know, right now we have an e-filing solution called JEFIS, which is the special civil case practice. That system currently allows large filers of special civil part complaints, to send complaints to us electronically in order to be processed through ACMS. The complaints are recorded; judgments and orders are issued electronically. So it's a comprehensive electronic filing solution. This system is a rarity because it's a solution that is statewide. When you go across the country and you look at e-filing solutions, most states have solutions for counties; but this is a statewide solution. The effort of the chief justice—and it's one of his high priorities—is to look at e-filing across all of our case types. We have three questions: What's the technology? What's the ability to do it expeditiously? And obviously, what are the costs? We have representatives from corporations such as Chubb and PSE&G on the committee, as well as representatives from Rutgers, all looking at developing a report for the chief justice. Unfortunately, the economic climate in which we operate has some implication on prioritization; but the grand scheme for our system has to be that we are accepting documents electronically, we are case-managing those documents electronically, we are recording those documents electronically. That's the grand scheme. We will see in this extraordinary economic climate how quickly we will be able to handle this.[1]

LEE HYMERLING: What do you think of its long-term implications in family filing?

JUDGE GRANT: The implication is that we will require, ultimately, in some way, for matrimonial practitioners to be filing both complaints and answers in our system electronically. We will have a very comprehensive system, and although their filings are much lesser in volume, the

system will need to make an accommodation for *pro se* litigants. Ultimately, as we get more sophisticated, everyone will have to be filing electronically. It's just the wave of the future.

LEE HYMERLING: Do any systems now, even on a county level, file electronically in family matters?

JUDGE GRANT: I'm certain we are doing that research right now from a statewide perspective. Some statewide systems have experienced financial difficulties that jeopardize the e-filing system. What do you do in that particular circumstance?

CHARLES VUOTTO: Judge, is there any special research being done in conjunction with e-filing to protect certain highly confidential aspects of family part filings?

JUDGE GRANT: Remember, we've got the Albin Committee Report that talks about attorneys redacting privileged or personalized information. That is still under review, but ultimately that's going to be a recommendation that the court will implement. Now, in terms of documents, the statutory requirements for family documents make domestic violence documents confidential. Children in court documents are confidential, but matrimonial documents generally are not confidential. So as we develop this system, it is incumbent upon the bar and the court to work together to ensure that the information is appropriately submitted. That said, it is no different than what you have now with a paper pleading. You know, some attorneys want to put in all of these horrible acts. It's a public document, and the public has a right to obtain those pleadings. So you have to be careful about what is being put in the filings. For example, allegations of extreme cruelty in the complaint. I don't see it as being any different; it's just a different form of capturing the information electronically.[2]

LEE HYMERLING: We have, though, in some of our filings attachments.

JUDGE GRANT: Yes.

LEE HYMERLING: For example, psychological reports, which would normally be immune or be shielded from public scrutiny. I'm sure this is something that will be sorted out.

JUDGE GRANT: I agree.

LEE HYMERLING: A broad question: What do you think will be the effect on the Judiciary, both short-term and longer term, of the economy and the challenges that face the governor and Legislature for the state at large?

JUDGE GRANT: We are still in the early stages in terms of what our share of the financial reduction in the state's budget will be. We are a branch of government, and like all branches of government we are now confronted with some extraordinary financial difficulties. As the third branch of the government, we will have to assess how we will meet whatever funding we get from our other partners—the Legislature and the executive branch of government. But no matter what, we have lost $33 million from our budget last year in terms of reductions in overall budget. We have lost 300 people because of those reductions. We will have to manage differently. It will have an impact as we try to prioritize what things we will be able to manage. We are currently looking at how we can reduce our costs to ensure that we have the appropriate number of people to do what's necessary to run our operation. So we will continue to work with the two other branches of government to try to address this extraordinary time that we're confronted with.[3]

CHARLES VUOTTO: Is there any consideration, Your Honor, to increasing the utilization of alternative dispute resolution mechanisms to take the burden away from the Judiciary—arbitration, mediation and matrimonial utilization of blue ribbon panels, in addition to the standard MESP?

JUDGE GRANT: Yes. We are exploring all options. I don't want to rule out any option at this point in time. Candidly, our system is wonderful; we have this participative government structure, which includes some extraordinary individuals, starting with the chief justice, followed by the Supreme Court justices and assignment judges of every vicinage. It also is a collaborative process with the bar as well. So we have a very collaborative, participative process with the bench and bar, coming up with ideas as to how we can address the economic issues that we are confronted with. I think that those ideas and others will all be vetted, and will all be looked at in terms of ways that we can make sure that our coordination leads to a just result. At the end of the day, courts are only there to do justice. It's only going to be successful if, in fact, attorneys, whether it's attorneys general, public defenders, attorneys in the family part, or attorneys in the civil part are playing their role in that system.

BONNIE FROST: A couple of years ago, Judge Grant, you and I were on the committee for the standardization of practices in the family part, and we talked about the different practices throughout the state. How motions were dealt with, and orders to show cause as well. Do you think that the rule change with the 24-day turnaround for motions has made a difference in making the system more efficient, that judges have more time now or have a better window of opportunity to make the decisions that need to be made so that there are less reserved decisions and they can go on to the next matter? Have you seen any change administratively from that?

JUDGE GRANT: My anecdotal answer would be yes. I've heard judges say that it's more manageable. I don't have any empirical numbers to support it, only my

conversations with family judges who say, yes, they think it's working better. They think it was an improvement within the system. You also raise an implicit question that there appears to be some conflict as we talked in that committee with Judge Koblitz, Judge Forester and others. There were some practices where county bars were of the opinion that they were very happy with the way the process was going. So when we talk about trying to create a standardization of order to show cause practice, or whether a judge is going to hear a motion by staggering schedule or on a non-motion day, many attorneys as you go across the state say "I'm very happy with the FM judge who is handling my case this way." So we can always go back to the Family Practice Committee and request a statewide rule, but I would submit that you would get some pushback from the county bars. In my conversation with all of the other county bars, specifically concerning their support and cooperation within the vicinage, there is a 100 percent success. They are very excited, very happy with the relationship they have with the assignment judges, judges and the court administrators. So it's an interesting question as to whether greater uniformity as to order to show cause or motion practice would be readily accepted by your colleagues.

LEE HYMERLING: I think that's a very fair comment, because there are what I'll characterize as county idiosyncrasy.

JUDGE GRANT: Exactly.

LEE HYMERLING: And that doesn't necessarily make them bad, although there should be—and your comment would be appreciated—an ability for a lawyer to 'cross county lines' or vicinage lines and see basically the same practice.

JUDGE GRANT: I agree, and I think we see that for the most part. For example, the issue of orders to show cause was vetted by the Conference of Presiding Judges and the presiding judges said no. The consensus was that a shorter motion period has to be through the order to show cause process. So I think there is a reasonable uniformity of practice throughout the state.

CHARLES VUOTTO: Yet, even where there are provisions in the rules for uniform practices, there are some counties not following. For instance, with regard to the submission of position statements to ESP panelists.

JUDGE GRANT: Exactly.

CHARLES VUOTTO: That is one where you can go to different counties…

JUDGE GRANT: No question.

CHARLES VUOTTO: And although the rules establish a procedure, different counties do it different ways.

JUDGE GRANT: I was on the visitation team for FM dockets a number of years ago, and that was one of the questions asked. And when you talked to the local bar about MESP the response was, we don't want change to our program. Others say if they don't give me the pre-submissions, we're not going to review the work. And again, it's a cooperative relationship that you're trying to have with these attorneys who are volunteering their time.

LEE HYMERLING: It seems to me that over the course of 25 years, there has been an extraordinary cooperation, both at the state level and in most counties as well, between the family bar and the family bench.

JUDGE GRANT: No question.

LEE HYMERLING: And that's something that I think everyone on both sides has to constantly foster and nurture.

JUDGE GRANT: I agree. I agree 100 percent, and candidly I think it's better than the other divisions. It's no disrespect to the other divisions, but I do think that the coordination and interaction between the family bench and the family bar is one of the best we have in our system.

LEE HYMERLING: Frankly, the existence of the MESP program itself, you couldn't find any program like it in the country.

JUDGE GRANT: That's true, very true.

BONNIE FROST: When you made your visits around the state, is there anything that struck you that you think you need to address, or you want to address in the next year? Is there something that was really positive that you would like to share with the bar? Because not everyone gets to see every vicinage and every county and every section within that county.

JUDGE GRANT: I guess I would say I'm struck by a few things: First, the extraordinary professionalism of court staff and court operations. As a judge, generally you're only focusing on your court. You're focusing on having the things that you need to manage your calendar, your cases. When you move to administration you get to recognize and appreciate extraordinary talent within our system. I'm not just talking about the judges; I'm also talking about the staff and the vicinage administrators. Number two, as we talk about the family bench and the family bar relationships, what you see is an extraordinary level of cooperation throughout the system with respect to attorneys, and I'll use as examples the chief justice's actions most recently with respect to the Mortgage Foreclosure Mediation Program and the Veterans' Assistance Program. Again, in times of crisis you see leadership from both segments, both from the bench and the bar, stepping up to the plate to volunteer their time and their energy to respond to societal challenges. And that's really one of our strengths as a system. But when the economy goes such as it is now, and we need to have

something extraordinary occur within the system, collectively we are able to do it. For example, attorneys volunteered three days of their time to be trained to provide that kind of assistance to homeowners facing the likelihood of losing their property. Attorneys have volunteered to assist veterans and families coming back from the war in Iraq. The third thing I noticed in the vicinages is the good working relationship between the courts and the other institutional actors—such as the prosecutors (county and state), the surrogates, the county clerks. As for facilities, which the counties provide, do we have some courthouses that need to be upgraded and repaired? Absolutely. In a court system with dozens, if not hundreds, of buildings, there always will be facilities issues. But our partnership with these other actors is fundamentally sound.

BONNIE FROST: So how do you like being a landlord for all these buildings?

JUDGE GRANT: Well, we're not the landlord. We are a tenant. We have to go to the counties. We have to work through it.

BONNIE FROST: Just look at Hunterdon County's facilities.

JUDGE GRANT: Isn't it gorgeous? And that was 13 years ago. To have the foresight to build that kind of infrastructure is a testament to the county's local leadership.

CHUCK VUOTTO: The Family Law Section has meet and greets throughout the year, and one of the issues that came up is that there are problems in certain counties with the space for ESPs.

JUDGE GRANT: Yes.

CHUCK VUOTTO: I'm a panelist in Union County, and I know for the longest time we had to use the alternate jury room in the assignment judge's courtroom.

BONNIE FROST: Very tiny, skinny.

CHUCK VUOTTO: It's very tiny.

BONNIE FROST: Like a closet.

CHUCK VUOTTO: And now they have opened up another office in that courthouse in addition to the room provided by the Union County Bar Association, which is much appreciated, and better facilities. But I do know that this is an issue in several vicinages. Has this been addressed, or is this on the horizon to be addressed in terms of adequate space for ESP panels?

JUDGE GRANT: You answered the one question with respect to Union. I am unaware of anyone else having the difficulty. I know that Hunterdon lost some space because they had to give it to the prosecutor, I believe. But in talking to the trial court administrator, Gene Farkas, he said they had a satisfactory meeting space for the panel, so I'm unaware of any logistical difficulties.

LEE HYMERLING: Judge, do you see that there is a problem, it used to be more endemic, but do you believe we are making progress on issues concerning reserved decisions both at trial…

JUDGE GRANT: Yes.

LEE HYMERLING: And also motions?

JUDGE GRANT: Yes. There is a longstanding practice, starting probably with Chief Justice Wilentz, where, every month, the assignment judges provide reports on reserved decisions, and judges know that. So I think we have dramatically reduced the number. But like anything else within a system, it's a constant monitoring, constant review, and that happens in our system.

LEE HYMERLING: Could I ask you for the transition from a sitting judge to a presiding judge to now the administrative director: Has that transition been easy? Do you miss the courtroom?

JUDGE GRANT: Yes.

LEE HYMERLING: And what do you think now about the system as you see a much broader perspective?

JUDGE GRANT: With regards to your question about missing the courtroom, I really miss the courtroom. I enjoyed what I was doing. Otherwise I would have done something different. I think our system—and I tell this to people as I go—in the coming year, as the Administrative Director, I asked, 'What am I going to convey to the businesses as I go out there?' So I created this PowerPoint that focuses on our 61-year history. On Sept. 15, 1948, the first session of the new court under the 1947 constitution was held, so I talked to our judges and staff about a court system that is still relatively young. Sixty years may seem old, but in terms of the court system that's not very old at all. But even more important than that, we only obtained unification in terms of statewide financing of a court system in 1995. That's only 14 years ago. So when you look at our system, one of the things that you walk away with, you get an extraordinary appreciation of the insight, the wisdom of our judicial leaders, obviously starting with Chief Justice Vanderbilt, Governor Driscoll and the others who fought. And as I tell people, for those who don't know, starting in 1930, Vanderbilt had this quest for 17 years to reform our Judiciary system. Every member of the bar, every judge, opposed his efforts to change our court system. And I show that schematic with the 17 different courts. I show how there was no accountability. The current system is a unified system. We take it for granted, but the wisdom of the system was such that in the early '50s, Alaska and Hawaii were looking at systems to model themselves after. They researched all of the other states and they selected New Jersey as their model. Twenty-three years ago, Japan was researching where it should send a judge to

obtain knowledge and understanding about a court system for one year, a paid sabbatical by the country of Japan. The system that they felt most represented what they needed was New Jersey. So we have this extraordinary wisdom and, I tell people, we laid the foundation in 1948. But it's been the ensuing 60 years that have truly lead to this unified court system that we have. And that's a remarkable testament to wisdom, the chief justice that we have, and the other justices. I was always aware of the extraordinary intellect and talent of our judges on the court. I did not have the appreciation for the organization, as an organization—as a public organization—that we really have. And I will tell you that many judges come back to me and say, "Can you give me your PowerPoint presentation? Can I make the presentation to my staff?" I say sure you can do it. Because it's really an extraordinary sight. We take for granted that we always had case processing teams. We take for granted that we always had MESPs. We take for granted that we've always had the current structure. But it has always been this collaborative, participative process for decision-making, ultimately determined by the Court, the chief justice, and the director. But we have great cooperation, our family practice, our practice committees. Those didn't just happen. Those are part of a grand structure to create this organization, and it has served us well over the years. We talk about rules. You know when you go back to 1947, 1948, there were no rules. The whole rule-making practice was created. We take it for granted. Look how thick that book is now.

LEE HYMERLING: It's amazing. It never gets any thicker. Its pages just get thinner.

JUDGE GRANT: Exactly. So that's one of the extraordinary things that you come to appreciate about the system. Last September, Chief Justice Rabner had a celebration of our system's 60th anniversary. This was the first time that we ever celebrated the system at all, and to really appreciate the wisdom of Arthur T. Vanderbilt and the subsequent leaders. So you really get an appreciation for it.

BONNIE FROST: How long was that presentation?

JUDGE GRANT: Our presentation is about 35-40 minutes.

BONNIE FROST: I was just thinking that would be very interesting for the bar, because I think we're so interested in the present...

JUDGE GRANT: That we forget…

BONNIE FROST: That we don't even know about the past.

JUDGE GRANT: Exactly.

LEE HYMERLING: One of the greatest points that can be made is you really can learn from the past.

JUDGE GRANT: No question.

LEE HYMERLING: And over the years, through the various practice committees, through the communication you have with as a system with generations of bar presidents, it has been a collaborative effort. Chief Justice Wilentz used to call it a partnership all the time, and it's very much so.

CHUCK VUOTTO: Your Honor, do you believe that the open courtroom rule is universally followed throughout the state?

JUDGE GRANT: Yes. I think there are occasions when the sheriff's department can become overzealous and fail to comply with the rules, but once that is brought to our attention, the AJ and the TCA have a conversation with the county sheriff and it's corrected. So I think it's absolutely complied with.

BONNIE FROST: Of course, as family lawyers, we always have the issue with best practices, which we know doesn't exist anymore.

JUDGE GRANT: Thank you. Thank you. You should talk about rules now. It's in those rule books.

BONNIE FROST: Do you think there is any more elasticity to that 'one-year' limit for completing cases, or is there still some type of direction that one year has to be adhered to?

JUDGE GRANT: In my presentation to the judges, I say what I said to you earlier. Justice is the mandate that we have. For the most part, our rules allow for justice within those timeframes. There are occasions, however, when justice requires the case to be longer than the goal. And that's what it is—a goal. Because nothing happens if you don't dispose of the case within that timeframe. It's a goal. But I would argue that reflecting on the issues, which lead to the development of those rules, the thing that they said about matrimonial were two things: too costly; takes too long. And that was their response. The issue of trying to resolve cases is always a push and pull between the bench and the bar. There is always going to be a case where an attorney says, 'I need more time' and the judge feels, if you managed this case more appropriately, it could have been done within the timeframe. And there are going to be cases where the judge says, 'I agree, this case has certain issues that should allow for an expansion of the time constraints.' So I think we have the elasticity, if you will, in our system now to accomplish that.

LEE HYMERLING: Do you see that message as having been conveyed effectively to judges? I'm sure in our experience we have had judges directly tell us that it's not constrained by the year.

JUDGE GRANT: Exactly. So again I think the goals set a reasonable benchmark for what we should try to accomplish, but are there occasions when a case cries out for an expansion of that? I think there are. And we know we have backlog. We understand that. So I think

judges understand that there is a delicate balance. Will we continue to monitor them? Absolutely. Will we continue to see how well they are doing? Absolutely. But it's not that we are going say, 'Oh no you're in trouble because you failed to complete all your cases in the one year timeframe.'

LEE HYMERLING: Did you find your experience serving as the presiding judge of the largest family part in the state, the largest by a long shot, has been helpful for you as you now manage more than 400 judges sitting in 15 vicinages in 21 counties?

JUDGE GRANT: I think so. But I think that all of your life experiences help you in terms of the next position you get in your professional career. We have some extraordinarily talented judges, judges who work very hard across our divisions. They're bright. They're dedicated to their job. They're committed. Well beyond what you see in other professions. It's a hidden secret. We have some extraordinarily talented and committed individuals across our system. At the trial court level, the Appellate Division level, and obviously in our leadership level. So my experience with judges has been that they are committed to doing the job fairly. They have had a history of success and accomplishment, and their judicial career is just another continuation of that success.

BONNIE FROST: Do you think that we will ever see continuous trial days in family court, Judge Grant, for those of us who periodically try cases?

JUDGE GRANT: It depends. It depends on the number of days that you have to schedule. One or two days, absolutely. If you're talking about three weeks, absolutely not. I don't see it happening if you have a three-, four-, five-week trial, much less a multi-months trial. The system is not designed to accommodate that. Only less than 1percent of our cases across the system end up in trials. And so we recognize that you can't design a system for that failsafe position. We have to design the system for the vast majority of cases. Looking at the mission statement that was developed in 1998 under Chief Justice Poritz, we see that she sought fair and just resolutions of disputes. Notice in that statement it does not say trials. Our system is based upon resolutions, and we can accommodate, for the most part, the small number of day trials on a consecutive basis. But no system can accommodate extended trials with continuous trial dates. I would also think that when we look at trying to address continuous trials, we also have to understand the unique factors of matrimonial, the family practice and the family judges. Most of the vicinages have judges doing multiple case types. So they're balancing multiple issues that are coming before them. You know it's only three or four vicinages that have a large allocation of judges that are doing just FM work.

CHUCK VUOTTO: Your Honor, there have been occasions when my colleagues and I have experienced situations with trial dates that suggest that the court is not appreciative of the incredible amount of time and resources that go into the trial preparation. And the reason is there have been occasions when there is a trial date, you call the court a week in advance and ask, 'Is this a real trial date?,' and you are told yes, absolutely, you will start. You spend considerable amounts of time preparing your client. You spend thousands upon thousands of dollars of time and you walk into court and you're not even on the list. Or if you are, there is 30 matters scheduled before you. And the court is just not going to have the time to reach you. What I'm talking about is looking at the schedule realistically and letting lawyers know, realistically, look this isn't going to be a trial date. I may want you in. I may not. Perhaps you go to some sort of alternative dispute resolution. Perhaps you have a court-ordered settlement conference in one of your offices, or something else rather than making lawyers and litigants, and experts to a large degree, spend huge amounts of time and money preparing for unrealistic trial dates.

JUDGE GRANT: I have to tell you, candidly, that that has not been my observation as I go across the system, so I'd like to work with you, I'd like to work with other members of the bar, to see whether we can attack that particular problem and to look at it more systemically as well.

I would hope that is more of an exception and clearly is not the norm in terms of what's happening across the state. My experience has been that if you get a judge who says we are going to start this trial on March 5th, you're actually going to trial on March 5th. But I believe that we can always work to improve our system. I believe that we can work together. Where there are difficulties in that area, we need to address them. I think the idea of trying to get as much trial certainty as you can is important to the system, and so we are more than willing to partner with you on ways to address it

BONNIE FROST: I'm sorry, I just think that some judges may use that as a settlement technique.

JUDGE GRANT: Right, but then the judge needs to say so.

BONNIE FROST: But the problem is that we have spent the time and money of our client.

LEE HYMERLING: One of the unfortunate things that happens is that matters may be scheduled for a very small number of hours on a particular day, so you really can't get a head of steam. Then to have a week or 10 days' or two weeks' hiatus before you get your next half-day. I think the general perception of the bar is that it's probably getting a little bit worse rather than a little bit better right now. But again, I totally agree with you that you have to manage for the numbers. You have to

manage, recognize it full well, that you can't have the judge sitting around because he or she only had one matter pending.

JUDGE GRANT: Right. Well I did a survey of the vicinages with regards to consecutive trial dates, and all of them said that they could handle one- or two-day trials. Without a doubt it is the multiple-day or week trial that raises the issue in our system. And in some of the larger vicinages, they report that they were able to handle even those. But the vast majority said they couldn't handle it.

LEE HYMERLING: Let me just ask two more questions. First, is there anything or any particular area in which we, as family lawyers, could perhaps step up and play a little bit more of a role, or areas that we should be taking back to those who read this? We have an extraordinary opportunity within the *Family Lawyer,* because we have a huge circulation and we know from experience that we're really read, and so this is an opportunity if you'd like to share. You also have the incoming chair of the section and two others who have been past chairs who have been around for awhile, so if there is anything that you would like to suggest, we'd be happy to print and publish.

JUDGE GRANT: One issue that is confronting us is the question of self-represented litigants. We talk about costs. We talk about the economy. Our system is designed for attorneys. Our system is designed for people to be represented. We go out of our way to encourage people to get an attorney to represent them in our system, but there has been a dramatic increase in the number of people that are representing themselves in litigation throughout our system, both civil and family. And so one of the things that I think we have to explore is, how can the bar assist in addressing this exploding population of litigants that are coming to our system? We do *pro se* packages, which provide information on how you do things. We tell them about the court. But true advocacy is through an attorney, not through a self-represented individual. That said, there have been a number of people who are now coming to our system, whether it's on the FM side, whether it's on the civil side, seeking to address their issues on their own, and so we need to help them.

BONNIE FROST: I guess the self-represented parties could go into libraries. I think they have a kiosk in the bankruptcy courts for e-filing.

CHUCK VUOTTO: The issue of the *pro se* litigant was also raised when we raised email communications with judicial law clerks and the problems that would potentially impose. Although I was wondering if Your Honor knows of anything on the horizon in terms of policies concerning email communications between attorneys and *pro se* litigants and judicial law clerks?

JUDGE GRANT: No. I don't know of anything on the horizon with regard to that. We discussed that at the conference of family PJs with regards to requests for adjournments that left the decision to the individual judge of the trial court. One of things that I am currently exploring is cell phone and Blackberry notification to attorneys on issues such as court closings, slip opinions, etc. The technology is continuing to expand, continuing to advance. There is a really simple RSS that you can create on a website so that whatever notices you want to get on a website go to RSS on your computer and it will say 'I want to hear all the updates from CNN. I want to hear all the updates from whatever.' So what we have discussed is potentially working through our Blackberrys and emails to provide the attorneys with electronic notification, and others, as long as you want to be notified of any new Supreme Court rule, any update, any slip opinions that come out. It wouldn't give you the full opinion, but it would give you notice that an opinion is coming out. So I'm hoping by the summer that we will be able to have that. Obviously it's still tied to economic considerations, but we would like to have that. One of the things that you mentioned earlier that I wanted to talk about was our efforts to reduce costs. Historically we issued manual opinions, slip opinions, at a cost of approximately $3,500 a month. We have now eliminated that, and we're doing it all electronically—we have only 39 people who are getting hard copies. That's a savings of $100,000. Those are some cost savings. We looked at our system and we looked at other measures to reduce our costs, and last year we reduced our costs in terms of things like this by almost $1 million. We are always exploring ways to reduce our costs. Ultimately, technology is going to change our system. We are not immune from technology. Our system has essentially remained the same. You know, it is technology that is really going to advance us forward. I have a four-year-old living at home with me, and he's on the computer immediately playing all kinds of games, learning them back and forth. You know we have to recognize the technology, and that's difficult for us as a system. We have judges who are saying, 'I don't want to touch that, I don't want to do that.' So we have to bring new ones, the ones who will all come into the system and say, 'Absolutely. Typing my own opinions, I'll do everything that you want me to.' As a system, in our offices as well, we have to recognize it may be a short period of time or it may be a generation, but within the next generation, we as a system are going to be changed through technology. Why would we think otherwise; everything else is being changed that way. Someone once said to me if Wal-Mart stops selling CDs, there will be no more CDs produced and it will all be iPods and MP3 players. So technology is changing, and we just have to make sure that it changes us in a way that everyone can do it.

LEE HYMERLING: Well you look at your courtrooms and…

JUDGE GRANT: Video courtrooms.

LEE HYMERLING: Fifteen years ago, how many computer terminals were on the bench?

JUDGE GRANT: Exactly. I agree.

LEE HYMERLING: In our court, and I applaud this entirely, what you have seen in the last five to seven years in a number of vicinages, the orders are based upon the tentative decisions or are drafted at the conclusion of the motion.

JUDGE GRANT: Exactly right.

LEE HYMERLING: They are done as soon as you leave the courtroom.

JUDGE GRANT: In our courts we have video courtrooms, we have digital recordation of our proceedings now. We have encouraged our judges to issue electronic opinions. Our challenge as an organization is to use technology to achieve our core mission of justice.

LEE HYMERLING: Judge thank you very much for the time.

BONNIE FROST: Thank you.

CHUCK VUOTTO: Thank you, Your Honor. ■

ENDNOTES

1. Since the date of this interview, the E-filing Committee has completed its report, which will be considered by the Judiciary in the coming months.
2. Since the date of this interview, the Supreme Court has approved and released the Albin Committee Report along with its Administrative Determinations. The new Rule 1:38 became effective Sept. 1, 2009.
3. Since the date of this interview, the FY 2010 Appropriations Act has been passed. The new budget includes a $52 million cut in the Judiciary's budget. According to the AOC, court leadership continues to examine ways to manage operations with this significant reduction.

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