

NEW HAMPSHIRE CIRCUIT COURT – FAMILY DIVISION
COMPLEX CASE DOCKET
FREQUENTLY ASKED QUESTIONS

1.) *What is the Family Division Complex Case Docket?*

The Family Division Complex Case Docket is an administrative reassignment, pursuant to RSA 490-F:2 and Supreme Court Rule 54(4)(h), of certain marital or parenting cases to advanced dispute resolution, and then, if unsuccessful, to a judge specially assigned to manage this docket of cases. It is predicted to open for business in early 2015.

2.) *What is the goal of the Family Division Complex Case Docket?*

The primary goal of the Family Division Complex Case Docket is to identify those cases which are most complex, whether due to the novelty of legal issues presented, the intricacy of the assets involved, or the specific personal characteristics of the litigants, and to most efficiently match those cases to Circuit Court resources. By targeting these complex cases for advanced dispute resolution and by assigning them to one docket and one presiding judge, the Circuit Court seeks to increase efficiency for the benefit of the parties and others whose cases are impacted by the resource demands of such complex matters.

3.) *Which cases are appropriate for reassignment to the Family Division Complex Case Docket?*

There is no mathematical formula or precise benchmark for determination whether a case belongs on the Family Division Complex Case Docket. “Complex” cases appropriate for reassignment may involve one or more of the following factors:

- a. Novel Legal Issues – Do the issues raised require multiple layers of interpretation? Do legal instruments at issue include novel, ambiguous, or complicated provisions? Is the law unclear, complicated, or is there a choice of law controversy? Is there a high likelihood of a unique or controversial appellate issue?
- b. Complexity of Assets at Issue – Does the case involve contested division of complex assets, including businesses and intangible assets, or multiple significant assets with disputed values?
- c. Challenging Legal and Non-Legal Issues – Does the case involve high-conflict issues between the parents? Has either parent raised charges of undue influence or alienation of the child? Is domestic violence an issue, either between the parties or between one or both parties and the children? Are substance abuse or mental health issues interfering with a party’s management of his or her case? Does the case involve a particularly litigious party or parties?
- d. Projected Length of Trial – Do the parties objectively reasonably project a multi-day trial as opposed to only a few hours?
- e. Urgency of Adjudication – Is there a critical need for fast resolution?
- f. Efficiency – Can the case be more efficiently resolved in a specialized docket?

4.) *What is the venue for the Family Division Complex Case Docket?*

Judge Kelly has assigned Judge Robert J. Foley to serve as the Presiding Judge of the Family Division Complex Case Docket. Pleadings filed in any case that is accepted for this new docket will be submitted to the Complex Family Division located at 259 County Farm Road, Dover NH 03820. Hearings will normally be held there as well. In very unusual circumstances, however, proceedings may be held in other circuit court locations. Creative use of telephone or videoconference technology may also be employed.

Although the venue is in Dover, all the cases will keep their original docket number.

5.) *How does the Family Division Complex Case Docket differ from the usual family division docket?*

The primary goal of the Family Division Complex Case Docket is to best match complex cases with the resources necessary to address them. The presumption is that each case starting in the Family Division Complex Case Docket will begin with advanced ADR, usually in the form of mediation, co-mediation with mediators of particular expertise, neutral evaluation, or a collaborative law process. Options other than adversarial litigation are available even if the initial ADR procedure does not resolve all of the issues. Additionally, the Presiding Judge will be the only judge hearing Family Division Complex Case Docket cases except where exigent circumstances require the case to be transferred to another family judge. Consequently, each case will be managed very closely. Parties will be firmly held to filing, discovery, and other scheduling deadlines.

6.) *How long does the case stay on the Family Division Complex Case Docket?*

Cases will remain on the Family Division Complex Case Docket until resolution of all complex legal issues in the case. The case may be referred back to the court of origin at the discretion of the Administrative Judge if a determination is made that the court of origin is best suited for disposition of remaining or routine matters.

If a case is sent back to the court of origin before it is fully concluded, Judge Kelly will issue an order reassigning the case to the original court. The case manager for the Family Division Complex Case Docket will send the notice to all parties of record and the original court. At that time, the case file will be returned to the original court. If the case is fully concluded while on the Family Division Complex Case Docket, then the clerk for the Family Division Complex Case Docket will notify all parties of record and the original court of the conclusion of the matter, and the case file will be returned to the original court.

7.) *Is the Family Division Complex Case Docket available only to cases that have not yet reached disposition, or also to reopened cases?*

If a reopened case meets the criteria for transfer to the Family Division Complex Case Docket, it may be considered on an equal basis with other cases.

8.) *What is the process for reassignment to the Family Division Complex Case Docket?*

There are, at the outset, two possible paths to the Family Division Complex Case Docket. Cases may be reassigned by the Administrative Judge of the Circuit Court upon referral by any Circuit Court Family Division judge before whom the matter is pending. In the alternative, the Circuit Court Administrative Judge, in his sole discretion, may initiate reassignment of a case to the Family Division Complex Case Docket.

9.) *Can the parties request reassignment to the Family Division Complex Case Docket?*

In order to allow the Presiding Judge and staff to focus upon the complex cases rather than reviewing cases for complexity, the transfer requests will be open to internal reassignment only. This status will be in place at least until the number and type of cases that can be best managed in this pilot program is ascertained.

10.) *What happens at the court of origin when it recognizes a case that is a good candidate for transfer?*

The Family Division judge should fill out an internal request for transfer form (to be posted on JIBB). The completed form should be sent to the Trial Court Center.

When an internal request for reassignment is made, copies of the request form and any internal responses to that request will be retained by the Trial Court Center. Any new motions or other matters that need a court's attention will continue to be processed at the court of origin while a decision is pending. Decisions concerning transfer will be made as quickly as possible so to limit any disruption at the court of origin.

If Judge Kelly, Judge King or Judge Foley needs a certain document to help decide whether transfer is appropriate, the court of origin may be responsible for sending copies to the Trial Court Center.

The parties **do not** need to be notified that there is an internal request to transfer. If a decision is made to transfer the case, then Judge Kelly will send order to the court of origin for distribution to all parties of record. Arrangements will be made to send the case file to Dover.

11.) *Is transfer to the Family Division Complex Case Docket available for cases from all counties, or is it a geographically limited pilot program?*

Yes, however, initially, the Family Division Complex Case Docket will be focused on cases from the Seventh Circuit, with limited availability to cases from other circuits. This initial pilot program is expected to provide information to support subsequent broadening of the program.

12.) *Will other Circuit Court cases automatically be consolidated in the Family Division Complex Case Docket?*

If the Administrative Judge, in his sole discretion, determines that reassignment to the Family Division Complex Case Docket of any related matters pending before any Circuit Court will further the goal of efficient resolution then, pursuant to RSA 490-F:2, those cases will be reassigned and consolidated in the Family Division Complex Case Docket for global review and disposition.