

**TESTIMONY OF LARRY RUTE
ASSOCIATES IN DISPUTE RESOLUTION, LLC
BEFORE THE HOUSE JUDICIARY COMMITTEE
CHAIR LANCE KINZER**

**Testimony in Support of House Bill 2039
January 28, 2014**

My name is Larry Rute. I am the Managing Partner of Associates in Dispute Resolution, LLC with offices in Topeka and Kansas City. I am a full-time Dispute Resolution Professional and I have served for numerous Kansas Courts as a family law Mediator, Case Manager, Conciliator and Special Master. This is my 41st year of practice before the Kansas Courts.

Case management provides a unique service to parents and to our judicial system through the use of a professional neutral facilitator to work with high-conflict families who have otherwise failed to reach an agreement on the care of their children through parenting classes, mediation, conciliation or other dispute resolution systems developed by the Court.

Research suggests that a relatively small, but significant, number of parents continue in very high conflict for many months and years after the divorce or paternity action has been decided. High-conflict parents (sometimes referred to as “chronic litigants”) take an enormous amount of time and energy from the judicial system. Their children are often the casualties of parental trench warfare. The unfortunate result is often multiple motion practice by one or both of the parties before the Court. Case Managers are often the last stop before a costly and emotionally wrenching trial process.

Case management is established by agreement of the parties or by Order of the Court. Each Case Manager has been trained in mediation techniques and is knowledgeable about complex family dynamics impacting children, including domestic violence. By court order, the Case Manager may have authority to resolve a wide variety of domestic issues, including, but not limited to the following:

- 1) Communication between the parents about the children.
- 2) Minor changes or clarification in parenting-time/access schedules or conditions including vacation, holidays and temporary variations of an existing parenting plan;
- 3) Transitions/exchanges of the children including date, time, place, means of transportation and transportation issues;
- 4) Health care management including medical, dental, orthodontic and vision care;
- 5) Child-rearing issues;
- 6) Psychotherapy or other mental health care including substance abuse assessment or counseling for the children;



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- 7) Psychological testing or other assessment of the children and the parents;
- 8) Education or daycare including school choice, tutoring, summer school, participating in special education testing and programs or other major educational decisions;
- 9) Enrichment in extracurricular activities including camps and employment;
- 10) Religious observations and education;
- 11) Children's travel and passport arrangements;
- 12) Clothing, equipment, and personal possessions of the children;
- 13) Communication by a parent with the children including telephone, cell phone, pager, fax and e-mail when they are not in that parent's care;
- 14) Alteration of appearance of the children including haircuts, tattoos, ear and body piercing;
- 15) Role of and contact of with significant others and extended families;
- 16) Substance abuse assessment or testing for either or both parents or a child, including access to results; and,
- 17) Parenting classes for either or both parents.

In general, the Case Manager will ordinarily meet separately or jointly with both parents to discuss important issues relating to the care of the children. In my case management practice, I like to initially work to improve the breakdown in communication that has almost inevitably developed between both parents. I find that if we can successfully resolve communication issues, we will have taken a large step in resolving specific matters that have caused the Case Manager to be appointed.

The Case Manager has the power to meet with the parties and other individuals; gather information, including medical, psychological, education and court records, including investigations and evaluations of the parties for children. The Case Manager will periodically report to the court, maintain a record of case management activities and is required to report threats, imminent danger, suspected child abuse or suspected or actual harm to any party.

If the parties reach an agreement through the case management process, that agreement is put into writing and provided to the Court. In those circumstances where the parties are unable to agree on particular issues, the Case Manager is authorized to make recommendations to the Court.

I present this testimony in support of House Bill No. 2039. The proposed revisions in House Bill No. 2039 incorporate recent opinions from the Kansas Court of Appeals as well as guidelines for domestic Case Managers that were approved by the Kansas Supreme Court's Administrative Order No. 276 on December 8, 2013.



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House Bill No. 2039 also incorporates the language of the best interest of the child into the statute and provides important due process protections by carefully defining the scope of the domestic Case Manager's authority and responsibilities. An important feature of House Bill No. 2039 outlines the Court's responsibility for judicial review, including the important parental right's safeguard to judicial review in each case and, when certain criteria are met, the parent's rights for an evidentiary hearing with respect to the Case Manager's recommendations.

Additional Recommendations

It has been several months since I last worked with other members of the Kansas Bar Association *ad hoc* Committee to review suggested legislative modifications to case management. While I personally support the vast majority of the recommendations found in House Bill 2039, I would draw the Committee's attention to provisions requiring additional discussion and possible revision:

Section 1(b) provides in lines 20-22, the following: "A party can request at any time that a domestic case manager provide information to the court for judicial review of the case." I can anticipate that such a provision may, on occasion, be used as a sword against an individual case manager with whom a particular parent has a disagreement. A provision like this one may be used by a chronic litigant to disrupt the case management process by routinely requesting, perhaps on a daily or weekly basis, that the case manager provide information to the court for judicial review. The more acceptable procedure would be for the party to file an appropriate motion with the court for judicial review.

With respect to the modifications in Section 2(b), I would list examples in Section 2(b)(2), lines 14-16, largely taken from the current statute, including:

- private or public neutral dispute resolution services have been tried and failed to response the dispute;
- other neutral's services have been determined to be inappropriate for the family;
- a parent exhibits diminished capacity to parent;
- a parent exhibits an inability to cooperate with the other parent.

I wish to thank the Committee for providing me this opportunity to provide this testimony in behalf of House Bill 2039.

Respectfully submitted,



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