

Case Management and Limited Case Management in Child Custody Cases

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Kansas family law practitioners often find themselves involved in child custody litigation. Various forms of alternative dispute resolution are available to the Kansas family law practitioner which can aid the practitioner and the practitioner’s clients in reaching agreements for custodial arrangements that are in the best interests of their children without the necessity of highly contentious and adversarial courtroom trials, and the legal fees and expenses associated with such proceedings.

One very common form of alternative dispute resolution available to family law practitioners and their clients who are involved in child custody or parenting time matters is case management.

Pursuant to K.S.A. 23-1001 *et seq.*, a case manager may be appointed by a court to work with parties in developing a parenting plan which outlines how the parties will handle child custody, residency, and parenting time. If the parties are ultimately unable to agree on a parenting plan for their minor children, it then becomes the duty of the case manager to make a written recommendation to the court. The case manager may be appointed by the court upon the filing of a motion by either party or upon the court’s own motion.

In Kansas, case managers must be qualified prior to being assigned. To become qualified as a case manager, a person must be trained and qualified as a mediator. In addition, the person must attend a court-approved workshop on case management and thereafter participate in continuing legal education

regarding case management issues. (See K.S.A. 23-1002(d))

The duties of a case manager are set out in K.S.A. 23-1003. In essence, the case manager must meet with the parties as well as any other persons deemed necessary by the case manager. The case manager must gather data and information concerning the parties and their minor children. This information may include psychological and/or healthcare information; educational information, i.e. school records; and court records. The case manager must keep a record of all contacts the case manager has with the parties involved in the litigation.

Case managers are given wide latitude and discretion in how they conduct the case management process in their attempt to assist the parties in reaching an agreed upon custody, residency, and parenting time schedule with their minor children. Case managers are free to use any means at their disposal that they deem necessary in the exercise of their duties. Ultimately, if the case manager is unsuccessful in getting the parties to reach an agreement with regard to a parenting plan for their minor children, the case manager must make recommendations to the court. The recommendations are made in the form of a proposed court order and, if neither party objects to the order within 10 working days, that recommended order becomes the order of the court.

Once assigned to a case, the case manager remains on the case until dismissed by the court or allowed to withdraw from the case.

As noted above, if one party objects to the case manager's recommendation, that party must file an objection with the court. At the hearing on that motion, the movant has the burden to show the recommendation is erroneous or inappropriate. See *In the Matter of the Marriage of Gordon-Hanks* [27 Kan. App.2d 987, rev. den. 270 Kan. 898 (2000)]. The movant may call the case manager or any other witness to support the objection to the case manager's recommendation

Limited case management. Some judicial districts in Kansas have, by local court rule, established a process referred to as "limited case management." When the court appoints a limited case manager, it assigns specific issues to the limited case manager. Similar to a case manager, the limited case manager works to assist the parties in reaching an agreed upon parenting plan for their minor children. In the event the parties are unable to reach such an agreement, the limited case manager then submits a written report and written recommendation to the court, and copies of said report and recommendation are disseminated to counsel or directly to any party who is not represented by counsel.

Once the written recommendation has been submitted to the court by the limited case manager, the limited case manager's work is complete with the exception of testifying in court, if necessary, with regard to such written report and recommendation. The practitioner must be familiar with the local court rule, as the handling of a limited case manager's recommendation may vary from one judicial district to the next and may not be handled in the same

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For example, under the limited case management process created by local rule in the Eighteenth Judicial District, the party objecting to the recommendation of the limited case manager does not need to take any action. Rather, the recommendation of the limited case manager does not become the order of the court until the party seeking the adoption of the recommendation as a court order files a motion with the district court seeking the adoption of the recommendation as the order of the court. Under this local rule, it would seem that the party seeking adoption of the recommendation of the limited case manager has the burden to demonstrate to the court that the recommendation of the limited case manager is in the best interest of the children.

In the Thirteenth Judicial District, however, the recommendation of the limited case manager is handled very similarly to the recommendation of a case manager. The local rule of the Thirteenth Judicial District provides "a party disputing a recommendation of a limited case manager has the burden to file a motion challenging such recommendation within fourteen days from the date of the filing of a notice of submission of limited case management recommendation with the Clerk of the District Court."

If no such motion is filed within this

time frame, any objections are deemed to be waived, and either party may submit to the court an order adopting the recommendation of the limited case manager. If an objection were had, presumably the party filing the objection would have the burden to demonstrate the recommendation of the limited case manager was erroneous or inappropriate. Thus, in the Thirteenth Judicial District, it would appear that the burden would be on the party objecting to the recommendation and limited case manager to demonstrate that the limited case manager's recommendation is erroneous or inappropriate.

Case management, limited case management, and other forms of alternative dispute resolution implemented in child custody cases are designed to encourage and assist parties in child custody litigation to reach a parenting agreement involving their children without the necessity of the parties enduring the often damaging adversarial process of a trial. In addition, the alternative dispute resolution process can reduce costs of child custody litigation. However, the family law practitioner needs to be sure he or she reviews not only Kansas statutes but also the local court rules of the jurisdiction where the case is pending to be sure that the process established by Kansas statutes and/or local rules is fully understood and followed. ▲