

UC Riverside

UCR Honors Capstones 2016-2017

Title

How Budget Cuts and Delays are Impacting Families in Divorce

Permalink

<https://escholarship.org/uc/item/5z19k621>

Author

Coy, Kristi Dawn

Publication Date

2017-12-08

HOW BUDGET CUTS AND DELAYS ARE IMPACTING FAMILIES IN DIVORCE

By

Kristi Dawn Coy

A capstone project submitted for
Graduation with University Honors

May 11, 2017

University Honors
University of California, Riverside

APPROVED

Dr. Sharon Oselin
Department of Sociology

Dr. Richard Cardullo, Howard H Hays Jr. Chair and Faculty Director, University Honors
Interim Vice Provost, Undergraduate Education

ABSTRACT:

Delays negatively impact both parties involved in family court due to substantial caseloads, attorney's fees, court costs, personal time off work for required court appearances and mediation, and financial stress. Women, however, are facing an amplified level of negative impact. They are typically worse off financially following a divorce than men. Part of this is due to women carrying more of the financial burden of raising the children when compared to men. The longer the delays experienced by the parties involved in a divorce, the higher the expense related to the divorce. There are also budget cuts to consider. When less money is available for operating the courts, the courts are left with a much smaller work force. Because of this, cases are pushed out farther resulting in delays of individuals receiving the dispute resolution assistance needed on issues such as on alimony, child support, and dividing of assets.

Another area of financial impact facing both parties is the issue of hiring an attorney. Typically, the decision is based on finances and the ability to pay. Women are already at a disadvantage in this area due to lower average income and disproportionately financially affected by divorce. Parties who wish to file a case face complicated court forms and processes making it difficult for an unrepresented individual to navigate the court system. Those who try to do it on their own typically face rejections from the court due to improper filing of documents, which lead to unnecessary delays and additional frustration. On the other hand, when individuals are able to afford representation by an attorney, they tend to face additional obstacles such as excessive continuances equating to billable hours filed by their attorney. With each continuance comes additional money payable to attorneys as well as more stress added to an already delicate situation.

This research involves reviews of law journals, statistics on poverty and women, potential causes of court delays, and reviews of family court cases. The outcome will reveal that the shrinking budget for the family court system coupled with self interested attorneys is resulting in disproportionate and unnecessary financial harm to women navigating their way through a divorce.

TABLE OF CONTENTS:

Abstract.....	ii
List of Tables.....	v
Table 1 Women’s Policy Analysis Survey.....	v
Chart 1 Cases with Two Attorneys.....	vi
Chart 2 Cases with One Attorney.....	vii
Chart 3 Cases with Zero Attorneys.....	viii
Introduction.....	1
Methods.....	3
Literature Review.....	4
Results.....	11
Discussion.....	13
Conclusion.....	18
References.....	21

LIST OF TABLES

TABLE 1

Percent of survey respondents reporting that they are very worried or fairly worried about:	Single Mothers	Other Single Women	Married Mothers	Other Married Women
Their economic security	40%	28%	27%	26%**
Their ability to buy a house	39%	19%	47%	S***
Paying for child care	19%	26%	11%	9%
Caring for a parent financially	28%	29%	16%	14%*
Paying for their children's college education	51%	44%	39%	33%*

Source: Institute for Women's Policy Research analysis of the 2007 American Worker Survey.

Note: "S" indicates that the number giving the stated response is too small to be statistically valid; * indicates that differences between all combinations are statically significant at the 95% confidence level except Single Mothers---Single Fathers; ** indicates that differences between all combinations are statically significant at the 95% confidence level except Married Women---Married Mothers; *** indicates that differences between all combinations are statistically significant at the 95% confidence level except Single Mothers---Married Mothers; we did not test against the group Married Women.

CHART 1

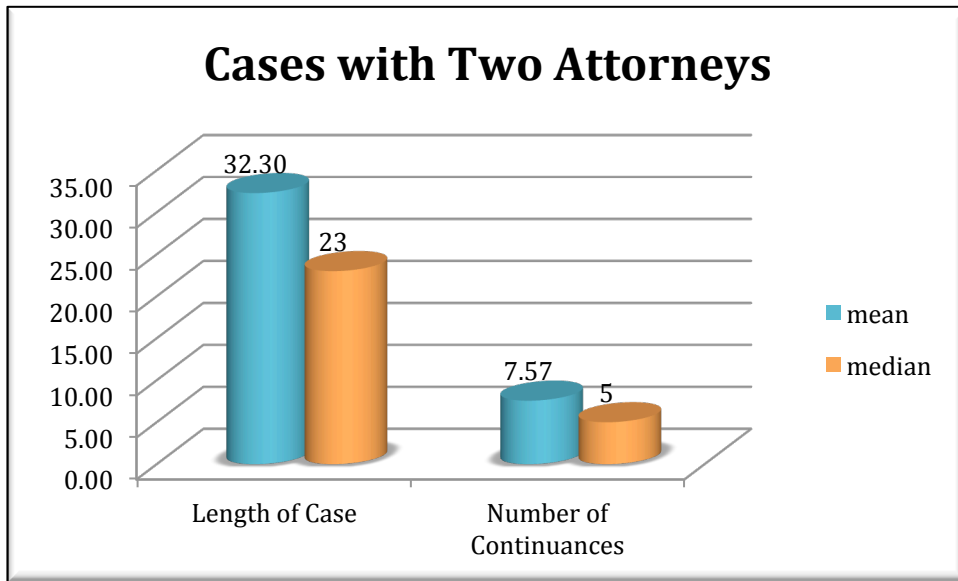


CHART 2

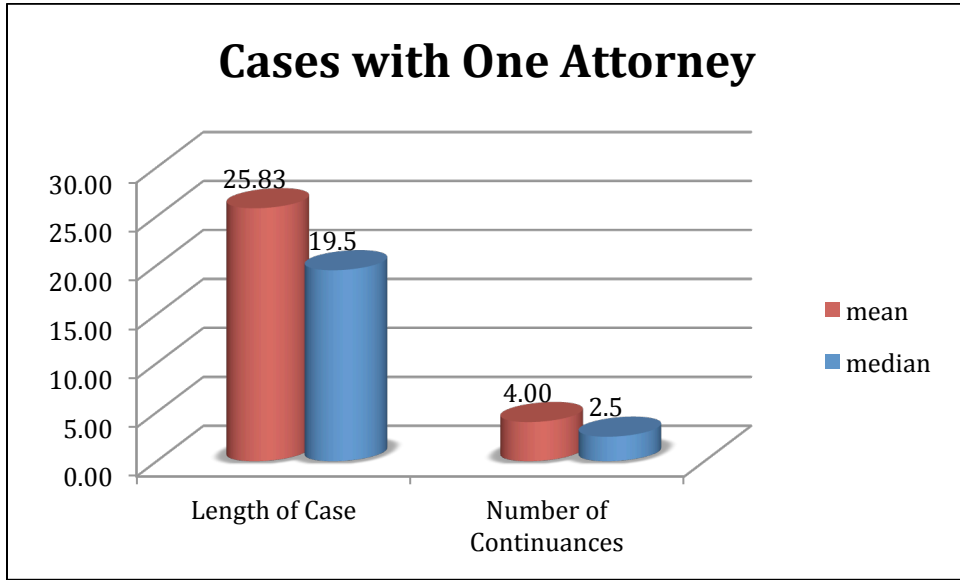
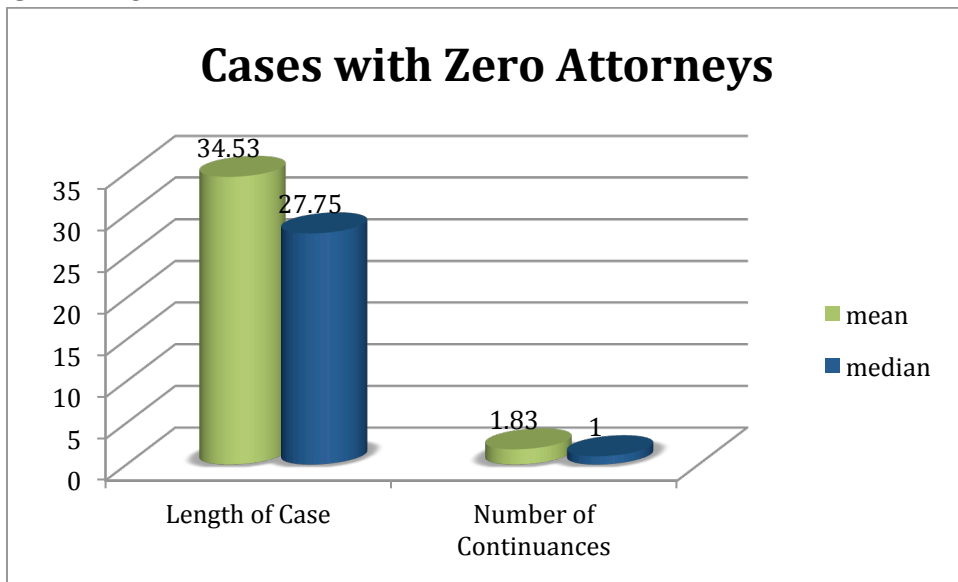


CHART 3



INTRODUCTION:

How are individuals seeking divorce impacted by delays resulting from budget cuts, lack of legal representation, and attorney involvement in family law cases? One of the primary purposes of the family court system is to provide conflict resolution for divorce. Divorce addresses a broad range of issues from financial to safety. Schaufler, Genthon, Holt, LaFountain, Strickland and Allred (2017) completed a court statistics project that found family court proceedings make up the largest share of the domestic caseload in our courts. With statistics listing nearly 50 percent of all marriages ending in divorce, it seems reasonable to assume that family law impacts a large proportion of the families in the United States.

This study finds that in family court cases with two attorneys there are significantly more postponements, known as continuances, as opposed to those cases with none or only one attorney. Additionally, when both parties decide to forego representation, the mean length of the case extends beyond both cases with one or two attorneys. Attorney John D. Hodson (2014:4) believes the delays are due to individuals not hiring attorneys: “Big crowds of unrepresented people who do not know what they are doing, slow the court process”. Ultimately, a divorce with either two attorneys or zero attorneys leads to undesirable results such as lengthier cases, additional court and/or attorney’s fees, delay of resolution and potentially preventing emergency cases from being heard due to overloaded dockets.

These delays add to the already stressful divorce situation by magnifying financial difficulties, particularly for women. Jill C. Engle (2013:2), states the percentages of both women and children in the United States living in poverty have increased considerably in

recent years. According to Lovell, Hartmann and Williams (2008:3), “28 percent of people living in female-headed households are poor” and “women are twice as likely to be single moms as men are to be single dads”. The financial responsibility falls onto many women who are statistically unable to provide for their children. Engle (2013:4) finds, “roughly half of children in the United States living with a single mother live in poverty”. The purpose of child support is to level the financial disparity between the two parties, but often does not. Engle (2013:4) states, “Even if courts grant mothers child support, data shows less than half of children actually receive the full amount”. These issues all result in both women and children suffering during and after the divorce process.

Non-compliance issues contribute to family court case delays. Because the courts have historically been weak on imposing penalties on non-compliance issues, such as refusing to produce financial documentation required for final financial decisions (Sutliff, 2015:1), the primary caregiver, typically the mother, tends to suffer added stress and lack of financial support. The financial struggle may continue for months or years while waiting for crucial court decisions, such as custody and financial arrangements to be resolved. Further results from delays open the door for problems such as transferring or hiding of assets, damaged credit, and even loss of assets such as the family home (Sutliff, 2015:1). When crucial financial decisions are delayed, financial resolutions remain unaddressed for months or years or until one party finally gives up and accepts the offer of the opposing party.

Budget cuts have had a huge impact on the family court division resulting in overloaded daily dockets, which further exasperate delays and encourages postponements

of cases. According to H. Yvonne Seeley and Kimberly A. Madigan, two attorneys in California, the problem is much larger than just postponements. They argue: “On account of budget cutbacks, California Chief Justice Cantil-Sakauye warns of a civil rights crisis in which more than two million Californians will be deprived of access to courts” (2014:1). All of these issues result in additional attorney and court fees and prevent resolution affecting those most vulnerable during divorce: women and children.

METHODS:

The information collected was from 66 active cases from the Riverside Family Court departments F401 and F402 over the period of one calendar week. All cases involved relationships with one male and one female, with or without children. All cases except six were used for data collection purposes. The six excluded were due to the fact that the cases were less than five months old, and in Riverside it generally takes a minimum of 90-120 days from the initial file date until the first appearance date. All data was collected through publicly accessible information from The Superior Court of California County of Riverside website. The daily docket was copied for one straight week. Each case was searched and found on the website, and the actions and minutes of each case were read and analyzed. The cases were numbered based on the order they appeared on the docket. They were then separated into three categories based on whether there were two attorneys, one attorney or zero attorneys representing the two parties. The following information was gathered about each case: length of case by months, number of continuances, whether or not the parties were ordered to attend custody mediation, whether or not children were a part of the divorce and when only one attorney was involved, a note was made about whether the male or female was the represented party.

In some cases, the number of attorneys changed, so those particular cases would be broken down as if they were two separate cases. There were seven cases out of the 66 that were broken down into two separate cases resulting in a total number of 73 cases. I then found the mean and median for both the length of time the case has been active and the number of continuances of each category.

LITERATURE REVIEW:

Several studies have been completed on comparisons of women and men when it comes to financial stability and stress. Despite efforts from our government, such as the Equal Pay Act of 1963 to level this discrepancy, women still “earn about 20% less than their male counterparts” (Engle, 2013:2). This lower pay ultimately affects children, especially in single parent homes. Engle (2013:2) goes on to report, “nearly 40% of single mothers and their children subsist below the poverty level”. This poverty facing women and their children adds to the overall stress level and plays a part in the decision or ability to hire an attorney.

The Women’s Policy Research group conducts research and disseminates its findings to address the needs of women and to strengthen families, communities and societies. They found not only are women facing poverty issues, but they are also aware and insecure about their situations. Table 1 shows survey results from women reporting they are “very worried or fairly worried” about several financial issues using the categories of “other single women”, “married mothers”, and “other married women” (Lovell, Hartmann & Williams, 2008:13). Single mothers seem to be aware of their lack of financial security. For instance, 40 percent of single mothers are worried about their economic security (Lovell, Hartmann & Williams, 2008:13). This concern is

significantly higher than the other three categories of women: “other single women”, “married mothers” and “other married women”, which are 28 percent, 27 percent and 26 percent, respectively.

Heightened concern or worry over finances is not unfounded, because according to Engle (2013:3), “divorce is one of the most predictable causes of economic distress for women and children in the United States”. There is a huge disparity in the financial health between women and men following divorce. For example, Engle (2013:3) cited a study published in 1985 by Lenore Weitzman that concluded, “in California, the standard of living for wives decline 73% following divorce, while that of husbands improved by 42%”. One of the purposes of the family court system is to narrow that margin of difference when determining child support and spousal support. Statistics show, women are more likely to be the primary custodial parent and “even if courts grant mothers child support, data shows less than half of children actually receive the full amount” (Engle, 2013:4). This problem has been addressed somewhat through Congressional acts, but women still find themselves worse financially than men. Additionally, “women raising children alone are five hundred times more likely to file for personal bankruptcy than a member of the general population-divorce often plays a role” (Engle, 2013:4). Court delays, stress and expensive attorneys all add to this already complicated situation.

Delays in the current processes of family court potentially create additional financial difficulties. Mary Jane Sutliff (2015:1), a former attorney in Alaska, stated, “One party will often attempt to hide or transfer assets to accumulate debt sometimes before and often after the divorce is filed”. The party who discloses assets is then at a disadvantage, because her assets are split between the two individuals, whereas the one

hiding assets keeps them all for himself. The compliant party must decide whether they are willing drag out the proceedings to get their fair share or to suffer the loss. Sutliff (2015:1) goes on to say, “Court procedures and practices provide little protection of assets during the period after the divorce is filed and before the separation occurs. The results of this oversight are increased court system costs, excessive attorney fees, injustice and often financial abuse”. When the decision is made by the compliant party to continue to fight through the court system for their fair share of the assets, it can lead to enormous expense and huge delays that sometimes outweighs the benefit of the assets. As a result, Sutliff (2015:1) says, “This non-compliance is used by the non-compliant party to force a settlement that favors them by exhausting the compliant party’s assets which they have access to”. The compliant party is faced with dragging out the proceedings while paying to fight for what is hers and potentially ending up without any assets or not fighting and ending up with minimal, if any, assets.

The current family court process requires parties to comply with court orders. Marshall Zolla (2011:3), a family law attorney, explained, “The Family Code Section 2107(c) provides that sanctions are to be imposed in order to effect compliance with disclosure requirements”. Despite what the law states, other studies indicate the family court system allows non-compliant parties to take advantage of both the court system as well as the compliant party. A non-compliant party chooses not to follow court orders, and then does not suffer repercussions for that non-compliant behavior from the court. Sutliff (2015:2) believes it is common for a non-compliant party to cause additional fees for the compliant party due to his behavior: “These increased costs to the compliant party are ignored by the courts. Rarely, if ever, are courts and attorney’s fees associated with

the non-compliant party's behavior granted to the compliant party during divorce". The compliant party suffers the financial loss without any penalty to the party who caused the expense.

According to Deana Piazza, Paola Castelli and Don Will (2012:8) who conducted a profile study on family courts in California, one of the challenges facing family court is "noncompliance with court orders along with lack of consequences for noncompliance". It is a no risk situation for a non-compliant party. The court has a process called "Motion to Compel", which is an official court process used toward the non-compliant party in an effort to have the party comply with previous orders. If the non-compliant party does not follow the order, the courts may use powers of enforcement such as contempt orders and sanctions. However, according to Sutliff (2015:2), the courts rarely use them: "This does not happen and non-compliant parties quickly become aware of the lack of enforcement of these orders". This puts the compliant party at a financial disadvantage. This disadvantage is attributed primarily to women who fare poorly financially after divorce. Sutliff (2015:2) states, "The true reason for women's financial loss is probably found in the fact that the setbacks in the transfer of marital assets take a long time to recover from". If an individual faces financial trouble, then suffers from damaged credit, it could be years before she reaches a place of financial stability.

Another way the family court process suffers from delays is through mediation. Mediation is a free service that is offered to the individuals involved in custody battles. Family court offers, and in many cases requires, parties to attend mediation to assist in working out differences solely related to the children in the case with regards to custody and visitation issues. Seeley and Madigan (2014:3) explain, "Both parents meet with

Family Court Services (FCS) professional, also called a ‘child custody-recommending counselor’. He or she will help the parents reach an agreement concerning custody and visitation”. During this appointment, if the parents do not reach an agreement, the counselor submits a recommendation to the court (Seeley and Madigan, 2014:3). Due to the volume of cases, the mediators many times do not have adequate time to devote to each family. Seeley and Madigan (2014:3) state, “The challenge for the litigant is to obtain an FCS appointment in advance of the hearing date. If an FCS appointment is not available, the judge or commissioner will typically continue the hearing date for several weeks until after the parties have met with FCS, thus delaying the process further”.

Because of the delay with access to custody mediation, the cases involving children may go for weeks or months without custody and visitation orders causing further problems. As explained by Seeley and Madigan (2014:3), “This waiting period can be challenging (and sometimes even dangerous) for high-conflict parents or parents who are denied access to their children by the other parent”. One basis for determining child support is the percentage of time with each parent. During this high-conflict period, one parent may withhold the children from the other parent. Seeley and Madigan (2014:3) argue, “the delay can unjustly reward a parent who is gaming the system by withholding his or her children in an effort to create a status quo that the judicial officer may be reluctant to disrupt by the time they get to the court hearing”. This precedent setting behavior may result in a lower child support order to the custodial parent when support issues are settled. In addition, when visitation and custody issues are not settled, this further delays child support payments to the primary custodial parent affecting the parties most vulnerable: women and children.

Flaherty presents a different perspective on why family court delays occur. She (2002:2) believes the delays are related to parties that are unrepresented by attorneys, called “pro se” or also known as “pro per” as well as court websites that lack readily available self-help information. She states, “lawyers generally make more efficient use of limited judicial resources than do unrepresented persons” (Flaherty, 2002:2). Because lawyers are familiar with the processes and forms, there tend to be less rejection notices due to improperly filed forms and documents. In addition, she states, “A judge or lawyer dealing with an unrepresented person will almost certainly spend far more time than if that person were represented by a lawyer” (Flaherty, 2002:2). Again, this goes back to knowing the processes, which may prevent delays, particularly for others who also want to have their cases heard before the judge. In Flaherty’s study (2002:2), she found when only one party is represented; there may be a higher financial burden on the party represented since that configuration “means the additional time required for the representation will inevitably result in a higher bill for his or her client”. The unrepresented party may require help or assistance, which will often be provided by the attorney from the represented party, adding to his or her bill.

Flaherty’s solution to these delays is better self-educated parties. She states, “Courts have realized and addressed the grown trend of pro se litigants by providing assistance for those choosing to represent themselves...[by] simplifying legal forms and instruction sheets...[and] using sophisticated video and computer technologies” (Flaherty, 2002:2). This education comes from easier to use and more informative court websites. She mentions that some state sites are much more user-friendly and helpful such as Arizona, California, Florida, New York and Utah, than other states (Flaherty,

2002:4). She attributes the scarcity of useful sites to a lack of budget. “The problem of course is financial. There are enough expenses that each state’s judiciary has to worry about besides creating websites that can be accessed by those who choose to represent themselves”, Flaherty states (2002:4). The self-represented party could reduce delays by educating themselves on court processes, requirements, and proper filing of forms.

Aikman and Viscia (2003) completed a study of the California court system. They agreed that self-represented parties were adding to the delay problems. The study found an increase in self-representation in all family law case types. As stated by Aikman and Viscia (2003:76-77), “the percentage of cases in which both parents were unrepresented when the district attorney brings a child support action grew from 79% to 96% between FY96 and FY00”. According to Aikman and Viscia (2003), San Diego demonstrated a particularly high increase in self-representation. They found, “Data from San Diego indicate that the number of self-represented parties in family law cases, generally has risen 32% since 1992” (2003:77). The increasing trend is concerning to the courts, because they associate self-represented parties with increase workload on the courts. In addition, they say, self-represented parties “require more continuances because of incomplete or missing documents, failure to provide information in a timely manner, and failure to arrange for needed witnesses” (Aikman and Viscia, 2003:77). The attorney representing the individual would normally handle these problems, but due to a lack of attorney involvement, the result is delays.

The court system in the United States has been facing a lack of funding since the recession. According to John D. Hodson (2014:2), a managing partner for a California law firm, “courthouses have been closed, court reporters let go, court staff reduced at

least by attrition, fees increased, and hours shortened”. He identifies two problems for family courts: (1) Full court dockets, and (2) Diminished revenue. Hodson (2014:4) states, “in many counties, court calendars are backed up...long lines at the courthouse and heavy court calendars often mean wasted attorney time, which is expensive to clients”. Stephen A. Kolodny (2016:1), a California attorney, agrees and expands on the problem: “There are significant trends impacting the practice of family law in California today. Of them, the economy is primary. There is an overall lack of funding for the courts, courthouses, and court staff”. In addition, Seeley and Madigan (2014:1), partners at another California law firm, expresses their concern for the lack of funding: “Our governors and legislators have decimated the budgets of the California trial courts and compromised the ability of our family law departments to handle the most pressing and sensitive issues faced by the citizens of the state of California”. The concerning part of this to them is that approximately half of the population will utilize the family court system some time during their lifetime, but is the most underfunded of our court system (Seeley and Madigan, 2014:1). The diminished revenue is due not only to budget cuts, but also to individuals who cannot afford the court fees. Hodson (2014:3) clarifies, “Increasing numbers of litigants are submitting fee waivers...the result is diminished revenues for the courts”. When fees are waived, additional funding must come from taxpayers, or jobs are cut resulting in additional delays.

RESULTS:

The results of the categories “Two Attorneys”, “One Attorney” and “Zero Attorneys” reveal a total number of 37, 18 and 18 cases, respectively. 50.6 percent were cases with two attorneys. 24.7 percent were cases with one attorney. 24.7 percent were

cases with zero attorneys. The number of cases with one and zero attorneys was equal, at 18 cases.

Also, referring to Charts 1, 2 and 3, the mean length of the cases in months was 32.30, 25.83, and 34.53 respectively. The cases with one attorney were the shortest averaging 25.83 months in length. The median length of cases in months was 23, 19.5, and 27.75 respectively. These numbers were lower than the mean indicating there are several lengthy cases. Additionally, cases with one attorney remained the shortest of the three types of cases by 3.5 months to as much as 8.25 months. Overall, the mean length of all the cases combined was 31.3 months.

The mean number of continuances for each category is 7.57, 4.00 and 1.83, respectively. The cases with two attorneys faced the highest average number of continuances by more than three to almost six continuances. In length of time, each continuance represents approximately three months (or more), so these cases are potentially facing an additional minimum nine months of delays over the other cases. The median number of continuances for each category is 5, 2.5, and 1, respectively. Overall, the mean number of continuances of all the cases combined was 5.3. Cases with zero attorneys had the longest cases at 34.53 months, but the lowest median number of continuances at one.

In addition, 12 cases did not involve children, while 61 cases did involve children. This corresponds to 16.5 percent and 83.5 percent, respectively. Of the 61 cases involving children, seven cases were not referred to child custody recommending counseling. This equates to 88.5% of the cases involving children are ordered by family

court to attend mediation counseling prior to the court hearing their case. In the category “One Attorney”, an attorney represented eight women and 10 men.

DISCUSSION:

Delays are clearly a problem facing the budget stripped courts in the United States today. California courts, and more specifically the family court system have suffered greatly due to these cuts. This may be demonstrated by examining the 73 cases reviewed from the Riverside Family Courthouse. These are ongoing cases that may or may not have concluded on their most recent day in court. If these cases were followed, the mean and median length of the case and number of continuances would surely rise.

Several papers in the literature review cited parties without representation as contributing most to delays and lengthy court process. These delays impact individuals, especially those most vulnerable such as women and children. Delays potentially prolong important financial decisions such as child support or dividing of assets. This study found only 50 percent of the cases studied had one or zero attorneys. This is lower than the statistics found by Hodson (2014:1), who argued: “85 percent of family law cases in California involve at least one party without a lawyer”. However, despite the difference in percentages, this study agrees with that characterization of the cases with zero attorneys. These cases are the longest extending both the mean and median by 6.9 and 20 percent longer, respectively, than the cases with two attorneys. The longer cases could be due to the parties simply not understanding the proper way to fill out forms or how the court system works. However, this does not explain why the mean of the cases with one attorney are 33.6 percent shorter than cases with zero attorneys and 25 percent shorter than cases with two attorneys. In length of time, this equates to 25.83 months with one

attorney compared to 34.53 months with zero attorneys and 32.3 months with two attorneys. In addition, the median of the cases with one attorney are 42.3 percent shorter than cases with zero attorneys and 17.9 percent shorter than cases with two attorneys. In length of time, this equates to 19.5 months with one attorney compared to 27.75 months with zero attorneys and 23 months with two attorneys. In this instance, one party is unrepresented and conceivably should be adding time to the overall case length, but this is not proven by the results. It is reasonable to assume that the sole attorney in the cases with one attorney is doing the work that would be expected of a second attorney in an effort to expedite the case. This will create additional financial burden for the party who is paying for the attorney.

In contrast to initial predictions on cases with one attorney, the numbers of men versus women hiring attorneys are almost equal at eight females and 10 males hiring attorneys. Other studies did not take this factor into account, but my study does. Even though the results are almost equal, it still disadvantages women, because according to Engle (2013:3), “the standard of living for wives declines by 73% following divorce while that of husbands improved by 42%”. It would be necessary for men to absorb most, if not all of the costs of the divorce in order to begin to level the disadvantage toward women.

Continuances have a huge impact on delays, including the overall length of the cases as well as the cost of the case. The studies that claim cases with zero attorneys create more delays did not take into account the number of continuances that vary with each type of case. The examination of continuances shows that cases with zero attorneys request far less continuances than both cases with one or two attorneys. For example, the

mean number of continuances in cases with one or two attorneys is 218 and 413 percent higher, respectively, than cases with zero attorneys. When comparing the median number of continuances, the cases with one or two attorneys are much higher at 250 and 500 percent, respectively, than cases with zero attorneys. Every continuance costs the client(s) additional attorney and court fees adding to the overall impact with regards to delays and expense that falls on the family involved in the divorce and once again negatively impacting the most vulnerable.

The decision of hiring an attorney for a divorce leaves individuals, particularly lower income women, in a quandary. She is faced with a decision to use what little money she does have on an attorney, but then the case could potentially face significant delays due to continuances. These delays result in even more attorney and court fees, and have potential to exacerbate her financial woes. If assets are involved, the delays allow for the non-compliant party to hide, spend or dispose of assets. When children are involved, delays may be detrimental and change important custody arrangements.

According to Seeley and Madigan (2014:3):

This waiting period can be challenging (and sometimes even dangerous) for high-conflict parents or parents who are denied access to their children by the other parent...the delay can unjustly reward a parent who is gaming the system by withholding his or her children in an effort to create a status quo that the judicial officer may be reluctant to disrupt by the time they get to the court hearing.

Because women are more likely to be the primary custodial parent (Engle, 2013:4; Lovell et al., 2008:3), delays may prevent timely decisions on child support. As attorney Marshall Zolla (2011:3) states, “it allows a party to use that delay to obtain a strategic or

economic advantage...which exacerbates financial tensions in marital dissolution proceedings”. The very nature of involving an attorney, based on the statistics from this study, creates further delays in court through continuances as opposed to not hiring an attorney.

On the other hand, if she chooses to be unrepresented, she may be at a disadvantage in court, as well. As Flaherty (2002:2) states, “the case will likely be poorly argued, and thus place a greater burden on the judge to assure that justice is done”. Because the decision of the judge is final, to seek change to the order would involve starting from the beginning. In addition, it is commonly understood among family law attorneys that judges typically do not like to change orders in divorces once decisions have been made, aside from changes in financial situations or harm to individuals. The issues surrounding the potential lack of justice for unrepresented parties is explained by attorney John D. Hodson (2014:1), in the following manner:

Judges must increasingly find a way to conduct trials and hearings in a setting for which they, like the litigants, are ill prepared. Litigants often view the judge as something akin to the Oracle at Delphi: all-seeing, all-knowing. They fail to realize that even the best judges (would like to) rely upon competent lawyers to educate them as to the law, and to present admissible evidence to establish relevant facts that enable a just ruling from the bench.

Attorneys generally assist with minimizing emotional exchanges between the two parties in the courtroom, because they are the ones presenting the case. They help with explaining the court processes and presenting realistic expectations for both parties. Additionally, they remove the guesswork out of the form filing and court requirements,

which reduces stress. It is easy to see why the cost-benefit analysis of hiring an attorney is difficult to determine for each party.

Delays from federal and state budget cuts impact families as well. Courts are attempting to make better use of their online services or addressing delays in creative ways through volunteer programs, but the delays and high demand for each individual's day in court continues to press. Every piece of research included in this study that mentions problems in court also highlights the impact of budget cuts. According to Seeley and Madigan (2014:2), in California "from 2008 until 2013, the workforce was slashed by more than 30 percent statewide".¹ The lack of staff processing paperwork and cases leads to delays. An example given in Seeley and Madigan's (2014:2) findings states, "before the recession, stipulated divorces were processed in four to six weeks; now they are taking five months". These court delays are adding to the financial burden caused by divorce.

The lack of ability by the courts to give timely attention to urgent and high-conflict divorces magnifies the problem of divorce. Inserting attorneys may help alleviate some problems, but also adds additional complications and delays when the attorney looks to add to their annual income through court continuances. Ultimately the delays experienced by divorcing parties, whether due to budget cuts, complicated court processes or self-interested attorneys results in negatively impacting families both

¹ Despite additional funding in the 2016-2017 California Budget, much of the money was allocated to interpreters and other areas of the court. In addition, the California Judicial Council instituted measures to manage the impact of underfunding on the courts, which involved taking money from "donor" counties with already scarce resources. The additional funding as well as transferring of funds from one area to another is still inadequate to reduce delays and provide timely court hearings and to address important issues for those involved in family court (Brophy and Svinarich, 2016:2).

financially and emotionally. Delays are preventing successful goals of family court, which are to provide resolution and closure to those who seek it.

CONCLUSION:

Budget cuts are impacting many areas of our lives in the United States today, and family courts in California are no exception. With the increasing caseloads, reduced staff levels, and insufficient time for cases, families are being impacted. This study of 73 cases shows that families unrepresented by an attorney are facing on average over 31 months of an unresolved divorce case. The complexity of forms and procedures compounds this problem. Some counties are using creative ways to speed up the process of simple cases like uncontested divorces. Unrepresented individuals would benefit from online self-help services or access to detailed instructions to prevent rejected paperwork resulting in unwanted delays. However, in many counties, these online services are simply not available.

Delays are also directly connected to cases involving two attorneys, where both sides are represented as well those cases involving zero attorneys. Perhaps cases with two attorneys are coincidentally more complicated than cases with one or zero attorneys. It is difficult to tell without in depth interviews of the parties involved why exactly these cases are prolonged. However, because of the sample size and the large discrepancy in continuances when comparing cases with two attorneys to cases with zero attorneys at 7.57 and 1.83, respectively, it is reasonable to believe the attorneys are having an impact on the problem with delays in the overuse of continuances. When the two types of cases are compared, cases with zero attorneys are facing an average of 34.53 months in court compared to 32.3 months for cases with two attorneys and 25.83 for cases with one

attorney; however, individuals in cases with zero attorneys are not facing the extent of costly continuances. The zero attorney cases typically face delays related to improperly filing of forms or due to lack of knowledge of court processes. Ultimately, both scenarios will impact the most vulnerable groups. The cases with zero attorneys add to the stressful divorce situation by delaying important monetary as well as safety decisions to those who do not thoroughly understand the court processes and forms. The cases with two attorneys incur higher costs both in court fees and attorney's fees. In addition, they allow for unnecessary and extensive use of continuances presenting the opportunity for non-compliant parties to take advantage of the system while simultaneously leaving the vulnerable party without support.

Further studies should be conducted by following cases from beginning to end focusing on the reasons these cases are delayed, the range of factors that impact their length, and the varied consequences for individuals and families beyond economic duress. It would be important to separate each by category by cases with two attorneys, one attorney or zero attorneys. Interviewing each party would possibly answer questions about how the delays are impacting their lives.

One additional issue would be to find out the average length of time it takes to resolve the cases based on county. Are some counties making better use of their funds? Are some counties able to expedite the process of mediation? If significant differences are found in length of time to complete the dissolution from county to county, perhaps it could be valuable to look into various processes at the locations that are benefitting from shorter length of cases. What unique services are these counties offering to alleviate delays?

Another area of concern surrounds the issue of punishments for those who are non-compliant. Courts have the power to impose sanctions and penalties to individuals who are non-compliant, but they rarely use them. It would be beneficial to both the courts and the compliant parties if these powers were enforced. Attorneys would catch on quickly to the new level of enforcement and pass this information onto their clients encouraging compliant behavior. Delays such as continuances would be used less often, because non-compliant parties would suffer consequences for their lack of producing requested documents. Families would benefit from shorter cases and more informed decisions from the judges, since the judges will have all of the required documentation to make the decision. Court dockets would be less full allowing true emergency situations to be added last minute and addressed, ideally avoiding the escalation of an already volatile relationship.

Family court is a place individuals go for closure and to aid conflict resolution on family issues. Due to delays, families' lives are being negatively impacted. This study shows that the problems of delays are not just related to budget cuts, but also related to individuals who choose to be unrepresented in court and cases involving two attorneys. In order to insure the most fair and expedited resolution to family court issues, the causes of delays should be examined. Changes need to be made to the court system focusing on the goal of reducing delays in an effort to minimize the negative impact the current court system is having on families.

REFERENCES:

- Aikman, A. B. and Viscia, K. A. (2003). Exploring the Work of the California Trial Courts: A 20-Year Retrospective. In *courts.ca.gov*.
- Brophy, J. L. and Svinarich, K. (2016). Show Me the Money! California's Underfunded Courts. In *calpeculiarities.com*.
- Engle, J. C. (2013). Promoting the General Welfare: Legal Reform to Lift Women and Children in the United States Out of Poverty. *The Journal of Gender, Race & Justice* 16.1.
- Finnemore, M. (2015). A Modern Reality: Recessions Ripple Effect Fuels SelfRepresentation. *The Oregon State Bar Bulletin*, 75 *Or. St. B. Bull.* 27, 1-5.
- Flaherty, M. B. (2002). How Courts Help You Help Yourself: The Internet and the Pro Se Divorce Litigant. *Family Court Review*, 40 *Fam. Ct. Rev.* 91, 1-24.
- Gold, D. (2012). Is That a Light at the End of the Tunnel or an Oncoming Train? Serving Family Law Clients in Today's Environment. *Westlaw*, 2166806, 1-8.
- Hodson, J. D. (2014). Overcoming New Challenges and Adapting to New Trends Affecting Family Law Practitioners and Their Clients. *Westlaw*, 3689589, 1-11.
- Kolodny, S. A. (2016). The Importance of Utilizing Trial Lawyer Skills in California Family Law Cases. *Westlaw*, 2989424, 1-12.
- Lovell, V., Ph.D., Hartmann, H., Ph.D., & Williams, C. (2007). *Women at Greater Risk for Economic Insecurity: A Gender Analysis of the Rockefeller Foundation's American Worker Survey* [Scholarly project]. In *Iwpr.org*. Retrieved from <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/D482AWSReport.pdf>.
- Ostrom, B. J., Ph.D. (2002). *Examining the Work of State Courts, 2001* [Scholarly project]. In *Bjs.gov*. Retrieved from [https://www.bjs.gov/content/pub/pdf/ewsc01-npcsp\(2\).pdf](https://www.bjs.gov/content/pub/pdf/ewsc01-npcsp(2).pdf).
- Piazza, D., Castelli, P., & Will, D. (2012). *Research Update: Snapshot Study 2008: Family Court Services Profile*. San Francisco, CA: The Center for Families, Children & the Courts.
- Schauffler, R. Y., Genthon, K. J., Holt, K. A., LaFountain, R. C., Strickland, S. M., & Allred, A. K. (2017). *State Court Guide to Statistical Reporting* [Scholarly project]. In *Courtstatistics.org*.
- Seeley, H. Y., & Madigan, K. A. (2014). The Impact of the Budget Cutbacks on California Family Law Courts. *Westlaw*, 3689592, 1-7.
- Sutliff, M. J. (2015). A Proposal for Efficient, Effective Procedures in Divorce Cases. *The Alaska Bar Rag*, 39 *AK Bar Rag* 12, 1-3.
- Tripodi II, P. D. (1991). Achieving Equal Justice for Women in the Courts. *UCLA Women's L.J.* 209.
- Zolla, M. (2011). Evolving Family Law Issues and Strategies. *Westlaw*, 2547798, 1-15.