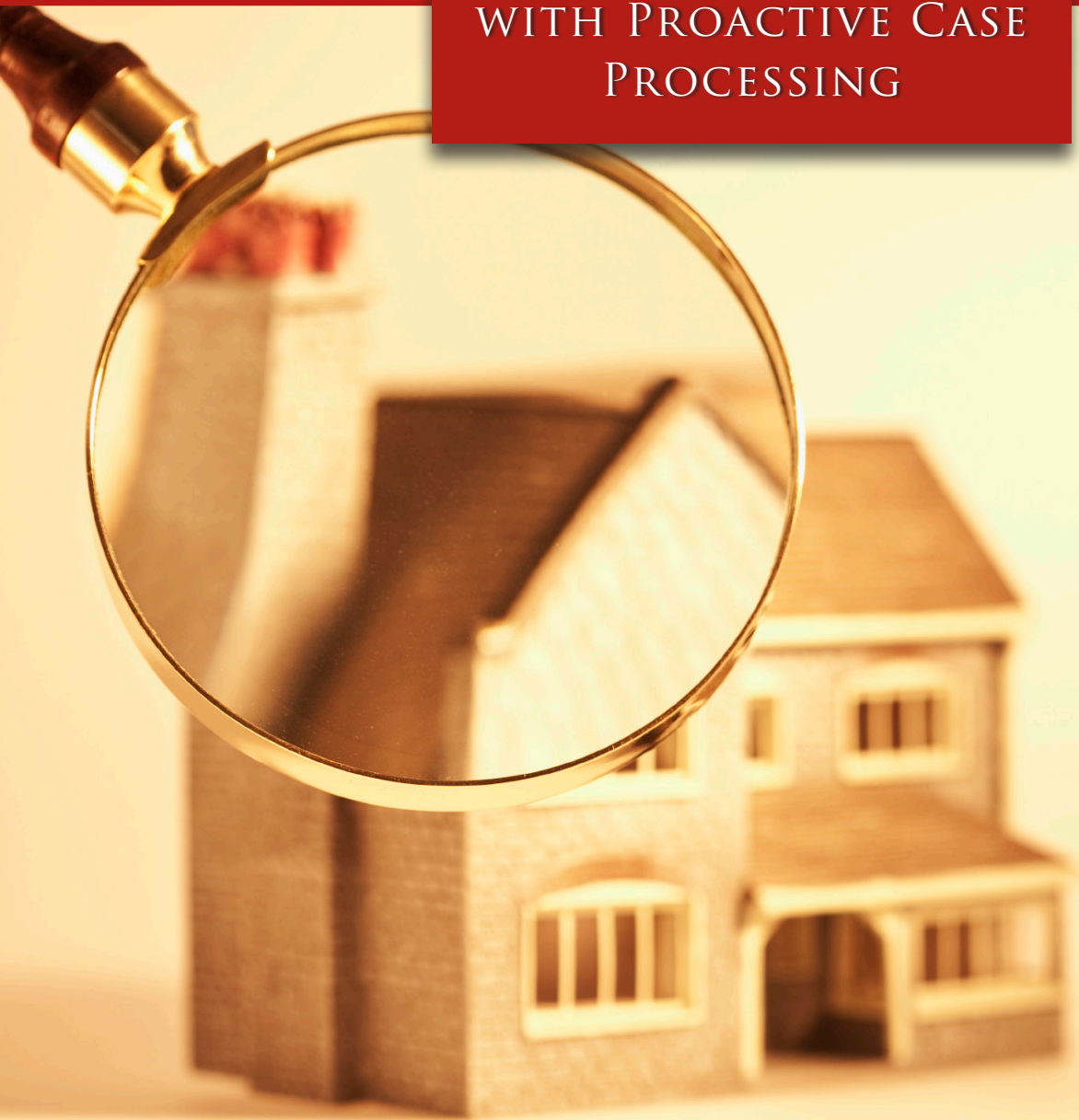


FAMILY LAW IN FOCUS:
A RETROSPECTIVE
STUDY OF COLORADO'S
EARLY EXPERIMENTS
WITH PROACTIVE CASE
PROCESSING



FAMILY LAW IN FOCUS: A RETROSPECTIVE STUDY OF COLORADO'S EARLY EXPERIMENTS WITH PROACTIVE CASE PROCESSING

JOHN M. GREACEN
Greacen Associates, LLC
IAALS Consultant

&

PAMELA A. GAGEL
IAALS Consultant

March 2013

For reprint permission, please contact IAALS.
Copyright © 2013 IAALS, the Institute for the Advancement of the American Legal System
All rights reserved.



INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



UNIVERSITY of
DENVER

IAALS – Institute for the Advancement of the American Legal System

John Moye Hall, 2060 South Gaylord Way, Denver, CO 80239

Phone: (303) 871-6600

Website: <http://iaals.du.edu>

IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to continuous improvement of the process and culture of the civil justice system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models and will to advance a more accessible, efficient and accountable civil justice system.

Rebecca Love Kourlis Executive Director

Melinda Taylor Director, *Honoring Families Initiative*



Honoring Families is an initiative of IAALS dedicated to advancing empirically informed models to ensure greater accessibility, efficiency, and fairness in divorce and child custody matters. Through comprehensive analysis of existing practices and the collaborative development of recommended models, *Honoring Families* empowers, encourages, and enables continuous improvement in practices and procedures for divorce and child custody matters.

ACKNOWLEDGEMENTS

We wish to thank the Colorado Office of the State Court Administrator for providing us with data reports for the purpose of this study, and for giving us the benefit of time and expertise in reviewing this study. We also wish to thank the Colorado Supreme Court for allowing that to occur.

We thank the IAALS employees who helped with the research design, the data entry, and the ultimate report, specifically and importantly: Corina Gerety, Research Manager, and Logan Cornett, Social Science Research Assistant.

We also thank Madelaine Czufin and Emmeline Taylor, who brought dedication and attention to detail to the data entry process.

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	BACKGROUND AND PURPOSES OF THE STUDY.....	3
III.	THE FEBRUARY 2001 INTERIM EVALUATION.....	4
IV.	STUDY DATA	6
	A. DESCRIPTION CASES.....	7
	B. TESTS OF STATISTICAL SIGNIFICANCE.....	8
	C. TIME OF DISPOSITION	8
	D. METHOD OF CASE DISPOSITION.....	10
V.	REPRESENTATION.....	15
	A. METHOD OF DISPOSITION.....	16
	B. TIME OF DISPOSITION	17
	C. EFFECT OF REPRESENTATION ON NUMBERS OF MOTIONS FILES AND NUMBERS OF COURT APPEARANCES	19
	D. NUMBER OF ATTORNEYS RETAINED BY THE PARTIES	20
VI.	PRETRIAL PROCESS.....	21
	A. STATUS OF CONFERENCES.....	21
	B. CONTESTED TEMPORARY ORDERS HEARINGS.....	23
	C. OTHER HEARINGS.....	24
	D. COURT APPEARANCES	24
	E. NOTICES TO SET.....	26
	F. SERVICE BY PUBLICATION.....	27
	G. CONTINUANCES AND EXTENSION OF TIME.....	27
	H. CASE PARTICIPANTS.....	27
	I. PRETRIAL MOTIONS.....	27
VII.	MOTIONS PRACTICE	28
VIII.	USE OF ALTERNATIVE DISPUTE RESOLUTION.....	30
IX.	POST-DECREE MOTIONS.....	30
	A. CHARACTERISTICS OF POST-DECREE MOTIONS.....	30
	B. SUBJECT MATTER OF THE MOTION	30
	C. FREQUENCY OF POST-DECREE MOTIONS.....	31
	D. EFFECT OF CHILDREN ON THE FREQUENCY OF POST-DECREE MOTIONS.....	32
	E. EFFECT OF PRE-DECREE REPRESENTATION STATUS ON THE FREQUENCY OF POST-DECREE MOTIONS.....	33
	F. EFFECT OF NUMBER OF ATTORNEYS RETAINED BY THE PARTIES PRE-DECREE ON NUMBER OF POST-DECREE MOTIONS.....	36

TABLE OF CONTENTS, CONTINUED

G. EFFECT OF COMPLEXITY OF THE PRE-DECREE PROCEEDINGS.....	37
H. SUMMARY OF FREQUENCY OF POST-DECREE INFORMATION	37
I. TIME OF DISPOSITION FOR POST-DECREE MOTIONS.....	38
J. PRESIDING OFFICERS IN POST-DECREE MOTIONS.....	39
K. FREQUENCY OF COURT HEARINGS IN POST-DECREE MOTIONS.....	39
L. REPRESENTATION IN POST-DECREE MOTIONS.....	39
M. USE OF ALTERNATIVE DISPUTE RESOLUTION IN POST-DECREE MOTIONS.....	40
 X. CONCLUSION	 41
 APPENDIX – DATA GATHERING AND DATABASE CODING PROTOCOL.....	 42

I. EXECUTIVE SUMMARY

This report presents the results from an analysis of data from five pilot programs instituted from 2000 to 2002 in four different Colorado courts implementing proactive case management in family law cases. The pilot programs were conducted with an experimental design in which control group cases, handled through the traditional family law process, were designated and tracked along with the pilot program cases. Sufficient time has now passed that the consequences of proactive case management can now be measured. All of the 1489 pilot and control group cases involved in the early 2000s experiment are now resolved and a subset of these cases have produced post-decree motions which we analyzed.

Why spend time and effort reviewing a ten-year old experiment in family case processing in Colorado? The answer lies in the uniqueness of the way in which these experiments were conducted—with pilot and control groups—and the importance of taking advantage of that experimental structure to glean as much learning as possible. At the time the State Court Administrator's Office (SCAO) issued its Interim Report in 2001, many of the study cases had not reached resolution. All of the pilot and control cases have now been decided—most of them have been decided for eight to ten years. The passage of that much time provides a further opportunity to study the post-decree process in the context of a pilot/control design.

Additionally, many of the case management techniques were ultimately incorporated into a new version of Colorado Rule of Civil Procedure 16.2, which is in effect today.

The five pilot programs were not identical. Some of the differences among them are described in this report. The purpose of the study was not to compare the programs against one other, but rather to compare proactive case management (in a number of different forms) against the traditional “laissez faire” approach to the handling of family law cases in vogue elsewhere in Colorado at the time.

IAALS, the Institute for the Advancement of the American Legal System, involved consultants and staff in collecting significant amounts of data from court electronic records for each of the pilot and control group cases, including data on post-decree motions filed over the past ten years.

The data show that proactive case management in family law cases provides substantial benefits for the litigants including:

- Faster resolution of their cases (by an average of more than two months per case);
- Court assistance (such as an initial status conference in which the parties had an opportunity to discuss the case with a court officer or a judicial ruling on one or more disputed issues) to more cases reaching an agreement between the parties; and
- Reduction in the number of cases dismissed by the court for failure of the filing party to take the steps needed to get the case resolved.

Faster resolution of the cases had the desired consequence that the parties would file and litigate fewer motions for temporary orders and other motions. On the other hand, the parties in the pilot cases had roughly twice the number of in person court appearances per case as parties in the control cases, despite the increased willingness of most of the pilot judges to conduct status conferences by telephone. The additional workload of the judge was lightened significantly, however, when s/he used the family court facilitator to preside over status conferences.

On the other hand, these five experiments provide no support for the hope that giving more attention to the cases during their initial adjudication phase would reduce the frequency of post-decree motions.

The completeness of the data on post-decree motions adds to our understanding of these cases. It shows that cases without children are less likely to have post-decree motions than cases with children. It provides no support for the idea that cases involving younger children are more likely to return to court because a parenting plan appropriate for an infant or preschooler needs to be modified. The data show that a large number of post-decree motions involve

issues associated with child support (sometimes combined with a custody issue). Cases with the highest level of attorney involvement are most likely to have the most post-decree motions. Cases in which the respondent does not participate are least likely to have such motions, followed by cases with two self-represented litigants. The data also show that cases that are the most heavily litigated during the pre-decree process are more likely to have continuing litigation after a decree is entered. Contempt motions have more hearings per case than any other type of post-decree proceeding.

For the study as a whole, alternative dispute resolution was used less often in the pre-decree process in the pilot cases than in the control cases. The use of alternative dispute resolution (ADR) pre-decree varied widely from program to program; the study-wide difference was attributable to the fact that it was used less frequently in pilot than control cases in Boulder County. The use of ADR in post-decree proceedings was very similar to its use in pre-decree proceedings—roughly one in five cases.

The data collected have provided a nuanced view of a variety of representation configurations—a dozen different combinations of self-representation, non-appearance, partial representation (when a person is represented for some part of the case), and full representation. The data confirm the finding of previous studies that family cases with self-represented litigants are resolved more quickly than those with lawyers. But it also shows that cases in which the petitioner is represented by counsel and the respondent does not participate in the case resolve even more quickly. Cases in which an attorney was present for part of the life of the case take longer to resolve than cases with attorneys on both sides for the duration of the case.

Cases in which the parties retain multiple attorneys during the pre-disposition process take longer to reach disposition than cases in which the parties stick with their original attorney. But these multiple attorney cases do not produce more post-decree motions. On the other hand, having more than one attorney post-decree is related to the filing of more post-decree motions per case.

Cases with attorneys have more written motions and more court appearances than cases in which one or more of the parties do not appear or represent themselves. The exception is cases in which a party is represented by an attorney for only part of the case; these cases have, on average, more motions filed and more court appearances than cases with attorneys on both sides of the case for the duration of the case. This study is not able to determine whether it is the presence of attorneys that make these cases more intensely litigated or whether the parties in more complex cases or in cases with a higher level of conflict between the parties are more likely to retain attorneys.

An unexpected finding from the study is that while self-represented litigants benefit from proactive case management in family cases, it is represented litigants who gain the most from the management. A higher percentage of represented litigants are able to reach a stipulated agreement after obtaining assistance from a judge, and they save more months of time in the case resolution process.

Another unexpected finding is that discovery motions constitute a very small portion of the motions filed in the family cases in this study. Discovery motions were filed in only 2% of the pilot cases and in 7% of the control cases.

Throughout the report, the data show that the processes for handling family cases differ from court to court and from judge to judge within the same court in Denver. The study did not focus on those differences nor attempt to find explanations for them. Nor did it attempt to take into account the different demographic characteristics of the four districts.

This report presents a great deal of empirical information about the processing of the pilot and control cases in Colorado. We hope that this information can serve as a baseline for courts in Colorado and provide informative information to other states as they strive to improve the experience of families trying to navigate our family court system.

II. BACKGROUND AND PURPOSES OF THE STUDY

From 1992 to 1999, at least five different study groups convened by Colorado Governors or Chief Justices reached the conclusion that the adversary process used in civil litigation is inappropriate and counterproductive for divorce cases, that Coloradans deserve a better, cheaper, and faster court process for these cases, and that these results can be attained by early, intensive, and ongoing court involvement—referred to as a “case processing” approach to resolving divorce and other family law matters.¹ A factor in these analyses was the growing number of domestic relation cases in Colorado that involved at least one party proceeding without legal representation.

A Domestic Relations Study Group was created during this time to explore alternatives to the traditional handling of domestic relations cases. The “Simplified Dissolution Project” was a result of that committee’s efforts, and the goals for the project were delineated by that committee. A simplified system should promote the value of initial status conferences and educate citizens on the domestic relations process.

In January and February 2000, three judges—Judge Phillips in Denver, Judge Post in Arapahoe County, and Judge Anderson in El Paso County—operating under authority of an order of the Colorado Supreme Court suspending Rules of Civil Procedure 16.2 and 26.2 for this purpose, began piloting a simplified dissolution process relying heavily on early judicial involvement in all such cases. Judge Anderson’s program in El Paso County was called “Divorce with Dignity” and was based on a program found to be effective in Hennepin County, Minnesota. It gave the judge the role of settlement officer as well as manager of the case. In the other two pilot projects, the judges served only as active managers of—not alternative dispute resolution officers for—their pilot cases.

Later that year, two additional judges in Denver—Judges McGahey and Rappaport—also implemented a new procedure, using the “active case manager” model. In May of 2002, Judge Montgomery in Boulder County also implemented the simplified active case manager model.

In February 2001, the Colorado State Court Administrator’s Office prepared an Interim Report on the Simplified Dissolution Pilot Project, concluding that all of the programs were showing at least initially favorable results. All of the pilot programs had made use of newly created staff positions (now called “family court facilitators”) to assist the judges, lawyers, and self-represented parties in implementing the new process.

In July 2001, pursuant to a legislative appropriation specifically for this purpose, the judicial branch began deploying family court facilitators to all judicial districts, with each getting at least a half-time position. The largest judicial districts received full-time positions dedicated to domestic relations cases. The smaller districts received half-time positions which had to serve multiple counties and sometimes split their duties among juvenile delinquency, juvenile dependency and neglect, and domestic relations processes.²

On the recommendation of its Domestic Relations Study Group, the Colorado Supreme Court, in December 2001, authorized all judicial districts to implement the new procedure by adopting local rules or standard case management orders, provided they allowed parties to “opt out” of the simplified procedure.

Over the next three years, the Domestic Relations Study Group gathered and assessed information on the programs in the various counties, including surveys of judges and lawyers conducted by the Family Law Section of the Colorado Bar Association.

The Colorado Supreme Court established the Standing Committee on Family Issues in October 2002. From November 2002 through November 2004, a subcommittee of the Standing Committee drafted, vetted, and refined a new Rule 16.2 that would replace the existing Civil Procedure Rules 16.2 and 26.2 for all domestic relations cases in

¹ Pamela A. Gagel, Institute for the Advancement of the American Legal System, Changing Cultures, Changing Rules: A Colorado Case Study (2007) (unpublished manuscript) (on file with author).

² We note that Denver also had a designated “pro se case manager” (who has held that position from before the creation of the simplified dissolution project to the present) who has had a positive impact on education and assistance for self-represented litigants.

the state. The Colorado Supreme Court, with two dissenting votes, adopted the proposed new rule 16.2 to take effect January 1, 2005.

From this summary, it is apparent that “simplified dissolution” projects were implemented under three different Supreme Court rule structures and approaches:

- The four Denver and Arapahoe County pilot projects operating under a case-management model;
- The El Paso County pilot project operating under a Divorce with Dignity model; and
- The processes implemented in the various districts from January 2002 through December 2004, which were uniform in allowing any party to “opt out” but were otherwise quite different from district to district.

This study analyzes data for five programs falling within the three categories above—programs initiated between 2000 and 2002, well before the major modification of Rule 16.2 in 2005. The programs were structured with pilot and control groups, except for Judge Montgomery’s cases in Boulder County. For that program, we have retroactively created a control group of cases handled during the same time frame by Judge Montgomery’s judicial colleagues who were not following her case management approach.

Thus, the purpose of this retrospective review is to gain basic knowledge about the effectiveness of Colorado’s early family law case management efforts in:

- Reducing time from filing to disposition;
- Increasing the proportion of cases resolved by agreement among the parties;
- Reducing the number of post-decree motions filed;
- Reducing the number of contested temporary orders hearings (the hope was that temporary orders issues could be raised at status conferences and resolved with the consent of both parties); and
- Reducing the number of motions filed (the standard case management order used in the pilot projects required prior court approval for the filing of motions with the expectation that matters would be raised during the course of status conferences).

We also assess the impact of proactive case management on the number of court appearances both in person and by telephone.

Finally, we analyze the full data set to learn more about:

- The impact of different types of representation of the parties—different combinations of self-represented, partially represented, and fully represented parties; and
- What factors appear to increase the likelihood that post-decree motions will be filed in a family law case.

III. THE FEBRUARY 2001 INTERIM EVALUATION

The five pilot programs conducted in 2000 were structured with pilot and control groups of cases, as follows:

- Judge Phillips in Denver—not a regularly sitting domestic relations judge—was randomly assigned 200 incoming domestic relations cases for his pilot project. The same number of cases was randomly assigned to a control group of sitting domestic relations judges.
- The same process was used to assign 52 pilot cases to Judge Post in Arapahoe County, with the same number of cases handled in the traditional fashion by sitting domestic relations judges assigned to the control group for that county.

- In El Paso County, 450³ cases were assigned randomly to Judge Anderson's Divorce with Dignity program and the same number of cases handled by the other sitting domestic relations judges according to the traditional approach was assigned to a control group.
- Judge McGahey heard 109 cases assigned to Courtroom 21 in Denver County in August 2000 as pilot cases; 109 cases also heard by Judge McGahey in June and July of 2000 were randomly selected as the control group for his pilot program.
- Judge Rappaport heard 330 pilot cases in Courtroom 5 during the summer of 2000. No control group was created for these cases, but the researchers preparing the interim evaluation stated that a suitable sample of cases could be drawn to serve as a control group for her pilot effort.

Persons involved in implementing the pilot and control group design attest that the random assignment process was implemented with integrity. Cases were assigned to the pilot and control groups at the time of filing and the assignments were, in fact, random.

The interim evaluation contained data for the pilot and control group cases that had reached disposition by the time the data were analyzed. This meant that some of the pilot and control group cases were not included in the analysis.

The interim report showed the method of disposition and time to disposition for the pilot and control groups. The method of disposition differed for the two groups:

Method of Disposition for Pilot and Control Group Cases
February 2001 Interim Evaluation

Method of Disposition	Pilot Cases	Control Cases
Contested hearing	0%	2%
Stipulated agreement	34%	17%
Non-appearance affidavit after status conference	25%	2%
Non-appearance affidavit without a status conference	23%	54%
Dismissal - other	7%	2%
Reconciled	5%	5%
Only one party appeared - default	5%	16%
Partial stipulation	1%	2%

The interim evaluation found evidence of pilot program success in the doubling of stipulated agreements and the complete absence of contested hearings in the pilot cases. However, the total percentage of cases decided by the parties rather than by the court was very similar overall in the two groups. Counting defaults and dismissals, 94% of the pilot cases were resolved consensually compared with 91% in the control group.

The evaluation concluded that because the process was explained to the parties at the initial status conference in all of the pilot programs, "it is believed that parties who have met with the judge will have made more informed and appropriate decisions."

While the researchers did not report the data on time to disposition, they reported that "cases in the pilot group are generally resolved more quickly than those in the control group." That finding was explained by reference to the identification of cases not needing court attention and assuring that they did not become "lost," and quick and non-adversarial resolution of cases not requiring court oversight and assistance.

³ This study only reviewed a random subset of 200 pilot and 200 control group cases from Judge Anderson's program.

The researchers expressed the hope that “future study” of the program would analyze this workload data as well as data regarding “financial costs to parties, quantifiable data regarding party satisfaction, and quality of resolution as indicated by volume and type of post-decree activity.” No follow-up study has been performed prior to this effort.

It is not possible to assess litigants’ satisfaction many years after their court experience. After a review of court files, we concluded that it would not be feasible to assess the impact of the experimental programs on costs to the litigants. The only possible source of cost data would be motions for payment of attorney’s fees by the other spouse. Such motions are relatively infrequent, are not representative of all family law cases, and would require review of paper case files which have been archived.

IV. STUDY DATA

Pamela Gagel, serving as a consultant to IAALS, gathered data from the electronic court records on 1489 cases—747 pilot cases and 742 control cases. The data collection protocol she followed is attached as an appendix.

We excluded Judge Rappaport’s cases in Denver on the grounds that having two Denver examples—Judges Phillips and McGahey—was sufficient. We included cases from Judge Montgomery’s domestic relations docket in Boulder to increase the diversity of courts studied.

County	Judge	Pilot Cases	Control Group Cases	Total Cases
Denver	Phillips	189	181	370
Denver	McGahey	108	109	217
Arapahoe	Post	52	51	103
El Paso	Anderson	198	201	399
Boulder	Montgomery	200	200	400
Totals		747	742	1489

We excluded three types of cases from our analysis—IV-D child support petitions brought by the child support enforcement department, registration of foreign decrees, and cases that were transferred from another court. These cases were excluded from the pilot and control cases. However, in tracking post-decree motions we did include IVD motions to modify child support and motions to change venue. The difference in the treatment of IV-D child support cases in the pre- and post-decree analyses arises from our desire to limit the pre-decree cases to traditional divorce cases while including in the post-decree analysis all post-decree activity for those same cases.

The processes followed in the four courts differed in some respects.

Key to all of the pilot programs was early court intervention in all family cases through the use of an initial status conference (ISC). For pilot cases the ISC was to be held within 30 days.

For control cases, the timing of a review of cases in which there had been no activity for possible setting of a status conference differed widely from court to court, based on the policies in place in each court:

- Denver: 3 months after filing
- Arapahoe: 4 months after filing
- El Paso: 12 months after filing
- Boulder: 30 days after filing

By the time Boulder implemented its program in 2002, the court had a family court facilitator (FCF). The FCF was actively involved in case management of the control group cases sending letters and calling parties in the shortened time period to remind them of missing documents or the need for action in the case. The FCF was less involved in

the pilot cases because these same notifications took place during the initial status conference and subsequent status conferences. The FCF did meet with self-represented parties in both pilot and control cases in circumstances where they sought assistance prior to filing or when judicial officers referred these parties back to the FCF for additional assistance and information. These meetings and conversations with the FCF were not recorded as status conferences in the Boulder court registry.

The use of court-ordered mediation differed among the programs.

- Denver: not included in standard case management order and rarely ordered;
- Arapahoe: required before any contested hearing;
- El Paso: included in the standard case management order and required in every case; and
- Boulder: ordered in appropriate cases, as determined by the judicial officer.

The data gathering process itself produced an important observation: courts tend to interpret voluntary dismissal of a divorce petition by the filing party as a sign that the parties have reconciled. Pamela Gagel conducted a name search on a large number of cases with voluntary dismissals and found that new divorce petitions were filed within a year or two of the dismissal in the majority of instances. The voluntary dismissal merely postponed the divorce.

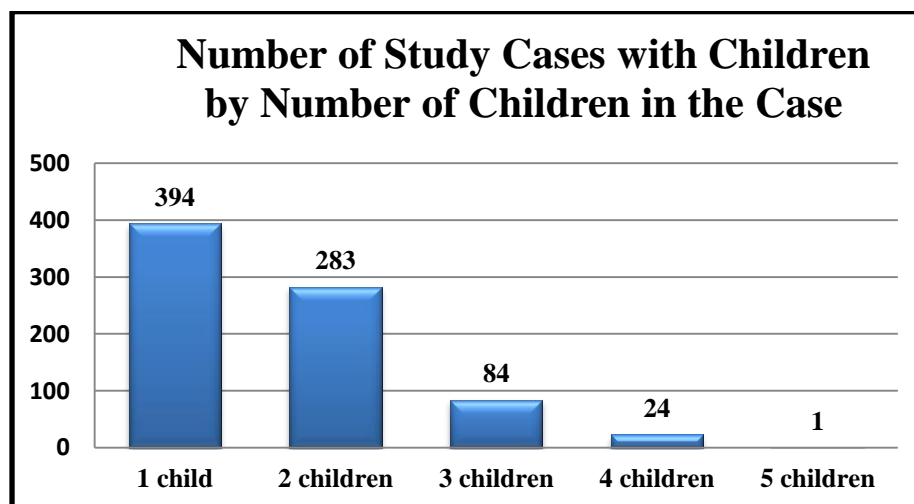
A. DESCRIPTION CASES

There were four different types of cases in the study: dissolution of marriage, legal separation, allocation of parental responsibility (used in Colorado for custody determinations when the parents are not married), and marriage invalidity. The table below shows that 89% of the cases were dissolution.

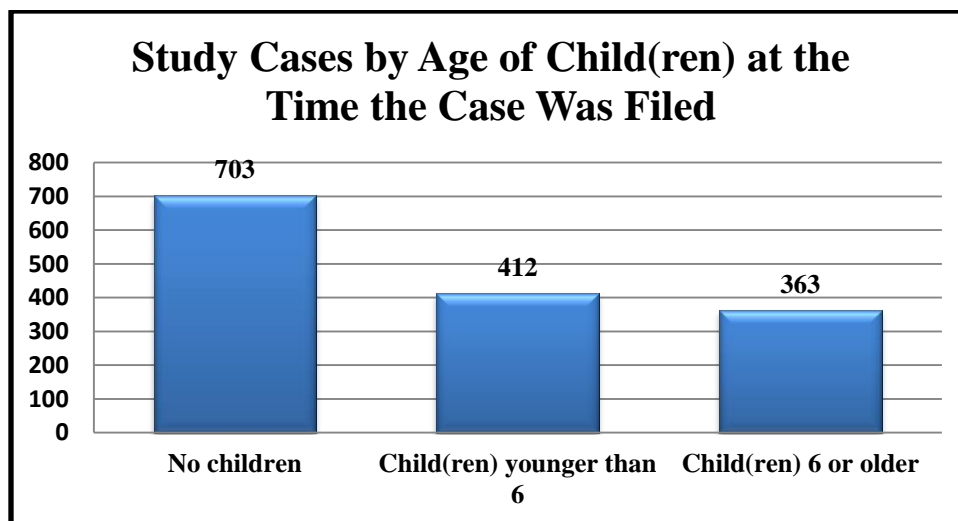
	Pilot Cases		Control Cases		Total Cases	
	Number	Percentage	Number	Percentage	Number	Percentage
Dissolution	680	91%	651	88%	1331	89%
Legal Separation	22	3%	33	4%	55	4%
APR	42	6%	53	7%	95	6%
Invalidity	2	0%	5	1%	7	1%

Most of the analyses in this report include all of the cases, without differentiating among the four case types.

We gathered information on the number and ages of children involved in the study cases. Children were involved in 53% of the cases.



Of the cases with children, more than half of them involved children younger than six on the date the petition was filed. We chose this categorization to identify cases with children who were not yet of school age at the time the petition was filed. These are the cases in which it is virtually certain that adjustments to parenting time arrangements will be appropriate as the children mature. Cases categorized as having a child or children younger than six could also have had additional children aged six and older. Cases categorized as having a child six or older could not have also had children younger than the age of six.



B. TESTS OF STATISTICAL SIGNIFICANCE

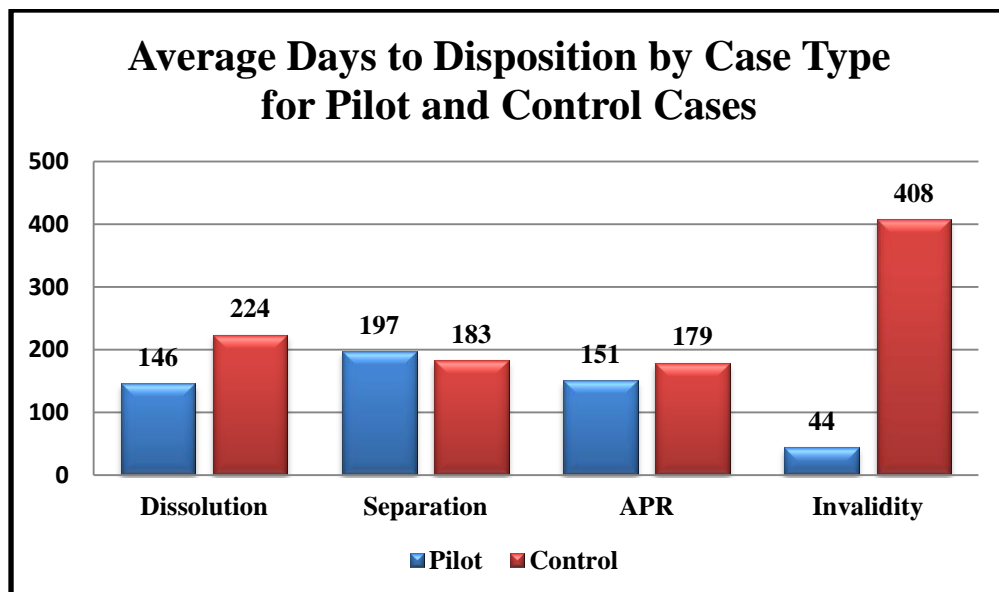
Throughout this report, we note whether reported differences in observed empirical measures are “statistically significant.” This is a standard research practice to report the likelihood that an observed difference is a true difference in the population and not the result of random chance based on the sample of cases from which the data were drawn (i.e., a statistical aberration). Tests of statistical significance take into account such factors as the size of the difference observed, the number of cases on which it is based, and the extent of variation within the data. The standard convention is to give credence to observed differences and report them as statistically significant only if there is less than a 5% likelihood that the difference is the result of a statistical aberration (expressed as a *p* value which will be considered statistically significant when less than .05). That is the standard we use throughout the report. We used chi-square analysis for categorical variables, one way ANOVA analyses for variables for which means could be computed, and Tukey post hoc multiple comparisons when the dependent variable had more than two values. We have not listed the *p* values for each analysis, but they are available from the authors upon request.

C. TIME OF DISPOSITION

The average times to disposition for the four case types are shown below for both the pilot and control cases. As noted above, 89% of the cases are dissolution cases. In particular, while the average time to disposition for pilot and control invalidity cases showed a large difference, the data are for so few cases (only 2 pilot and 5 control group cases) that the difference should be disregarded.

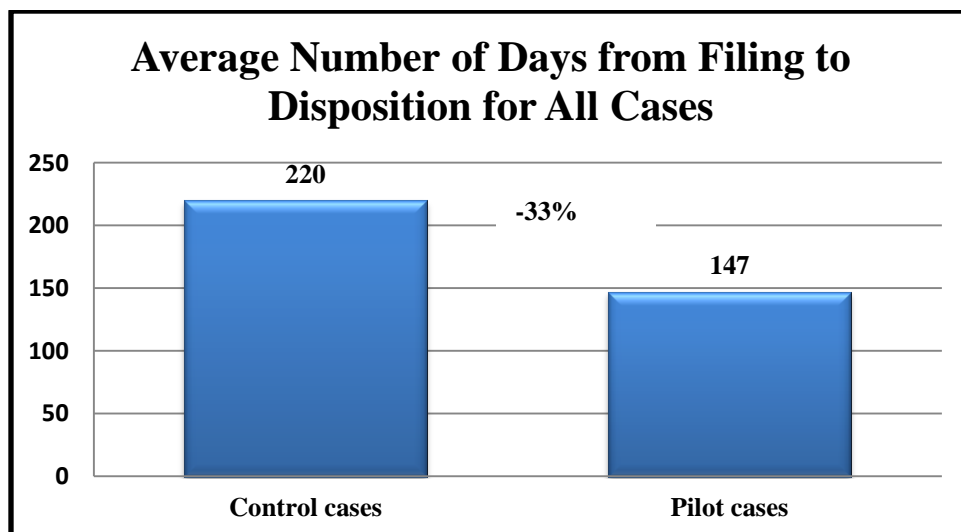
It is interesting that while the average time to disposition was significantly shorter for the pilot cases when all of the case types are included in the analysis, pilot case average time to disposition for legal separation cases is longer than for the control group legal separation cases. Possible explanations for the difference is that at the time of an initial status conference the party or parties in separation cases would learn the legal distinction between legal separation and dissolution proceedings and either decide to convert the case to a dissolution or request a further status

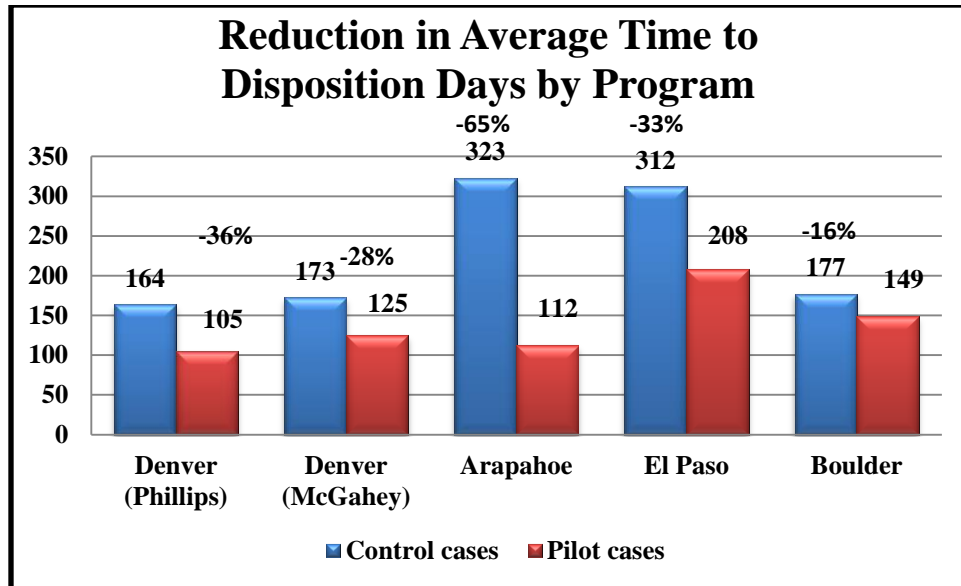
conference to give them time to decide whether and how they wished to proceed. The difference is small and is not statistically significant.



Average time to disposition for all cases types grouped together was 33% lower in the five pilot programs compared to the control groups. The difference between the time to disposition for the pilot and control groups overall is statistically significant.

Average disposition times were lower for each of the pilot programs compared to its own control group. But the percentage reduction varied dramatically from program to program—from 16% to 65%. The pilot/control group differences are statistically significant for the two Denver programs, Arapahoe County and El Paso County. The differences computed for those programs varied from 23% to 65%. The pilot/control group difference in Boulder County is not statistically significant.





The program with the highest control group disposition time showed the greatest improvement. But the second highest improvement was in the program with the lowest control group disposition time. That the Boulder court showed no statistically significant difference between pilot and control cases may be explained by the involvement of the family court facilitator in active management of the control group cases in that court, bringing down the average time to disposition for the control group.

The pilot program disposition times for the first three programs in the graph above clustered relatively close together—between three and a half and four months. The other two programs did not achieve such dramatic results—averaging five and seven months to get cases resolved.

When the dismissed cases (both voluntary dismissals and dismissals for failure to prosecute) are excluded from the analysis, the average time to disposition for all other cases goes down by two days for the pilot cases (from 149 to 147 days on average) and goes up by three days (from 217 to 220 days on average) for the control cases.

D. METHOD OF CASE DISPOSITION

We recorded case disposition in eight categories:

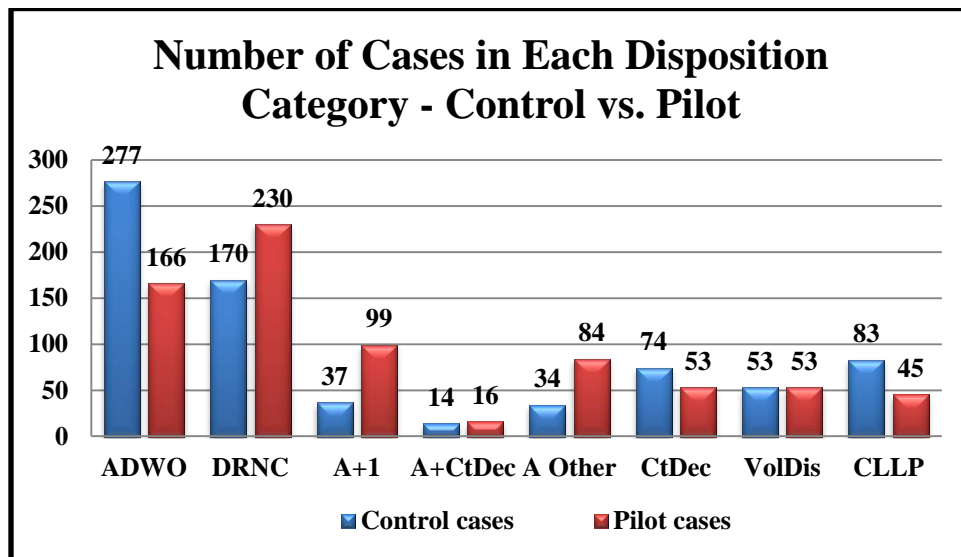
- ADWO – affidavit of divorce without appearance – the case was resolved by agreement of the parties and there were no court appearances;
- DRNC – case was resolved by agreement of the parties (e.g., by stipulation) and there was a “DRNC” (domestic relations non-contested hearing) because the case involved a child(ren) and one or both of the parties were not represented⁴;
- A+1 – case was resolved by agreement of the parties (e.g., by stipulation) and there was one court appearance (e.g., an initial status conference) other than a DRNC;
- A+CtDec – case was resolved by agreement of the parties (e.g., by stipulation) after there was one court decision of a contested matter before the parties reached agreement;
- AOther – case was resolved by agreement of the parties (e.g., by stipulation) after there was more than one court appearance or court decision;
- CtDec – case was resolved by court decision;
- VolDis – petitioner dismissed the case; and

⁴ Colorado Revised Statutes 2012 Section 14-10-120.3(1)(a) allows the court to enter a decree of divorce upon the filing of an affidavit of the parties showing their agreement to all terms of the decree provided the parties have no children or both parties are represented by counsel.

- CLLP – case was closed by the court for failure to prosecute.

There are differences between the disposition methods for the 742 control cases and 747 pilot cases. The next two tables compare dispositions for the control and pilot cases for each disposition category and for disposition categories combined into five types: cases resolved by agreement of the parties without any court involvement, cases resolved by the parties after one or more court hearings or court decisions on contested matters, cases resolved by the court (fully contested), cases dismissed by the petitioner, and cases dismissed by the court. The differences are statistically significant for both forms of analysis.

For cases resolved solely by agreement of the parties, the first chart shows considerable variation; that variation is reduced in the second chart. The number of cases resolved without any court involvement was 11% lower in the pilot program (396 cases) compared to the control group cases (447 cases).



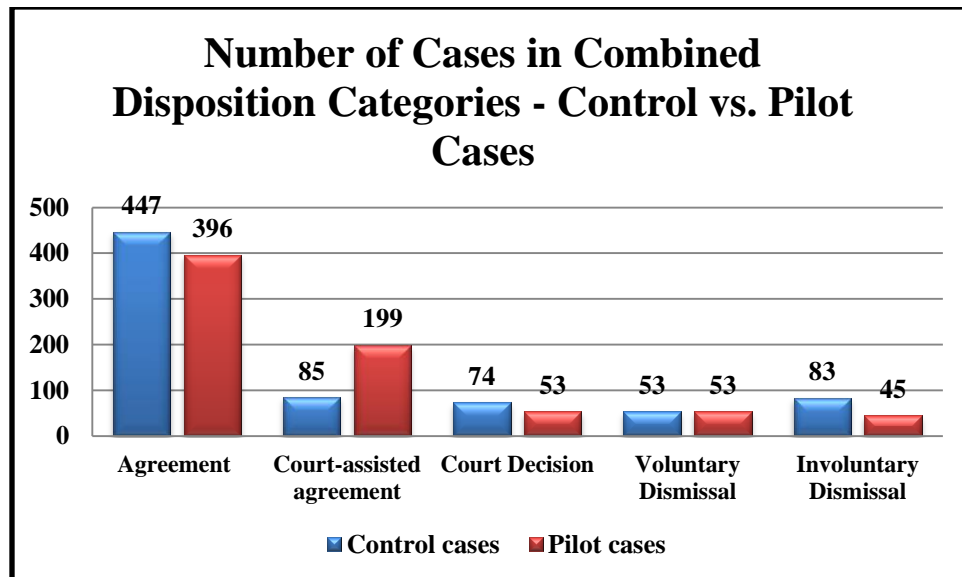
Proactive case processing (requiring an initial status conference setting or the filing of the non-appearance affidavit documents within 30 days) resulted in fewer of the cases in which the parties reached agreement completely on their own falling into the “agreement of divorce without appearance” category, and more falling into the “domestic relations non-contested hearing” category or the A+1 category. In many cases, the A+1 category involved the parties coming to an initial status conference and filing an ADWO after clarification of forms and other issues during the initial status conference.

The reason for the large drop in ADWO cases is explained by the data—proactive case management required the parties to come to court early in the case. Some of the control cases that reached agreement without a court hearing had an initial status conference or court hearing in the pilot process. There were 111 fewer ADWO dispositions among the pilot cases; there were 114 more A+1, A+CtDec, and AOther dispositions among the pilot cases.

The increase in DRNC dispositions for the pilot cases is also understandable. These hearings, as noted above, are cases in which the parties reach full agreement concerning the issues but a hearing is required because the case involves a child or children and one or more of the parties is not represented; Colorado law requires a court hearing before the decree can be entered in these cases. There are 60 more DRNC dispositions in the pilot cases than in the control cases. Two thirds of that number (38 cases) are likely to be cases that were dismissed for failure to prosecute among the control cases. The remainder is explained by a small difference (19 cases) in the number of pilot and control cases involving children in which both sides were not represented (171 among the pilot cases compared to 152 among the control cases).

The proactive case management process provided more opportunity for the litigants to obtain court assistance in reaching an agreement concerning their divorce or allocation of parental responsibility. The assistance came in the court’s holding an initial status conference in which a judicial officer or family court facilitator had an opportunity

to discuss outstanding issues in the case, or the court's holding more than one hearing in the case, or the court's issuing one or more rulings on contested matters within the case. The parties were then able to negotiate an agreement within the context of the court's more active involvement or partial resolution of the case. There were significantly more pilot than control cases that fell within this combined category (85 control cases and 199 pilot cases—an increase of 134%).



The Court Decision category represents the cases resolved in the full adversarial manner—where the case was decided by the court. In the control group, 74 cases were resolved by the court; in the pilot program, 53 (28% fewer) were resolved in that manner.

Voluntary dismissals were the same percentage (7%) of pilot and control cases. As noted earlier, we observed that voluntary dismissals often signaled only temporary reconciliation of the parties.

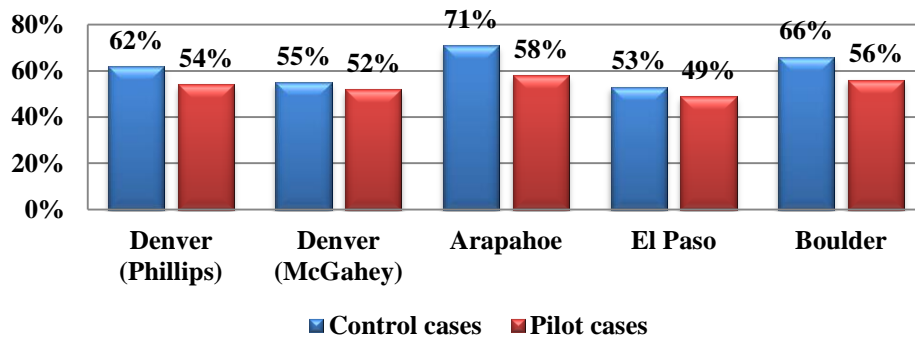
Courts dismiss family law cases if the parties fail to take the steps required to move them towards resolution. Although there can be many reasons why parties or attorneys do not pursue their divorce cases to a decree, studies have shown that a principal cause is the inability of self-represented litigants to be able to navigate the court process. This study supports that conclusion. One would expect that proactive case management would reduce the percentage of cases closed by the court for the petitioner's failure to move the case to resolution. That, in fact, happened with the pilot programs. In the control group, 83 cases were dismissed involuntarily, compared to 45 in the pilot program a decrease of 46%. Ninety percent of the control cases and 80% of the pilot cases dismissed for failure to prosecute involved self-represented litigants.

These findings can be summarized in this way: pilot cases handled with proactive case management had more than double the number and percentage of cases in which the parties reached agreement following some sort of court involvement. The number of cases resolved by the parties without any court assistance fell slightly, because they were brought into the court early in the process. The numbers of cases resolved through the full adversary process and dismissed for failure of the parties to navigate the system were both lower for the pilot cases than for the control cases.

The conclusions for the data as a whole apply—with some exceptions—to each of the five pilot programs individually. For all of the following analyses, the differences between pilot and control cases within each court are statistically significant but the differences between courts are not.

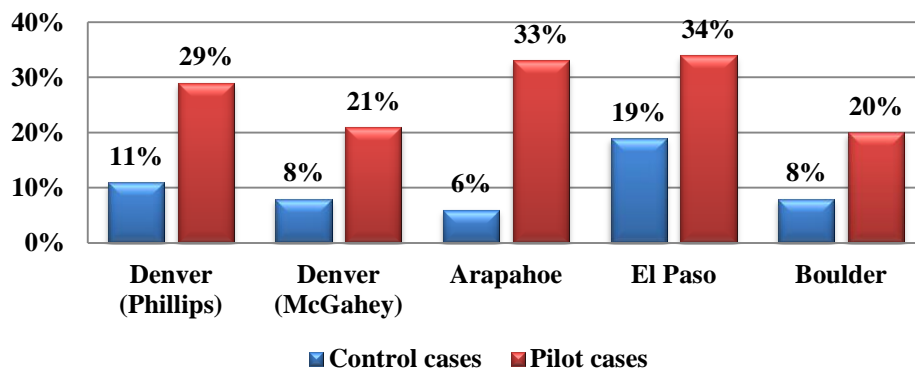
The percentage of cases resolved by agreement of the parties, with no court assistance, was lower in all five of the pilot programs than in their respective control groups.

Percentages of Control and Pilot Cases Resolved Solely by Agreement of the Parties

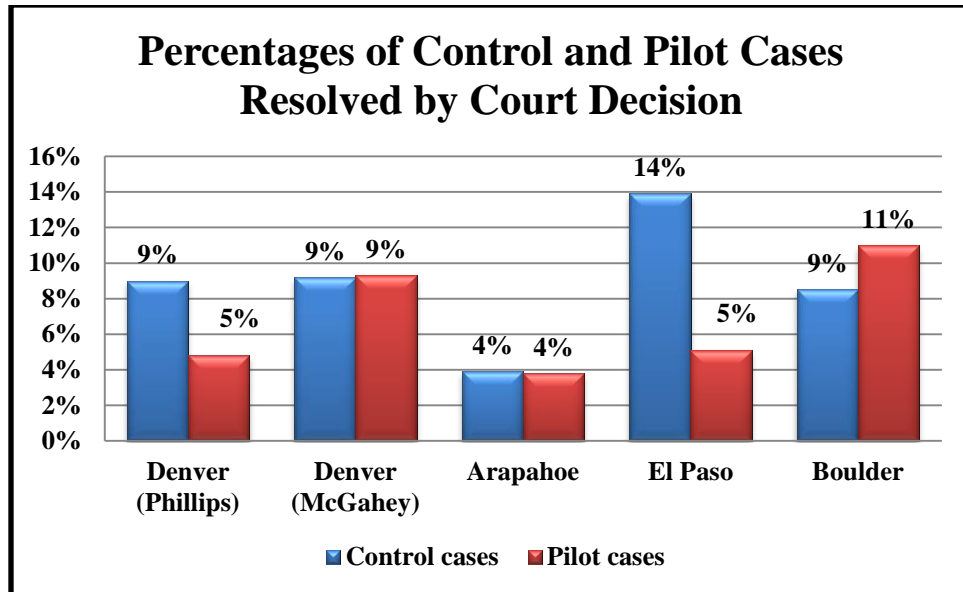


The percentage of cases resolved by agreement of the parties following some form of court assistance was higher in every court for the pilot cases—more than doubling in every court except El Paso County. Judge Anderson’s pilot percentage was the highest, consistent with his extensive involvement with all cases in the “Divorce with Dignity” model. It is interesting that the control cases in El Paso County also contained the highest percentage of court-assisted stipulated agreements.

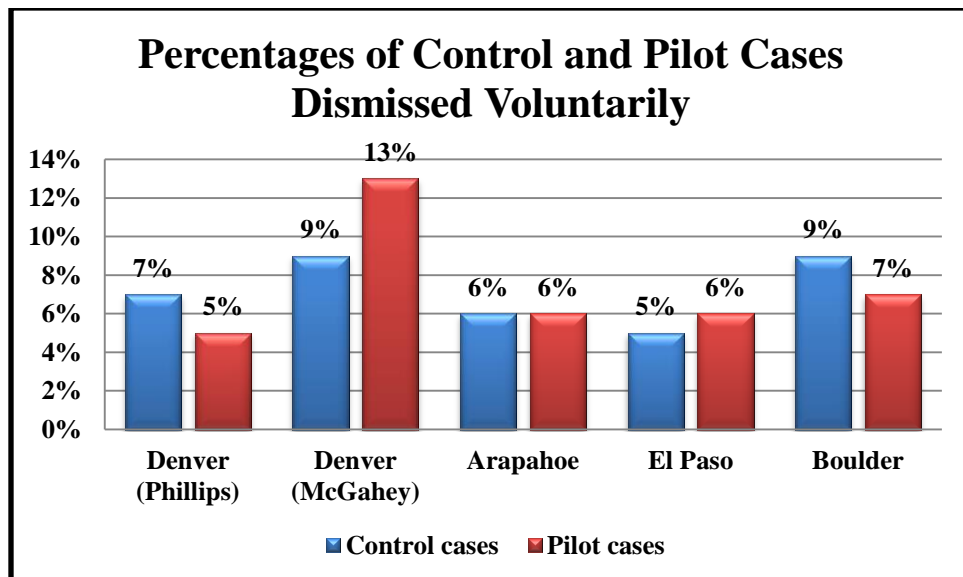
Percentages of Control and Pilot Cases Resolved by Agreement of the Parties Following Court Assistance



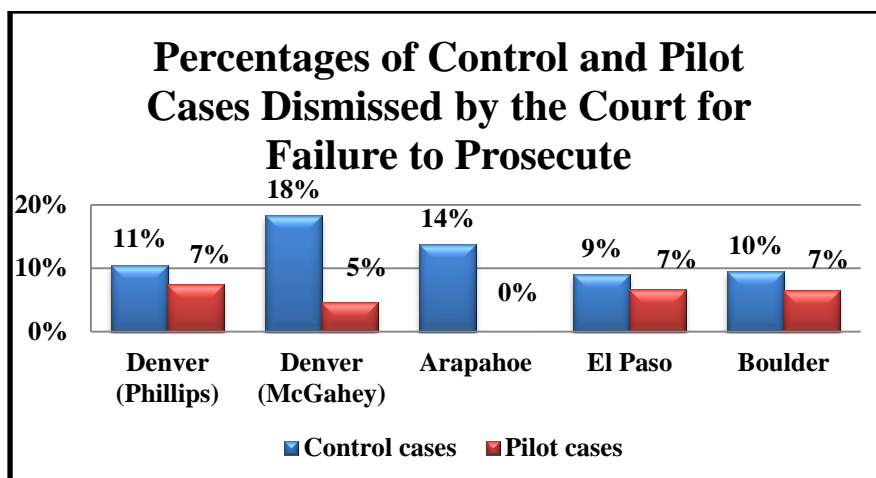
The percentage of adversarial resolutions was lower for two of the pilot programs: Judge Phillip’s program in Denver and Judge Anderson’s program in El Paso County. It stayed virtually the same in two others, and actually increased in Boulder County.



Although there was no overall difference in the number of control and pilot cases resolved by voluntary dismissal, there were minor differences in the percentages within some of the courts.



All five pilot programs showed fewer court dismissals for failure to prosecute than their respective control cases. Court dismissals disappeared altogether for the pilot cases in Arapahoe County and were dramatically lower than for the control cases in Judge McGahey's program in Denver.



V. REPRESENTATION

This study collected detailed information on legal representation for both parties in both in the pre- and post-disposition processes. The data consisted of representation status and the number of different attorneys retained. Representation status was recorded in four forms:

- SRL – the party represented him or herself during the full process;
- Full – the party was represented by an attorney during the full process;
- Partial – the party was represented by an attorney during part of the process but also represented him or herself during part of the process (there was no prevailing or consistent pattern in attorney entrances into and exits from the cases); and
- No appearance (abbreviated “no app” in the tables below) – the respondent did not make an appearance, represented or unrepresented.

The four different representation statuses produce twelve different representation configurations for the cases in the study. There is virtually no difference in representation between the pilot and control group cases. In both groups, 50% of the cases involved two persons without legal representation. In the control cases in which the petitioner was unrepresented, the respondent was more likely not to appear (10% of the cases) compared to the pilot cases (6%).

Representation Configuration for Pilot and Control Group Cases
(P = Petitioner, R = Respondent)

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Number of pilot cases	331	48	5	10	6	12	8	10	27	118	17	154
Percentage of pilot cases	44%	6%	1%	1%	1%	2%	1%	1%	4%	16%	2%	21%
Number of control cases	296	72	4	10	0	14	12	9	28	122	13	161
Percentage of control cases	40%	10%	1%	1%	0%	2%	2%	1%	4%	16%	2%	22%

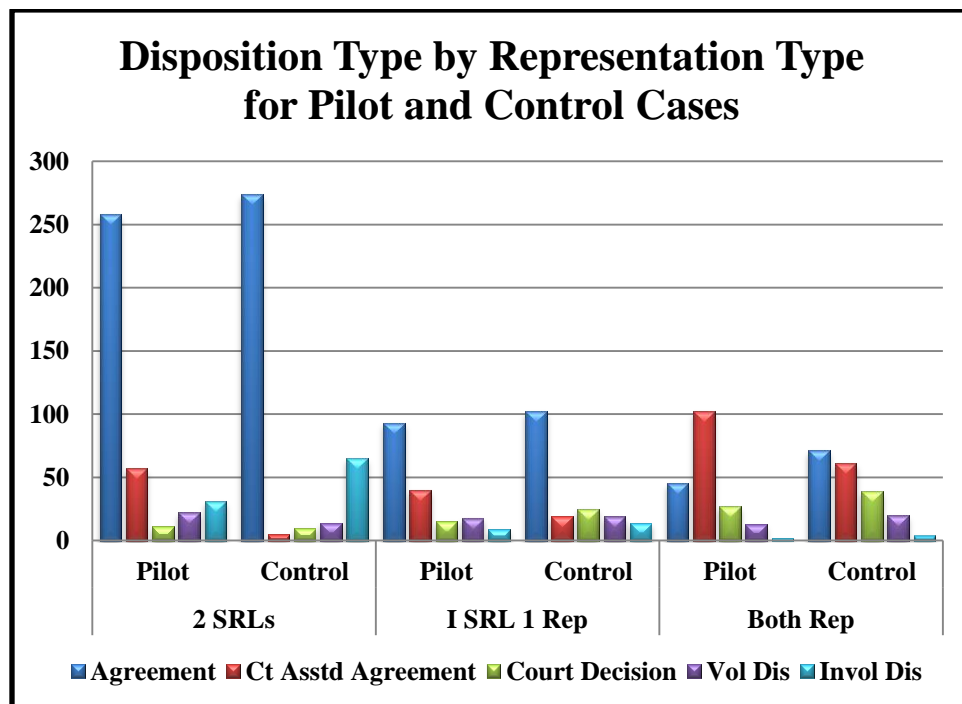
The data can be summarized in this fashion:

- 50% of the cases involved no attorneys;
- 21% to 22% of the cases had attorneys on both sides for the duration of the case;
- 20% of the cases had an attorney for the petitioner for the duration of the case with no attorney for the respondent;
- 1% of the cases had an attorney for the respondent for the duration of the case with no attorney for the petitioner;
- 3% of the cases had an attorney on one side of the case for the duration of the case and an attorney on the other side for part of the case; in this instance, it was twice as likely that the petitioner had full-time representation;
- 3% to 4% of the cases had an attorney on one side of the case for part of the case; and
- 1% to 2% of the cases had attorneys on both sides of the case for part of the case.

In 43% of the pilot cases and 44% of control group cases, the court could always rely on the presence of an attorney for the petitioner to move the case forward. The opposite was true for the remaining 56% to 57% of the cases, although in 2% of the cases the court could rely on the presence of a full-time attorney representing the respondent.

A. METHOD OF DISPOSITION

Type of representation is associated with method of disposition. The relationship is statistically significant for the four representation groups with the largest number of cases—both self-represented, both fully represented, petitioner fully represented and respondent self-represented, and petitioner self-represented and respondent failing to appear. The chart below shows the data for all the cases—pilot and control—grouped into three representation categories and five disposition categories. The representation categories are: both self-represented, one represented (fully or partially) and the other unrepresented, and both represented (fully or partially). The disposition categories are the combined categories used previously: cases in which agreement is reached without court assistance, agreement is reached with court agreement, a decision is made by the court, the case is dismissed voluntarily, and the case is dismissed involuntarily.



The data in the chart above is also shown in the table below in a different form—the percentage of all cases within each category disposed in each of the five ways. Cases with two self-represented litigants are resolved in the pilot cases 83% of the time (75% of the time in the control cases) by agreement of the parties. In the pilot cases, agreement was assisted by the court 15% of the time. In cases with one attorney and one self-represented party, they are resolved by agreement of the parties 76% of the time for pilot cases and 68% of the time for control cases, with the court facilitating agreement 23% of the time for pilot cases and 11% of the time for control cases. The pattern is not that different for cases in which both sides are represented. The cases are resolved by agreement of the parties 78% of the time in pilot cases and 67% of the time in the control cases. The difference is the extent of court assistance required for the parties to reach agreement. Court assistance was provided in over half of the pilot cases and in almost a third of the control cases.

Resolution by court decision is very rare for cases involving two self-represented litigants (3% for both pilot and control cases) but three to four times more likely for cases in which one side is represented (9% for pilot cases and 14% for control cases). And cases with lawyers on both sides are 50% more likely to be litigated than those with only one lawyer—for both pilot and control cases.

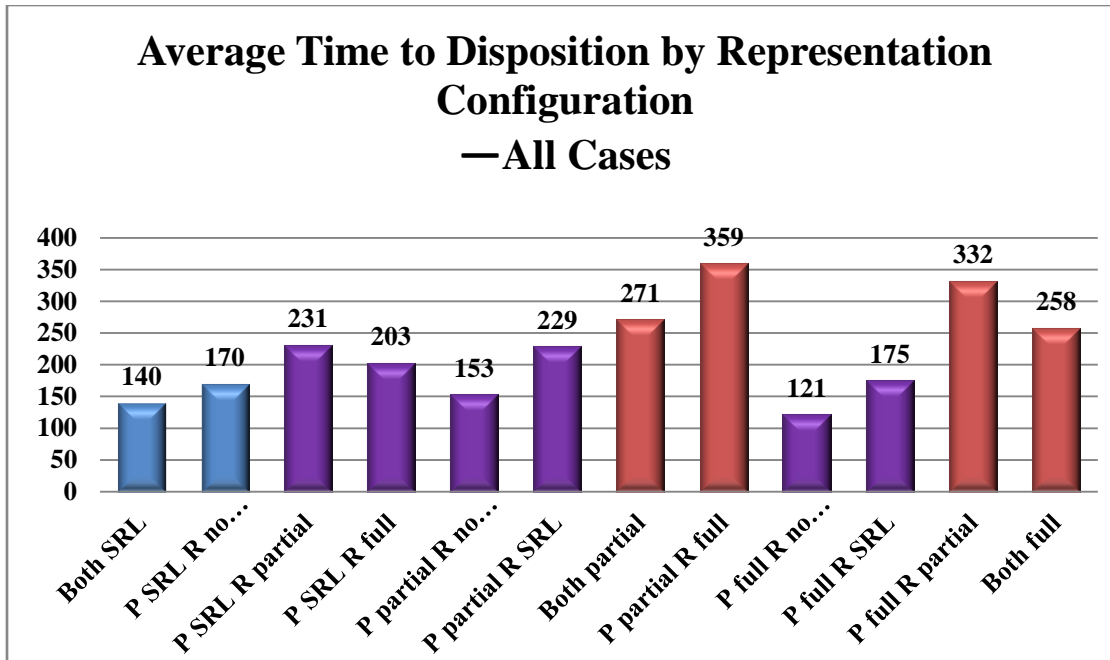
Voluntary dismissal is least common with two self-represented parties. Involuntary dismissal is most common in the two-self-represented-litigant control cases.

As we will see with the time to disposition analyses as well, the cases that most benefit from court assistance in reaching agreement are the cases with two attorneys. While self-represented litigants clearly benefit both in terms of increased likelihood of agreement (from 75% to 83% from control to pilot) and from a decreased likelihood of involuntary dismissals (pilot cases down to 8% compared to 18% for the control cases), the clients in two-attorney cases benefit from court assistance in reaching agreement in over 50% of the cases (up from 31% for the control cases).

	2 SRLs		1 SRL 1 Rep		Both Rep	
	Pilot	Control	Pilot	Control	Pilot	Control
Agreement	68%	74%	53%	57%	24%	36%
Ct Assisted Agreement	15%	1%	23%	11%	54%	31%
Court Decision	3%	3%	9%	14%	14%	20%
Voluntary Dismissal	6%	4%	10%	11%	7%	10%
Involuntary Dismissal	8%	18%	5%	8%	1%	2%

B. TIME OF DISPOSITION

The time to disposition varies significantly depending on the attorney configuration. The chart below shows the time to disposition data for all of the cases in the study—both pilot and control. The red bars represent the average time to disposition for cases involving two attorneys—either for part of the case or for the duration of the case; the blue bars represent the average time to disposition for cases involving no attorneys; the purple bars represent the average time to disposition for cases involving an attorney on one side. This study’s finding is consistent with that of every other study to date—that cases with self-represented litigants resolve more quickly than those with two attorneys. This study provides some additional, useful detail: cases with one attorney fall in between, with the exception of cases in which the other side makes no appearance, where the petitioner’s having an attorney results in the fastest disposition time. It also shows that cases in which an attorney represents one side during only part of the case while the other side is represented for the duration of the case are considerably slower than those with two attorneys who serve for the case’s duration.



When the data is divided for pilot and control group cases, the overall results do not change. We have used the same color-coding for the chart below. The last line of the chart shows that proactive case management speeded all cases except for the situation in which a self-represented petitioner dealt with a respondent who was represented for only part of the case. This difference is not statistically significant because of the small number of cases in this category. Interestingly, the cases with two attorneys had a larger proportional reduction in time to disposition than the cases with two self-represented litigants or the cases with only one attorney. Although self-represented litigants clearly benefit from proactive case management in family cases, it is represented litigants who obtain the greatest advantage in terms of speedier case disposition.

Time to Disposition by Representation Configuration
Pilot and Control Group Cases Compared

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Pilot	119	124	244	173	153	152	215	253	114	141	176	208
Control	163	201	214	233	0	295	308	477	127	207	537	306
Percentage Time Reduction for Pilot Cases	27%	38%	-14%	26%	-	48%	30%	47%	10%	32%	67%	32%

Displaying the data by district and pilot and control group cases merely shows that the effects of proactive case management varied among the five pilot districts. Because of the way in which we conducted this analysis, we were not able to compute statistical significance for the differences in the next chart. Because of the small number of cases in each cell, we doubt that any of them are statistically significant. As noted earlier, there was no statistically significant difference for time to disposition between the pilot and control groups in Boulder County.

**Time to Disposition by Representation Configuration
Pilot and Control Groups Compared for Each Pilot District**

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Denver (Phillips)												
Pilot	96	116	0	129	91	116	106	148	110	89	80	128
Control	145	147	266	0	0	256	211	0	143	151	273	236
% change	34%	21%	-	-	-	55%	50%	-	23%	41%	71%	46%
Denver (McGahey)												
Pilot	102	127	227	95	124	131	128	167	164	111	121	185
Control	136	199	174	105	0	469	312	0	134	159	276	231
% change	25%	36%	-30%	10%	-	72%	59%	-	- 22%	30%	56%	20%
Arapahoe												
Pilot	98	146	0	0	0	0	224	0	0	114	0	124
Control	234	216	0	0	0	0	0	622	86	316	0	513
% change	58%	32%	-	-	-	-	-	-	-	64%	-	76%
El Paso												
Pilot	160	165	167	251	252	191	282	810	173	188	170	301
Control	223	381	0	351	0	426	386	476	163	249	674	369
% change	28%	57%	-	28%	-	55%	27%	-70%	-6%	24%	75%	18%
Boulder												
Pilot	113	117	300	147	73	161	208	235	80	162	256	198
Control	134	164	244	162	0	151	283	406	101	180	381	241
% change	16%	29%	-23%	9%	-	-7%	27%	42%	21%	10%	33%	18%

C. EFFECT OF REPRESENTATION ON NUMBERS OF MOTIONS FILES AND NUMBERS OF COURT APPEARANCES

The nature of representation in a case has an impact on the average numbers of motions filed in a case, for both the pilot and control cases. With two exceptions, the average number of motions filed in cases in which the respondent does not appear or one or both parties are self-represented are below one motion per case. The highest average number of motions per case are in cases in which one or both parties are represented for only part of the case. The numbers of motions filed in each representation category is consistently higher for control than for pilot cases. The numbers of cases in each representation category are small and therefore the differences shown are not statistically significant.

Average Number of Motions Filed by Representation Status

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Total cases	0.37	0.53	1.78	1.25	0.83	1.62	3.15	2.11	0.64	0.66	3.87	1.98
Pilot cases	0.37	0.50	1.40	0.90	0.83	1.33	2.25	1.10	0.56	0.45	1.71	1.36
Control cases	0.38	0.54	2.25	1.60	No cases	1.86	3.75	3.22	0.71	0.87	6.69	2.57

The same pattern appears for average number of appearances per case. The lowest average number of appearances per case are in cases in which the respondent does not appear, followed by cases with one or more self-represented parties, followed by cases with full representation, followed by cases in which one or more of the parties are represented for part of the case. In all but one representation category, the average number of appearances is higher for the pilot cases than for the control cases.

Average Number of Court Appearances by Representation Status

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Total cases	1.73	1.49	3.00	2.27	2.00	2.37	3.07	3.31	1.43	1.75	2.72	2.25
Pilot cases	1.85	1.68	4.00	2.78	2.00	2.89	4.00	3.50	1.64	1.96	2.50	2.34
Control cases	1.51	1.19	2.00	1.50	No cases	1.90	2.44	3.13	1.11	1.48	3.11	2.10

It is clear from both of these analyses that cases with more attorneys entail more work for the court. Our study is not able to determine whether this is the result of the behavior of the attorneys or the result of systematic differences in the cases in which the parties retain attorneys. For instance, it is highly likely that cases involving more assets are more likely to have attorneys than those with fewer assets, simply because parties with less means are less able to afford representation. It might also be true that parties retain attorneys when their cases are more complex in other ways or when there is a higher level of conflict between the parties. Those issues cannot be addressed with the data gathered for this study.

D. NUMBER OF ATTORNEYS RETAINED BY THE PARTIES

For cases in which a party is represented, 6% of petitioners have two different attorneys and 1% have three different attorneys. For respondents, 7% have two different attorneys and 1% have three. Control group cases are somewhat more likely to have multiple attorneys for both petitioners (8% with two and 1% with three compared to 4% with two and .2% with three) and respondents (7% with two and 1% with three compared to 6% with two and none with three). This would be consistent with the cases taking more time to reach disposition.

The time to disposition increases when either party has multiple attorneys. We did not calculate whether these differences are statistically significant; all of the average disposition times for multiple attorney cases differ widely from the average time for the two attorney case, but there are very few cases in most of the multiple attorney configurations.

Time to Disposition by Number of Attorneys Retained Predisposition

P = number of attorneys for petitioner R = number of attorneys for respondent

	P=1 R=1	P=1, R=2	P=2, R=0	P=2, R=1	P=2, R=3	P=3, R=1	P=3, R=2	P=3, R=3
Number of cases	322	17	4	28	2	3	1	1
Average days from filing to disposition	240	497	386	359	343	580	315	1509

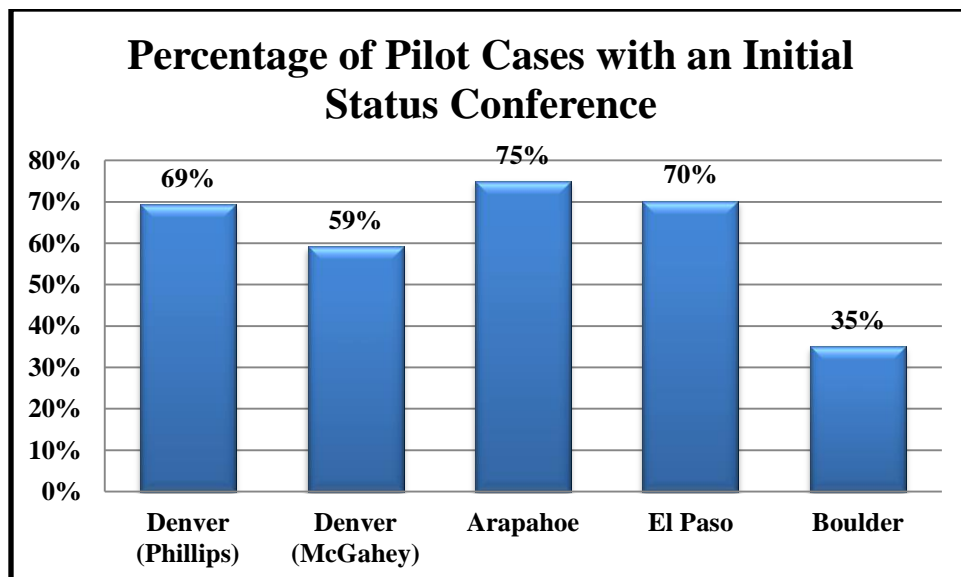
VI. PRETRIAL PROCESS

This section of the report summarizes the data we collected on the events that take place in pilot and control cases between the time of filing and disposition.

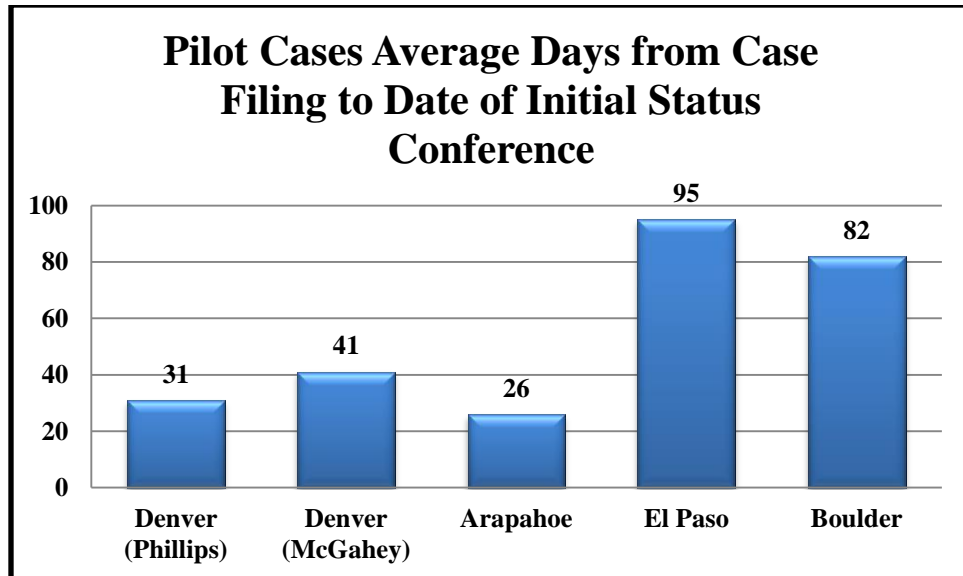
A. STATUS OF CONFERENCES

We coded status conferences according to the usage of the courts. In other words, we counted a status conference as an “initial status conference” only if it was specifically designated as such in the record. Initial status conferences were almost exclusively a creature of the pilot cases. There were 445 initial status conferences in the pilot cases and only 3 in the control cases.

Most of the pilot courts held initial status conferences in a high percentage of cases. The exception was Boulder, which held them in only 35% of the pilot cases. In Boulder, cases in which neither party appeared were not recorded as an initial status conference.



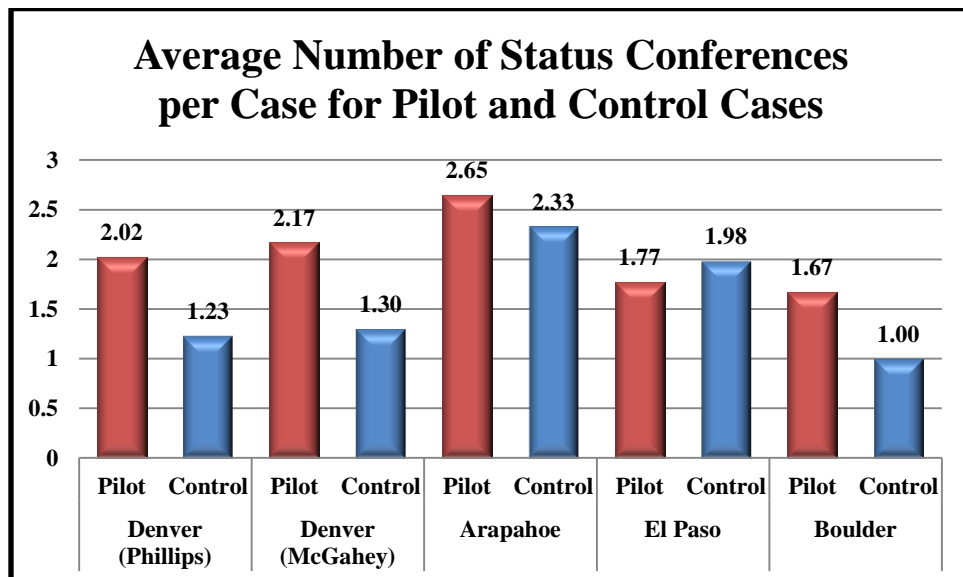
The average time from filing of the case to the initial status conference averages slightly over 60 days for all 445 pilot case initial status conferences. The times differ for the five courts; there was no consensus concerning the “right” period of time to elapse between initial case filing and the initial status conference. The average times for the five courts are shown below.



Who presided at the initial status conference also varies among the courts. Overall, judges presided in 307 of them, magistrates in 7, family court facilitators in 88, and both the judge and the family court facilitator in 44. The family court facilitator played a significant role in this process, except in Boulder, where a judge or magistrate presided over all the initial status conferences.

The total number of status conferences (both “initial” or first and subsequent) per case varied from none to eleven in the pilot cases and from none to seven in the control cases. They were held in 60% of the pilot cases and 14% of the control cases. The study-wide average was just under two status conferences per pilot case (1.96) and just over one and a half (1.55) status conferences per control case, if the cases had status conferences.

Four of the five courts had a higher average number of status conferences per case for the pilot cases than for the control cases. Only in El Paso County were there more status conferences in the control cases. This given Judge Anderson’s Divorce with Dignity pilot program that emphasized continuing judicial contact with the cases. Only the differences in the two Denver courts are statistically significant.



We recorded the date of the first status conference not labeled by the court as an “initial” status conference. In every court, there is a huge difference between the average date for the pilot and control cases. The difference is statistically significant in every court except Boulder.

**Average Elapsed Days from Filing of Case to Date of First Status Conference
(excluding Initial Status Conferences)**

	Denver (Phillips)		Denver (McGahey)		Arapahoe		El Paso		Boulder	
	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control
Average days from filing to date of first SC	61	127	58	107	59	525	142	258	110	207

In most of the courts, the family court facilitator handled most of the work associated with holding the status conferences in the pilot cases. We were able to record who presided in over 99% of the status conferences.⁵ In Judge Phillips’ court, the FCF handled 102 of 133 status conferences in pilot cases; in the control cases, all 46 status conferences were held by a judge. In Judge McGahey’s court, the FCF handled 57 of 76 status conferences in pilot cases; in the control cases, all 30 status conferences were conducted by a judge. In Judge Post’s court, the FCF presided over 56 of 66 status conferences; in the control cases, a judge presided over all 7 status conferences. El Paso and Boulder Counties were the exceptions. In Judge Anderson’s court, a judge or magistrate handled 96 of 108 status conferences in pilot cases, and 73 of 75 status conferences in the control cases. In Judge Montgomery’s court, the judge or magistrate handled all 40 pilot case status conferences and the two status conferences in control cases for which we have data.

In sum, in most of the pilot courts, the workload associated with the additional appearances occasioned by holding regular status conferences in the pilot cases was picked up by the FCF, not by a judge or magistrate.

B. CONTESTED TEMPORARY ORDERS HEARINGS

Reducing the number of motions for temporary orders was a goal of the pilot programs. The hope was that holding regular status conferences and moving the cases to a quick resolution would reduce the need for contested temporary orders; those matters could either be resolved by a temporary solution to which the parties could agree or a fact finding hearing could be held to establish interim orders.

For the study as a whole, the number of contested temporary orders hearings was much lower for the pilot cases (26) than for the control cases (102). The difference is statistically significant for the overall study, but not for the individual courts. The number of such hearings, and the average number of hearings per case, is shown in the table below for each court.

⁵ We lack information on the presiding officer for 4 of 448 initial status conferences and for 3 of 539 other status conferences.

Number of Contested Temporary Orders Hearings and Average Number of Hearings per Case

	Denver (Phillips)		Denver (McGahey)		Arapahoe		El Paso		Boulder	
	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control
Number of contested temporary orders hearings	1	9	1	6	0	9	10	47	26	31
Average number of CTO hearings per case	0.01	0.05	0.01	0.06		0.18	0.05	0.23	0.13	0.16

All contested temporary orders hearings had a judge or magistrate as presiding officer, with a judge handling most of them in Denver, a magistrate in Arapahoe and El Paso Counties, and a judge and magistrate sharing the duty equally in Boulder County.

C. OTHER HEARINGS

We recorded the number of hearings that did not fall into the category of status conference or contested temporary orders hearing. They could vary from a hearing on a discovery motion to a hearing on custody, division of marital property, and award of spousal support. For the study as a whole, there was very little difference in the number of such hearings for the pilot (372) and control cases (360). The data for the individual courts are also quite consistent.

Number of Other Hearings and Average Number of Hearings per Case

	Denver (Phillips)		Denver (McGahey)		Arapahoe		El Paso		Boulder	
	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control
Number of other hearings	85	93	56	51	34	29	108	102	89	85
Average number of other hearings per case	0.45	0.51	0.52	0.47	0.65	0.57	0.55	0.51	0.45	0.43

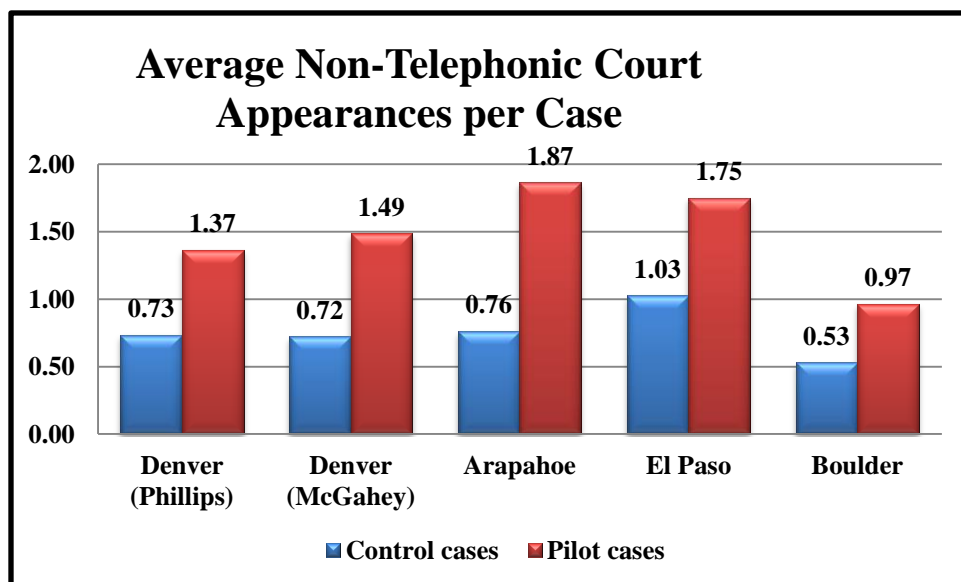
The other hearings were heard primarily by a judge in the pilot cases, with the exception of Boulder County, where the duties were shared by a judge and a magistrate. Sharing the duties of presiding between judge and magistrate is more prevalent in the control cases.

D. COURT APPEARANCES

Proactive case management entails bringing the parties or their lawyers into court—in person or by telephone—to ensure that they are moving their cases to resolution. There has been much speculation whether this process results in more court appearances or merely moves earlier in time appearances that would have taken place during the full course of the case. The data from these five pilot programs suggest that the former is the case. It appears that the number of non-telephonic court appearances per pilot program case is more than double the number in the control

group cases. The control group cases averaged .76 court appearances per case (564 appearances in the course of 742 cases). The pilot program cases averaged 1.41 appearances per case (1056 appearances in 747 cases).

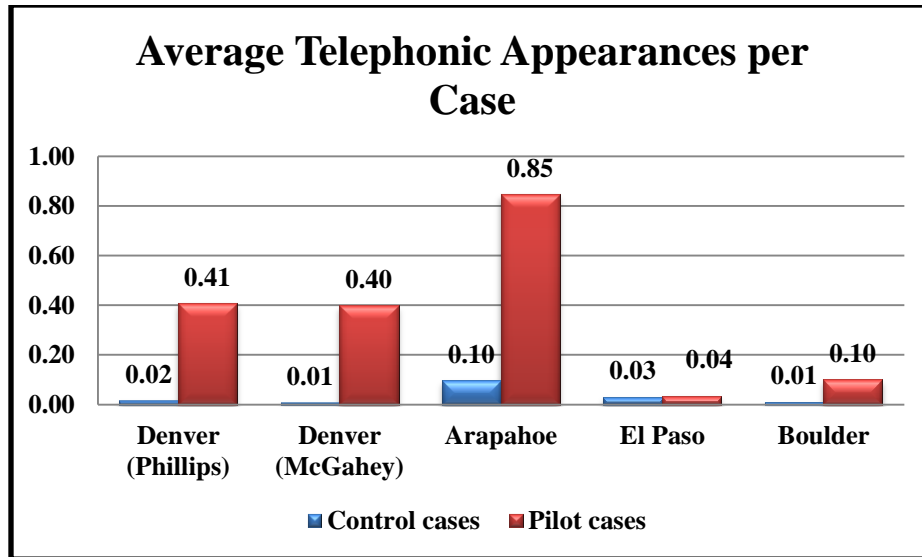
The data for the individual programs show very similar expanded use of court appearances compared to their control group cases. The differences are statistically significant at the study-wide level and at the individual court levels for Judge McGahey in Denver and for Boulder County.



However, the data for the initial and other status conferences show that family court facilitators presided at 317 of those conferences. Consequently, the judges and magistrates were required to handle only 739 of the appearances in the pilot cases, reducing their workload to .99 appearances per case.

The data for telephonic appearances show an even more dramatic change, which is explained by the increased willingness of judges to handle status conferences by telephone, as compared to hearings on motions or other matters where testimony might be elicited or the judge might want to hear argument from the lawyers in a face-to-face setting. The data show that telephonic hearings were rare in traditional family case processing in Colorado ten to twelve years ago when these cases were heard.

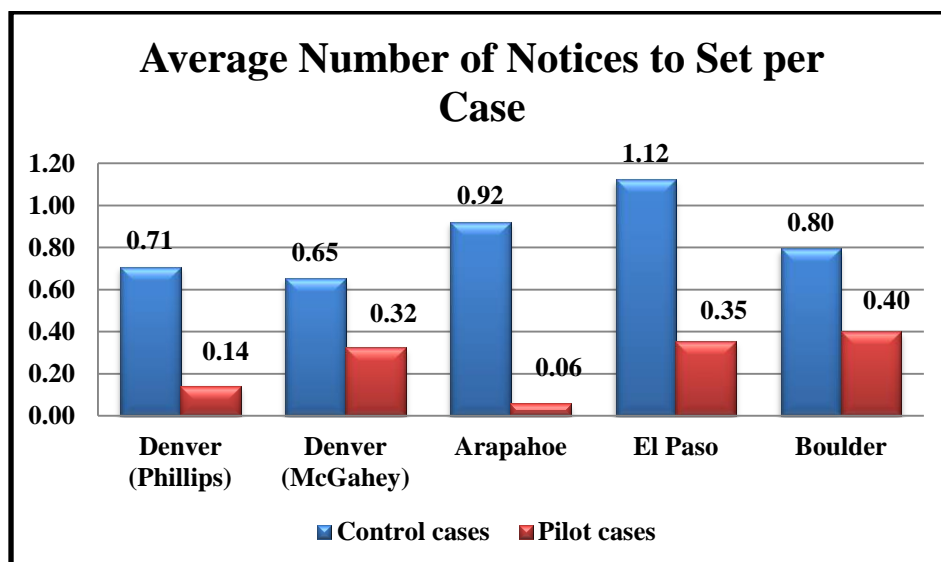
There were only 17 telephonic appearances in the 742 control group cases (.02 per case). There were 191 such hearings in the 747 pilot program cases (.26 per case). The chart for the individual pilot programs shows that, with the exception of El Paso County, the advent of proactive case management also ushered in the significant use of telephonic appearances. The differences in numbers of telephonic appearances between the pilot and control group cases are statistically significant at the study level, but because of the small number of cases they are not statistically significant for any of the individual courts.



E. NOTICES TO SET

One of the selling points for case management to the court clerks was the reduction in the need for them to spend hours on the telephone scheduling events pursuant to Notices to Set. When the parties issue the original notice of the initial status conference and subsequent events are scheduled in open court at the end of the appearance, no such notices are required. The data show that court clerks did realize a significant workload reduction associated with Notices to Set. In the control group cases, there were 631 such Notices (.85 per case); in the pilot cases, only 215 Notices to Set were filed (.29 per case), and many of these were Notices to Set filed routinely pursuant to traditional practice and before attorneys understood the new procedures of the pilots.

The differences for the study as a whole, as well as for El Paso and Boulder Counties, are statistically significant. The extent of the change could well have been greater than shown in the data since attorneys in the early pilot cases appeared to follow their previous practice of routinely filing a Notice to Set a hearing on temporary orders with their divorce petitions; there was no follow up on that setting request because an initial status conference would be set instead.



F. SERVICE BY PUBLICATION

Service by publication was less likely to be used in the pilot cases (44 times) compared to the control cases (63 times). The difference is statistically significant. This fact further illuminates the value of the case management process. When the petitioner appeared for an initial status conference, s/he would learn more about service of process and be more able to complete it without resorting to the expensive and time consuming publication process.

G. CONTINUANCES AND EXTENSION OF TIME

We recorded the number of times courts granted continuances and extensions of time. Continuances postpone the date of a court appearance; extensions of time provide a party more time to prepare a document for filing or to complete discovery.

In the pilot cases, 182 continuances were granted compared to 103 in the control cases. The difference is not statistically significant.

Cases were continued at the court's own instance 10 times in the pilot cases and 17 times in the control cases. This difference is not statistically significant.

Motions for extension of time were granted once in the pilot cases and once in the control cases.

H. CASE PARTICIPANTS

We noted in the introduction that we excluded IV-D child support cases from this study. Child support enforcement officers appeared in 4 of the pilot cases and in 11 of the control cases. While these cases were not initiated by the child support enforcement department, they implicated IV D child support issues or the custodial parent had sought the assistance of the department in collecting child support. The difference is not statistically significant.

A special advocate or child and family investigator was involved in 39 of the pilot cases and in the same number of control cases – slightly more than 5% of the cases.

A child's legal representative was appointed by the court in 1 pilot case and 4 control cases. The difference is not statistically significant.

I. PRETRIAL MOTIONS

Motions to proceed *in forma pauperis* (without paying required filing fees) were filed 77 times in the pilot cases and 87 times in the control cases. The difference is not statistically significant. Such motions were filed in 11% of the cases.

Motions for temporary restraining orders or temporary orders of protection were filed in 45 pilot cases and 30 control cases. The difference is not statistically significant. These motions were filed in 5% of the cases.

Motions for permanent restraining orders or orders of protection were filed in 6 pilot cases and 10 control cases. Because of the small numbers, the difference is not statistically significant.

There was a hope that motions for emergency relief would be less frequent in the pilot cases because the parties and their attorneys would have regular status conferences during which they could raise matters that would otherwise be presented to the court in an emergency motion. That proved to be the case, but the difference is not statistically significant. There were 46 emergency motions in the control cases compared to 14 in the pilot cases.

The same was true for discovery motions. There were 15 discovery motions in the pilot cases and 49 in the control cases. The difference is not statistically significant. However, it is of interest that discovery disputes are relatively rare events in family cases. They occurred in 2% of the pilot cases and 7% of the control cases.

Motions for extension of time were filed 3 times in the pilot cases and 19 times in the control cases (and, as noted above, granted only once in each category of case). The difference is not statistically significant.

The difference in the number of motions for continuance is statistically significant. There were 26 such motions in the pilot cases and 68 in the control cases. The case management process was successful in reducing the number of written motions for continuances. They were requested orally at the time of a status conference. As noted previously, more continuances were granted in the pilot than in the control cases (182 in pilot cases and 103 in control cases).

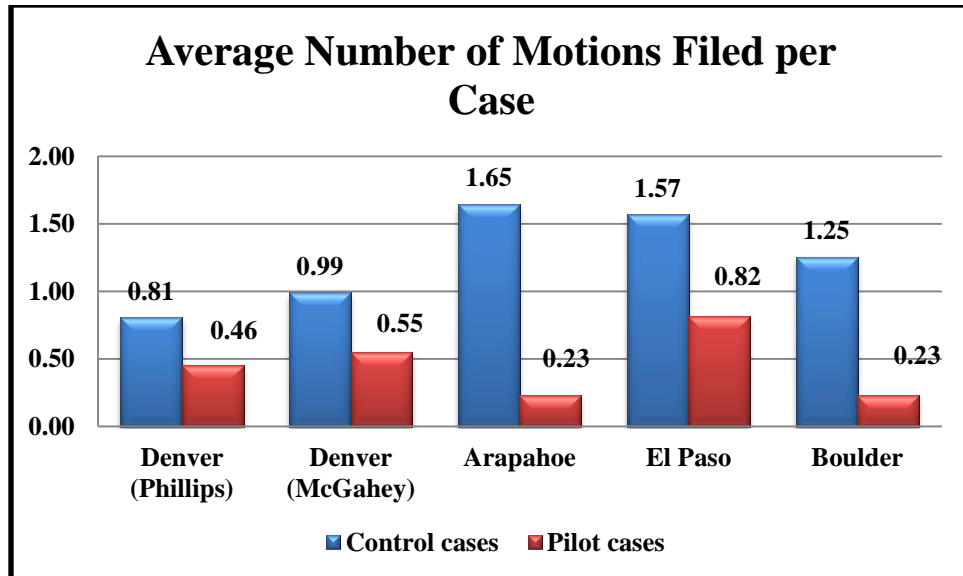
The numbers of motions for contempt also differed for the two types of cases, but the difference is not statistically significant. There were 9 contempt motions filed in pilot cases and 26 in control cases. Contempt motions were filed in only 2% of the cases.

The difference in the number of “other motions” is statistically significant. There were 202 other motions filed in pilot cases and 364 such motions filed in control cases. The highest number of such motions in a pilot case was 6 and in one control case there were 20 “other motions.” Once again, it appears that attorneys were able to make these motions orally at the time of a status conference rather than going to the time and cost of preparing them in writing.

VII. MOTIONS PRACTICE

One of the purposes of Colorado’s family case management process is to use the initial and subsequent status conferences to resolve issues that were traditionally raised by attorneys in the form of a motion. We aggregated all of the motions filed in the pilot and control group cases to test whether the pilot program cases had fewer motions filed per case than the control group cases. We excluded uncontested temporary orders from this computation, but included requests for emergency motions, temporary restraining orders, discovery motions, contempt motions, and motions for continuances and extensions of time.

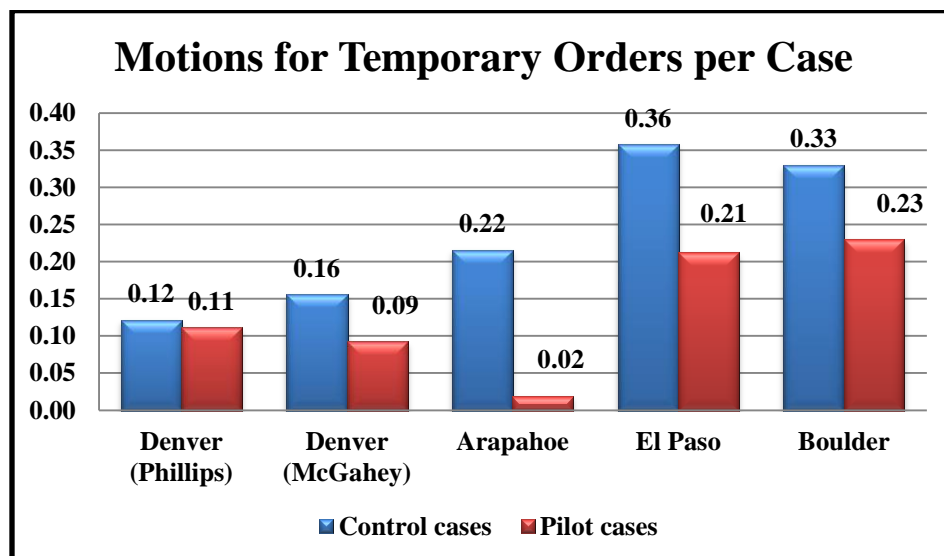
The data show a statistically significant change in motions practice with the introduction of the case management approach. The control group cases averaged 1.22 motions per case (905 motions in 742 cases), while the pilot group cases averaged only .49 such events per case (365 motions in 747 cases). There were 60% fewer motions filed in the pilot program cases. The differences between the pilot and control groups are statistically significant for the study as a whole and for each of the courts except for Boulder County. We believe that these differences are attributable to the availability of status conferences as the occasion for making motions orally rather than in writing, as required by the standard case management orders issued in the pilot cases.



The pilot programs appear to have reduced the need for motions for temporary orders (and the contested hearings that they typically require), although the differences between the numbers of such motions for the pilot and control cases are not statistically significant for the study as a whole nor for any of the five courts individually.

The case management order entered in pilot cases called for attorneys to make motions for temporary orders at initial status conferences. However, in the early stages of the pilot programs, attorneys often followed their traditional process of filing a motion for temporary orders (together with a notice to set) with the petition. Nonetheless, for all of the pilot cases there were a total 120 motions for temporary orders compared to 188 such motions for the control cases. This produces a measure of .16 motions for temporary orders per pilot program case compared with .25 such motions per control group case. The pilot cases had 36% fewer such motions than the control group cases.

The data for each of the five pilot programs are shown below. Pilot program cases had fewer such motions than the control group cases in all five programs (even though the differences are not statistically significant).



VIII. USE OF ALTERNATIVE DISPUTE RESOLUTION

Another statistically significant differentiation between the pilot and control cases is the use of alternative dispute resolution. ADR was ordered in 144 pilot cases but in 191 control cases. The differences are wholly attributable to Boulder County. The use of ADR depended completely on the policies of the judges in the different pilot and control courts. As shown in the table below, Arapahoe County judges used it in virtually every case, both pilot and control. None of the Denver judges—pilot or control—ordered it with any frequency. ADR was ordered in the pilot and control cases to the same extent, except in Boulder, where its requirement in the pilot cases was substantially less frequent.

Percentage of Pilot and Control Cases in Which ADR Was Used

	Denver (Phillips)		Denver (McGahey)		Arapahoe		El Paso		Boulder	
	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control
Percentage of cases with ADR	0%	1%	1%	1%	98%	98%	40%	41%	6%	28%

IX. POST-DECREE MOTIONS

The remainder of the report analyses the data on post-decree motions.

A. CHARACTERISTICS OF POST-DECREE MOTIONS

We gathered extensive data for the first fourteen post-decree motions in each of our 1489 study cases. We did not gather that data for post-decree motions in excess of fourteen in a case. As a result, we have data for 1457 (96%) of the 1512 total post-decree motions filed in the study cases by early 2012, when the data was collected.

B. SUBJECT MATTER OF THE MOTION

We recorded data on motions regarding parenting time, child support, combinations of parenting time and child support, contempt (generally for nonpayment of child support), relocation, paperwork (simply filing some required document, such as a deed of sale of real property, with the court), and “other.”

One third of the post-decree motions fell within the “other” category. They included both requests for substantive relief and procedural motions pertaining to a pending request for relief. In terms of requests for relief, the following types of matters were relatively common:

- Motions to modify or terminate maintenance (more in El Paso than other districts);
- Motions to modify or clarify permanent orders or separation agreement (often by stipulation);
- Motions to covert a decree of legal separation to a decree of dissolution;
- Motions for temporary or permanent restraining orders (including removing those put in place during the original proceedings);
- Motions to enforce orders;
- Motions for name change (both adult and child); and
- Motions to enter or vacate a judgment.

In terms of procedural motions, the following were frequent:

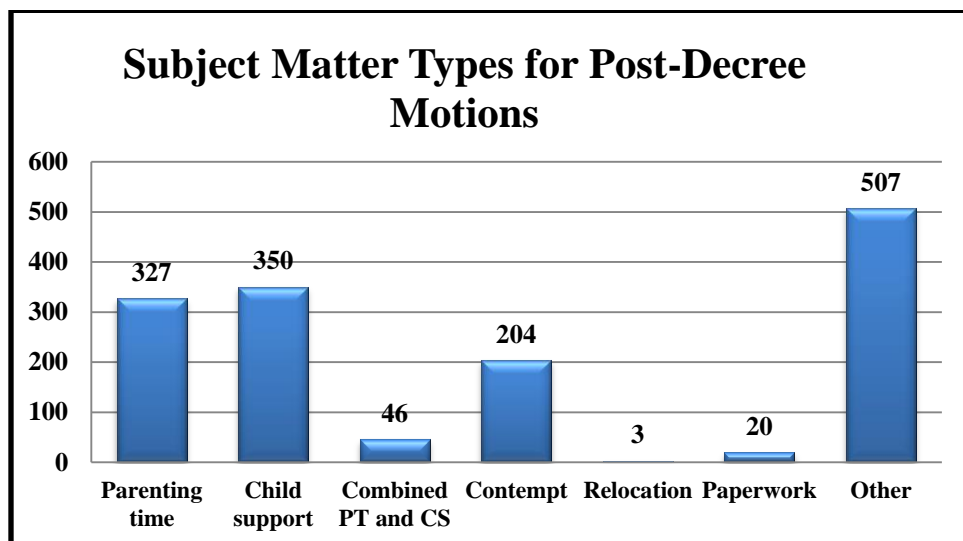
- Motions for telephone testimony;

- Motions to continue;
- Motions to adopt the transcript as the order;
- Discovery issues (motions to compel, motions for vocational evaluation, motions *in limine*, motions to appoint a special master);
- Motions to change venue when a party has moved;
- Requests for district court review of a magistrate order;
- Motions pertaining to attorneys liens or attorney fees; and
- Request for status conference or ruling.

We have no count of the breakdown between additional requests for relief and procedural matters.

The breakdown of all post-decree motions is shown below. There were an infinitesimal number of relocation cases—cases that judges find difficult because they result in one parent’s substantial loss of contact with the child(ren). Child support issues were involved in 600⁶ of the post-decree motions—40% of all post-decree motions and almost twice the number of pure parenting time matters. A child support enforcement officer appeared in 17% of the post-decree motions.

One of the questions concerning post-decree cases is the extent to which they are re-litigating matters decided in the initial decree. Child support cases necessarily represent new matters because the amount of child support can only be changed if there has been a material change in circumstances. Contempt is simply enforcement of a term of the original decree, which is usually the child support payment obligation. Parenting time cases may or may not entail relitigating previously-decided matters. If the child(ren) was very young when the case began, circumstances will necessarily have changed as the child(ren) matures.



C. FREQUENCY OF POST-DECREE MOTIONS

The frequency of post-decree motions can be viewed from two perspectives: the percentage of cases with post-decree activity and the average number of post-decree matters per case.

When the pilot and control group data are combined for the five programs, it shows a higher value for both measures for the pilot cases than the control cases. The percentage of cases with at least one post-decree motion was 24.9% (185 cases with post-decree motions out of 742 total control group cases) for the control cases compared to 27.3%

⁶ This figure includes 350 child support cases, 54 combined parenting time and child support cases, and 204 contempt cases, almost all of which involved non-payment of child support.

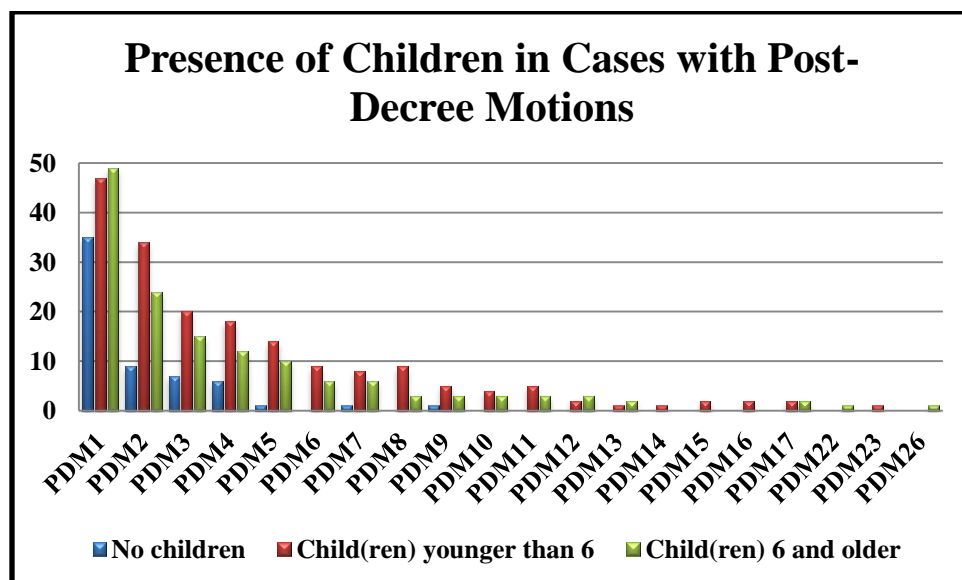
(204 cases with post-decree motions out of 746⁷ pilot program cases) for the pilot cases. This would represent a 10% increase in the number of cases with post-decree activity.

However, some cases have very large numbers of post-decree motions (the highest in the study is 27). A more accurate measure of the burden of post-decree activity on a court would, therefore, be the average number of post-decree matters per case (the total number of post-decree motions divided by the number of cases). Using this measure, the control cases had an average of .95 post-decree matters per disposition (706 post degree matters arising from 742 cases). The pilot program cases had an average of 1.07 post-decree matters per disposition (796 matters arising from 747 cases). By this measure, the pilot programs experienced an increase of 12% in their post-decree workload.

However, none of the differences between the numbers of post-decree motions in the pilot and control groups are statistically significant, nor are any differences between the numbers of post-decree motions in any of the five courts. Consequently, the study data cannot support a finding of any difference in the numbers of post-decree motions filed in the pilot and control group cases.

D. EFFECT OF CHILDREN ON THE FREQUENCY OF POST-DECREE MOTIONS

The chart below shows the presence of children in cases with increasing numbers of post-decree motions. We have no way of knowing whether the children in cases with older children at the time they commenced had become adults at the time a post-decree motion was filed. The chart shows that no case that did not involve children had more than nine post-decree motions. Cases with increasing numbers of post-decree motions continued to involve cases with older as well as younger children. Statistical analysis showed that cases without children have a statistically significantly lower likelihood of post-decree motions, but there is no statistically significant difference between the likelihood of cases with younger and older children to have post-decree motions.



⁷ One of the El Paso County cases is still pending and therefore could not produce post-decree filings.

E. EFFECT OF PRE-DECREE REPRESENTATION STATUS ON THE FREQUENCY OF POST-DECREE MOTIONS

The likelihood that a case will include a post-decree motion, and the number of motions that will be filed, varies by pre-decree representation configuration. The data also vary for pilot and control group cases, but not in any consistent fashion.

The first table shows the data for all cases in the study. It shows that the likelihood of the filing of any post-decree motions falls into four ranges. But none of the ranges is fully coherent. For instance, the third range appears to include the cases with the highest degree of attorney participation—cases with two attorneys for the duration of the case and cases in which the respondent has an attorney for only part of the case. But, the third instance of high attorney participation—where the respondent is fully represented and the petitioner has an attorney for only part of the case—falls into the fourth category. In short, the data for the whole study do not yield any simple understandings.

First tier (less than 20% likelihood of post-decree motions)

- Cases in which the petitioner is self-represented and the respondent does not appear (2% of these cases have any post-decree motions);
- Cases in which the petitioner is represented by an attorney for the duration of the case and the respondent does not appear (13% of these cases have a post-decree motion); and
- Cases in which both parties are self-represented (17% of these cases have a post-decree motion).

Second tier (roughly one-third of these cases have a post-decree motion)

- Cases in which the petitioner is represented by an attorney for the duration of the case and the respondent is self-represented (27% of these cases have at least one post-decree motion);
- Cases in which the petitioner is self-represented and the respondent is represented by an attorney for the duration of the case (30% of these cases have at least one post-decree motion);
- Cases in which the petitioner is self-represented and the respondent has an attorney for part of the case (33% of these cases have at least one post-decree motion); and
- Cases in which the petitioner is represented by an attorney for part of the case and the respondent does not appear (33% of these cases have at least one post-decree motion).

Third tier (roughly 45% of these cases have a post-decree motion)

- Cases in which the petitioner is represented by an attorney for part of the case and the respondent is represented by an attorney for the duration of the case (43% of these cases have at least one post-decree motion); and
- Cases in which both parties are represented by an attorney for the duration of the case (45% of these cases have at least one post-decree motion).

Highest likelihood of post-decree motions (more than 50% of these cases have a post-decree motion)

- Cases in which the petitioner is represented by an attorney for part of the case and the respondent is self-represented (54% of these cases have at least one post-decree motion);
- Cases in which both parties have an attorney for part of the case (60% of these cases have at least one post-decree motion); and
- Cases in which the petitioner is represented by an attorney for part of the case and the respondent is represented for the duration of the case (68% of these cases have at least one post-decree motion).

The data on the average number of post-decree motions in a case in which at least one such motion is filed are a bit more consistent. The three configurations with the highest amount of attorney participation all average more than four post-decree motions per case. But cases with two self-represented litigants have an average of 3.72 post-decree

motions per case. The highest average number of post-decree motions per case (6.00) is when the petitioner is self-represented and the respondent is represented by an attorney for part of the case.

Cases with the absolute highest number of post-decree motions (we would likely categorize them as “high conflict”) with 20 or more post-decree motions all have high levels of pre-decree attorney participation. But there is a case with 17 post-decree motions involving two self-represented litigants and another with two parties who were represented by attorneys for parts of the initial adjudication process.

The picture is a bit clearer when viewed from a judge’s perspective: 44% of all post-decree motions are filed in cases in which there were two attorneys for the duration of the case, 27% are in cases with two self-represented litigants, and 17% are in cases where the petitioner was represented by an attorney for the duration of the case and the respondent is self-represented.

The data that are most coherent are the average number of post-decree motions filed per case i.e., the total number of post-decree motions filed in all cases with a particular pre-decree representation configuration divided by the total number of such cases. The three highest average numbers are for the three configurations with the highest attorney participation: respondent with full representation and petitioner with representation for part of the case (2.89 post-decree motions per case), both parties with partial representation (2.50), petitioner with full representation and respondent with representation for part of the case (2.13), and both parties with full representation (2.09). The lowest average numbers of post-decree motions are in the cases in which the respondent does not appear (from .03 to .33 post-decree motions per case). Cases with two self-represented litigants and with the respondent self-represented when the petitioner is represented for the duration of the case have from .65 to .70 average post-decree motions per case. The other three configurations range from 1.20 to 2.00; they are petitioner self-represented while respondent is represented by an attorney for the duration of the case, petitioner represented for part of the case while the respondent is self-represented, and petitioner self-represented while the respondent is represented for part of the case.

Post-Decree Motions by Pre-Decree Representation Configuration – All Cases

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Number of cases with at least one PDM	109	2	3	6	2	14	12	13	7	65	13	143
Number of PDMs	406	3	18	24	2	48	50	55	15	168	64	659
Average PDMs per case	0.65	0.03	2.00	1.20	0.33	1.85	2.50	2.89	0.27	0.70	2.13	2.09
Average number of PDMs per case with at least one PDM	3.72	1.50	6.00	4.00	1.00	3.43	4.17	4.23	2.14	2.58	4.92	4.61
Percentage of all cases of	17%	2%	33%	30%	33%	54%	60%	68%	13%	27%	43%	45%

this type												
Percentage of cases with at least one PDM	28%	1%	1%	2%	1%	4%	3%	3%	2%	17%	3%	37%
Percentage of PDMs	27%	0%	1%	2%	0%	3%	3%	4%	1%	11%	4%	44%
Maximum number of PDMs in a case	17	2	8	11	1	12	17	11	5	15	22	26

Dividing the data into pilot and control group cases does not add useful information. The table is presented below.

Post-Decree Motions by Pre-Decree Representation Configuration – Pilot and Control Cases Differentiated

	Both SRL	P SRL R no app	P SRL R partial	P SRL R full	P partial R no app	P partial R SRL	Both partial	P partial R full	P full R no app	P full R SRL	P full R partial	Both full
Pilot cases												
Number of cases with at least one PDM	63	0	3	3	2	7	7	7	2	35	7	68
Number of PDMs	222	0	18	19	2	15	16	37	5	84	38	347
Average PDMs per case	0.67	0.00	3.60	1.90	0.33	1.25	2.00	3.70	0.19	0.71	2.24	2.25
Average number of PDMs per case with at least one PDM	3.52	0	6	6.33	1	2.14	2.29	5.29	2.5	2.4	5.43	5.1
Percentage of all cases of this type	19%	0%	60%	30%	33%	58%	88%	70%	7%	30%	41%	44%
Percentage of cases with at least one PDM	31%	0%	1%	1%	1%	3%	3%	3%	1%	17%	3%	33%
Percentage of PDMs	28%	0%	2%	2%	0%	2%	2%	5%	1%	10%	5%	43%

Maximum number of PDMs in a case	12	0	8	11	1	5	5	10	4	6	22	26
Control cases												
Number of cases with at least one PDM	46	2	0	3	0	7	5	6	5	30	6	75
Number of PDMs	184	3	0	5	0	33	34	18	10	84	26	312
Average PDMs per case	0.62	0.04	0.00	0.50	0.00	2.36	2.83	2.00	0.36	0.69	2.00	1.94
Average number of PDMs per case with at least one PDM	4.00	1.5	0.00	1.67	0.00	4.71	6.80	3.00	2.00	2.80	4.33	4.16
Percentage of all cases of this type	25%	1%	0%	2%	0%	4%	3%	3%	3%	16%	3%	41%
Percentage of cases with at least one PDM	16%	3%	0%	30%	0%	50%	42%	67%	18%	25%	46%	47%
Percentage of PDMs	17%	2%	0%	2%	0%	12%	17%	11%	5%	15%	7%	17%
Maximum number of PDMs in a case	63	0	3	3	2	7	7	7	2	35	7	68

F. EFFECT OF NUMBER OF ATTORNEYS RETAINED BY THE PARTIES PRE-DECREE ON NUMBER OF POST-DECREE MOTIONS

The first table below shows that increasing the number of attorneys retained by the parties pre-decree does not result in increased numbers of post-decree motions.

Average Number of Post-Decree Motions by Number of Attorneys Retained Predisposition
P = number of attorneys for petitioner R = number of attorneys for respondent

	P=1 R=1	P=1, R=2	P=2, R=0	P=2, R=1	P=2, R=2	P=3, R=3	P=3, R=1	P=3, R=2
Number of cases	140	10	3	20	6	2	1	1
Average days from filing to disposition	4.50	4.00	4.67	5.75	4.33	3.50	2.00	7.00

However, when the parties retain more than one attorney post-decree, the number of post-decree motions does increase. This is shown by the next table.

Average Number of Post-Decree Motions by Number of Attorneys Retained Post Disposition
P = number of attorneys for petitioner R = number of attorneys for respondent

	P=1 R=1	P=1, R=2	P=1, R=4	P=2, R=1	P=2, R=2	P=2, R=3	P=3, R=1	P=3, R=2	P=3, R=3
Number of cases	88	16	1	11	11	1	3	3	1
Average number of post-decree motions	3.91	5.75	11.00	7.45	8.73	13.00	11.00	7.00	7.00

G. EFFECT OF COMPLEXITY OF THE PRE-DECREE PROCEEDINGS

Statistical analyses suggest that factors related to the complexity of the pre-decree adjudication predicts a higher likelihood of the filing of post-decree motions. The factors with a statistically significant relationship to the number of post-decree motions in the case are:

- The number of discovery motions;
- The number of continuance motions;
- The number of other motions; and
- The total number of motions in the pre-decree case.

H. SUMMARY OF FREQUENCY OF POST-DECREE INFORMATION

The study data do not show any reduction in the number of post-decree motions for cases resolved by the pilot programs. It does not support the notion that the cases with the highest numbers of post-decree motions are those with the youngest children at the time of filing of the divorce petition.

The study does support the following conclusions:

- Post-decree motions are less likely in cases without children;
- Post-decree motions frequently deal with child support issues;

- Post-decree motions are most likely when the pre-decree case involved two lawyers and least likely when the pre-decree case involved a respondent who did not appear, followed by cases with two self-represented parties; and
- Post-decree motions are most likely when the pre-decree case was heavily litigated.

I. TIME OF DISPOSITION FOR POST-DECREE MOTIONS

Post-decree motions in the study cases have been filed over the period of many years, from as early as 2001 to as late as 2012. We have not documented the processes used in each of the study courts for handling post-decree motions during that entire time period. We do know that the processes used vary from district to district and, in most districts, have changed in small or large ways over the past ten years. Hence we have not consistently made comparisons of pilot and control group cases for post-decree case processing.

However, because we have such a rich data set, we have analyzed and now present information on average time to disposition for the first four post-decree motions filed in the study cases. These are likely to have been the earliest in time, but that is not necessarily the case. The data chart shown below contains time to disposition information for 985 of the 1457 post-decree motions filed in the study cases by the time of our data gathering in early 2012. This represents two-thirds of the post-decree motions filed.

Average Time to Disposition for the First Four Post-Decree Motions Filed in Each Study Case

	PDM1		PDM2		PDM3		PDM4	
	Pilot	Control	Pilot	Control	Pilot	Control	Pilot	Control
Parenting time	144	105	116	206	110	222	75	103
Child support	80	108	109	108	102	109	88	75
Combined PT and CS	103	234	44	240	291	233	8	147
Contempt	153	155	189	183	158	207	150	133
Relocation								4
Paperwork	23	3	16	19	15	7		
Other	42	63	64	80	70	116	121	173

For comparison purposes, the average disposition times for pre-decree cases is:

Average Time to Disposition in Pre-Decree Cases

	Pilot	Control
Dissolution	146	224
Separation	197	183
APR	151	179
Invalidity	44	408

Treating post-decree parenting time disputes as comparable to pre-decree allocation of parental responsibility matters, the data suggest⁸ that post-decree matters in these five courts are disposed of more quickly than pre-decree matters. The data also suggest that there is little difference in the time required to resolve child support and contempt cases between the pilot and control cases. The control cases with combined parenting time and child support issues generally took longer to resolve than comparable pilot cases. Time to disposition in the first

⁸ Because of the way in which the data were gathered and the database was constructed, it is not possible to test the statistical significance of these differences.

parenting time post-decree matter was longer in the pilot cases, but longer in the control cases for subsequent parenting time post-decree matters. Overall, this data does not show a consistent pattern of differences between pilot and control cases in time to disposition of post-decree matters.

J. PRESIDING OFFICERS IN POST-DECREE MOTIONS

Although a family court facilitator does appear as presiding officer in a few post-decree cases, hearings in post-decree matters are overwhelmingly handled by judges or magistrates.

K. FREQUENCY OF COURT HEARINGS IN POST-DECREE MOTIONS

There were 829 hearings in the 1457 post-decree matters for which we have data. That represents .57 hearings per post-decree matter. The average number of appearances for pre-decree proceedings (both pilot and control) is 1.98. This observation also supports the thesis that post-decree matters are, on average, less complex than pre-decree proceedings.

The average number of hearings per post-decree matter differs by the subject matter of the post-decree motion. The table below shows the average number of hearings for the first four post-decree motions in all of the cases. As noted earlier, the first four post-decree motions represent two-thirds of all such motions. While the data show that there are consistently more hearings in contempt cases than for other post-decree motions, the differences are statistically significant only for the first post-decree motion.

Average Number of Hearings by Subject Matter of the Post-Decree Motion

	Parenting Time	Child Support	Combined Parenting Time and Child Support	Contempt	Relocation	Paperwork	Other
First post-decree motion	0.69	0.34	0.67	1.64	0.00	0.00	0.23
Second post-decree motion	0.91	0.44	0.44	1.44	0.00	0.00	0.36
Third post-decree motion	0.76	0.50	0.20	1.77	0.00	0.00	0.54
Fourth post-decree motion	0.58	0.85	0.00	1.68	0.00	0.00	0.41

L. REPRESENTATION IN POST-DECREE MOTIONS

Because of the way our data was collected, we cannot conduct the same level of analysis of representation configuration for post-decree cases. We have recorded the representation status of petitioners and respondents for the first four post-decree motions, which represents two-thirds of the motions filed.

The data for post-decree motions are very similar to that for pre-decree proceedings, with 50% of the parties representing themselves.

The extent of self-representation is lower for petitioners in control cases. In both pilot and control cases, cases with more attorneys are more likely to have more post-decree proceedings than cases with self-represented petitioners.

Post-Decree Representation Status of Petitioners for Increasing Numbers of Post-Decree Motions in a Case

	Self-representation		Partial Representation		Full Representation	
	Pilot	Control	Pilot	Control	Pilot	Control
First post-decree motion	52%	40%	3%	5%	44%	54%
Second post-decree motion	51%	44%	4%	6%	45%	50%
Third post-decree motion	47%	39%	3%	5%	50%	56%
Fourth post-decree motion	42%	37%	1%	8%	56%	55%

Respondents are more likely to be self-represented than petitioners. The same pattern appears, though: the cases with more attorney representation of respondents are more likely to have more post-decree motions, in both pilot and control cases.

Post-Decree Representation Status of Respondents for Increasing Numbers of Post-Decree Motions in a Case

	Self-representation		Partial Representation		Full Representation	
	Pilot	Control	Pilot	Control	Pilot	Control
First post-decree motion	63%	50%	3%	6%	33%	42%
Second post-decree motion	60%	41%	6%	8%	34%	50%
Third post-decree motion	58%	39%	2%	9%	39%	53%
Fourth post-decree motion	52%	38%	3%	8%	44%	55%

Parties in post-decree proceedings are more likely to retain multiple attorneys than parties in pre-decree proceedings. For pre-decree proceedings, 6% of petitioners have two different attorneys and 1% have three different attorneys. The comparable figures for petitioners in post-decree proceedings are 14% having two different attorneys and 5% having three different attorneys.

For respondents in pre-decree proceedings, 7% have two different attorneys and 1% have three. In post-decree proceedings, 21% have two, 2% have three, and 1% have four different attorneys.

M. USE OF ALTERNATIVE DISPUTE RESOLUTION IN POST-DECREE MOTIONS

Alternative dispute resolution was ordered in 274 (or 19%) of the 1457 post-decree proceedings for which we have data. This compares with ADR orders in 335 (22%) of the 1489 pre-decree proceedings. There does not appear to be any real difference in the ordering of ADR in pre and post-decree proceedings in these courts.

X. CONCLUSION

Retrospective analysis of the first Colorado family law case management experiments has provided information of significant value for policy makers.

The data show that proactive caseload management produces substantial value for courts and for court users in terms of reducing the time from filing to disposition, increasing the percentage of cases that reach agreement with court assistance, and decreasing the percentage of cases that are dismissed because the litigants are unable to navigate the court system.

The study does not provide evidence that proactive caseload management reduces the number of post-decree motions in family cases. But, it does provide us with better understanding of the post-decree process.

The data have provided a rich set of information concerning representation configurations in pre-decree cases, showing that while self-represented litigants indeed benefit from proactive caseload management, the clients of family law attorneys actually gain more from the court's assistance in reaching agreement and in reducing the time required to resolve the case.

This report can serve as a baseline reference of empirical information about family law case processing—for Colorado and for other jurisdictions.

APPENDIX – DATA GATHERING AND DATABASE CODING PROTOCOL

DATA GATHERING AND DATABASE CODING PROTOCOL

1. Pilot/Control Status

Data gathering	Coding
Circle whether the case is a pilot or control case.	Enter the number for the code shown for the case: 1 Pilot 2 Control

2. Case Number

Data gathering	Coding
Record court case number.	Enter the court case number.

3. Judicial District

Data gathering	Coding
Record the court by judicial district.	Enter the two-digit district number.

4. Judge

Data gathering	Coding
Record the judge.	Enter the judge's last name.

5. Case Type – Circle One:

Data gathering	Coding
Circle the case type assigned by the court: Dis – Dissolution Sep – Separation APR – Allocation of Parental Responsibility CS – Child Support	Enter the number for the code shown for the case: 1 Dis 2 Sep 3 APR 4 CS

6. Default

Data gathering	Coding
Use a “Yes” to indicate respondent did not file or sign a paper and did not appear in court, use an “No” to indicate the respondent appeared.	Enter the code shown for the case: 1 Yes 2 No

7. Petitioner

Data gathering	Coding
Record last and first names of petitioner.	Include in data base as text, with last name first, comma, space followed by first name .

8. Respondent

Data gathering	Coding
Record last and first names of respondent.	Include in data base as text, with last name first, comma, space followed by first name.

9. Official Status of Respondent

Data gathering	Coding
Use a “Yes” to indicate party is a co-petitioner, use an “No” to indicate party is a respondent.	Enter the code shown for the case: 1 Yes 2 No

10. Date Filed

Data gathering	Coding
Record date petition was filed.	Enter date as mm/dd/yyyy.

11. Disposition Date

Data gathering	Coding
Record date judge entered a decree or final orders or dismissal was granted.	Enter date as mm/dd/yyyy.

12. Administrative Closing Date

Data gathering	Coding
Record date case closed administratively. Should be designated CLAD, but record date regardless of court event code used (e.g., CLLP and CLDM are sometimes used instead of CLAD).	Enter date as mm/dd/yyyy.

13. Number of Kids

Data gathering	Coding
Record number of minor children (19 or younger) in the case at the time the case was filed.	Enter the number of minor children.

14. Ages of Kids

Data gathering	Coding
Record the ages of the minor children at the time the case was filed, starting with the lowest age in the first box and progressing to the right. Enter an age for each child. If there are more than eight children, disregard the ages of the older minor children.	Enter the number representing age of each child in each age field in ascending order, leaving blank the fields not needed for this case.

15. Disposition

Data gathering	Coding
Enter the disposition from the list below that most closely fits what happened: ADWO – affidavit of divorce without appearance – case was resolved by agreement of the parties and there were no court appearances A+1 – case was resolved by agreement of the parties (e.g., by stipulation) and there was one court appearance (e.g., an initial status conference) other than a DRNC DRNC – case was resolved by agreement of the parties (e.g., by stipulation) and there was a DRNC because the case involved a child(ren) and the parties were not represented A+CtDec – case was resolved by agreement of the parties (e.g., by stipulation) after there was one court decision of a contested matter before the parties reached agreement AOther – case was resolved by agreement of the parties (e.g., by stipulation) after there was more than one court appearance or court decision CtDec – case was resolved by court decision VolDis – petitioner dismissed the case CLLP – case was closed by the court for failure to	Enter the number for the code shown for the case: 1 ADWO 2 A+1 3 DRNC 4 A+CtDec 5 AOther 6 CtDec 7 VolDis 8 CLLP

prosecute (whether or not court staff used the CLLP code)

16. Petitioner Representation

Data gathering	Coding
Choose one of the three representation statuses that most accurately reflects the petitioner's legal representation during the pre-decree legal process. Use SRL if the petitioner does not have a lawyer at any time during the pre-decree process. Use Partial if the petitioner has an attorney for some part, but not all of the pre-decree process; this category is intended to cover cases in which the petitioner represents her or himself during some part of the process. (We will not attempt to determine whether the petitioner has obtained unbundled legal services.) Use Full if the petitioner is represented during all, or virtually all, of the pre-decree process.	Enter the number for the code shown for the case: 1 SRL 2 Partial 3 Full

17. Petitioner # Pre-decree Attorneys

Data gathering	Coding
If the petitioner is represented during all or part of the pre-decree process, record a tick mark in the box labeled '#' for each attorney who appeared for the petitioner during the pre-decree process.	Enter the number of tick marks recorded on the data gathering sheet in the petitioner # attys field (i.e., IIII will be entered as 4).

18. Respondent Representation

Data gathering	Coding
Choose one of the three representation statuses that most accurately reflects the respondent's legal representation during the pre-decree legal process. Use SRL if the respondent does not have a lawyer at any time during the pre-decree process. Use Partial if the respondent has an attorney for some part, but not all of the pre-decree process; this category is intended to cover cases in which the respondent represents her or himself during some part of the process. (We will not attempt to determine whether the petitioner has obtained unbundled legal services.) Use Full if the petitioner is represented during all, or virtually all, of the pre-decree process.	Enter the number for the code shown for the case: 1 SRL 2 Partial 3 Full

19. Respondent # Pre-decree Attorneys

Data gathering	Coding
If the respondent is represented during all or part of the pre-decree process, record a tick mark in the box labeled '#' for each attorney who appeared for the petitioner during the pre-decree process.	Enter the number of tick marks recorded on the data gathering sheet in the respondent # attys field (i.e., IIII will be entered as 4).

20. CSE

Data gathering	Coding
Use "Yes" to indicate that a Child Support Enforcement Officer (CSE) appeared in court, use an "No" if this is not the case.	Enter the code shown for the case: 1 Yes 2 No

21. Service by Publication

Data gathering	Coding
Use “Yes” to indicate that the court authorized service by publication, use “No” if service was not by publication.	Enter the code shown for the case: 1 Yes 2 No

22. Date of Proof of Publication

Data gathering	Coding
Record date proof of publication was filed.	Enter date as mm/dd/yyyy.

23. Number of Notices to Set

Data gathering	Coding
Record a tick mark for each notice to set filed, whether or not a hearing was actually noticed or held.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

24. Number of Court Appearances

Data gathering	Coding
Record a tick mark for every in-person court appearance. Disregard scheduled court events that did not take place. Include only court events at which at least one party was present.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

25. Number of Telephone Appearances

Data gathering	Coding
Record a tick mark for every telephonic court event scheduled by the court that actually took place (i.e., at least one party participated). These include periodic status calls with parties or attorneys, whether or not they are labeled as status conferences. Do not include telephone calls to the FCF from a party for information or clarification.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

26. Continuances Granted

Data gathering	Coding
Record a tick mark for every continuance granted.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

27. Continuances at Court Instance

Data gathering	Coding
Record a tick mark for every continuance not resulting from the request of a party.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

28. Extensions Granted

Data gathering	Coding
Record a tick mark for every extension of time granted.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

29. Special Advocate/CFI

Data gathering	Coding
Record a tick mark for every special advocate or CFI (Child and Family Investigator) appointed by the court.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4). Expect that typically only one such expert will be appointed in a case.

30. CLR

Data gathering	Coding
Record a tick mark for every Child's Legal Representative appointed by the court .	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4). Expect that only one such expert will be appointed in a case.

Pre-decree motions – NOTE: There are boxes on the data gathering sheet both for recording how many motions of a particular type were filed and whether court approval of filing of the motion was obtained.

31. In Forma Pauperis

Data gathering	Coding
Record a tick mark for every motion to proceed in forma pauperis (i.e., without having to pay the filing fee).	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

32. Motion for TRO/TPO

Data gathering	Coding
Record a tick mark for every motion for temporary restraining order or for temporary protective order filed.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

33. PRO/PPO

Data gathering	Coding
Record a tick mark for every restraining order or protective order that proceeded to the entry of a final restraining or protective order. This information will enable us to measure the extent to which TRO/TPOs are filed but not pursued by the filing party.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

34. Motion for Temporary Order

Data gathering	Coding
Record a tick mark for every motion for temporary orders filed.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4) for the boxes in both rows.

35. Motion for Emergency Relief

Data gathering	Coding
Record a tick mark for every motion for emergency relief filed.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4) for the boxes in both rows.

36. Discovery Motions

Data gathering	Coding
Record a tick mark for every motion related to discovery filed.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4) for the boxes in both rows.

37. Motion for Extension of Time

Data gathering	Coding
Record a tick mark for every motion to extend the time to file a document, complete a required disclosure, or perform any other act.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

38. Motion to Continue

Data gathering	Coding
Record a tick mark for every motion to continue a conference, hearing, or appearance.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

39. Motion for Contempt

Data gathering	Coding
Record a tick mark for every motion for contempt filed. There is no second box for this type of motion because Rule 16.2 does not require prior court approval of contempt motions.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

40. All Other Motions

Data gathering	Coding
Record a tick mark for every other motion filed, except for motions for withdrawal or substitution of counsel or approval of an attorney's charging lien.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4) for the boxes in both rows.

41. Uncontested TOs

Data gathering	Coding
Record a tick mark for every temporary order entered at the time of a status conference by consent of both parties.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

42. Court-Ordered ADR

Data gathering	Coding
Use "Yes" to indicate that the court ordered ADR, use "No" if this is not the case. We are not attempting to differentiate the type of ADR process used, nor record its date.	Enter the code shown for the case: 1 Yes 2 No

PRE-DECREE HEARINGS

43. Initial Status Conference

Data gathering	Coding
In the two boxes for this event, enter the date of the initial status conference and the presiding court officer.	Enter date as mm/dd/yyyy. Enter the code for the presiding officer: 1 J 2 M 3 FCF 4 J&F

44. Other Status Conferences

Data gathering	Coding
There are a series of 14 pairs of boxes on two rows to be used for entering information on additional status conferences. Do not count the ISC as an SC. Beginning with the two boxes at the left end of the top row, enter the date of the first status conference and the code for the court officer presiding at the hearing. Use the following codes for the presiding court officer: J – Judge M – Magistrate	Enter date as mm/dd/yyyy. Enter the code for the presiding officer: 1 J 2 M 3 FCF 4 J&F Continue to enter dates and presiding officer codes for

<p>FCF – Family Court Facilitator (other titles may have been used for this position during the period of the Phase I study)</p> <p>J&F – Judge and Family Court Facilitator</p> <p>Continue to enter dates and presiding officer codes for all SCs in the case, using the second row of boxes if needed. If the total number of SCs exceeds 14, continue recording data on the bottom of the data gathering sheet with an arrow showing the person who will enter the data into the database that this is additional SC data.</p>	<p>all SCs in the case.</p> <p><u>In an additional field created for SCs as a category, enter the total number of SCs recorded for the case. This field does not appear on the data gathering sheet.</u></p>
--	--

45. Contested Temporary Orders Hearings

Data gathering	Coding								
<p>There are a series of 7 pairs of boxes on a single row to be used for entering information on contested temporary orders hearings. These are court hearings scheduled for the purpose of hearing evidence and argument concerning matters that need to be decided on a temporary basis, but which will be revisited at the time of the final hearing. Beginning with the two boxes at the left end of the row, enter the date of the first temporary orders hearing and the code for the court officer presiding at the hearing. Use the following codes for the presiding court officer:</p> <p>J – Judge M – Magistrate FCF – Family Court Facilitator (other titles may have been used for this position during the period of the Phase I study) J&F – Judge and Family Court Facilitator</p> <p>Continue to enter dates and presiding officer codes for all contested temporary orders hearings in the case. If the total number of contested temporary orders hearings exceeds 7, continue recording data on the bottom of the data gathering sheet with an arrow showing the person who will enter the data into the database that this is additional contested temporary orders hearing data.</p>	<p>Enter date as mm/dd/yyyy.</p> <p>Enter the code for the presiding officer:</p> <table> <tr><td>1</td><td>J</td></tr> <tr><td>2</td><td>M</td></tr> <tr><td>3</td><td>FCF</td></tr> <tr><td>4</td><td>J&F</td></tr> </table> <p>Continue to enter dates and presiding officer codes for all contested temporary orders hearings in the case.</p> <p><u>In an additional field created for contested temporary orders hearings as a category, enter the total number of contested temporary orders hearings recorded for the case. This field does not appear on the data gathering sheet.</u></p>	1	J	2	M	3	FCF	4	J&F
1	J								
2	M								
3	FCF								
4	J&F								

46. Other Hearings

Data gathering	Coding								
<p>There are a series of 14 pairs of boxes on two rows to be used for entering information on other hearings— hearings other than the ISC, other status conferences and contested temporary orders hearings. In this study we are not differentiating the types of these other hearings. Beginning with the two boxes at the left end of the top row, enter the date of the first other hearing and the code for the court officer presiding at the hearing. Use the following codes for the presiding court officer:</p> <p>J – judge M – magistrate FCF – family court facilitator (other titles may have been used for this position during the period of the</p>	<p>Enter the date mm/dd/yyyy.</p> <p>Enter the code for the presiding officer:</p> <table> <tr><td>1</td><td>J</td></tr> <tr><td>2</td><td>M</td></tr> <tr><td>3</td><td>FCF</td></tr> <tr><td>4</td><td>J&F</td></tr> </table> <p>Continue to enter dates and presiding officer codes for all other hearings in the case.</p> <p><u>In an additional field created for other hearings as a category, enter the total number of other hearings</u></p>	1	J	2	M	3	FCF	4	J&F
1	J								
2	M								
3	FCF								
4	J&F								

Phase I study)
J&F – judge and family court facilitator

recorded for the case. This field does not appear on the data gathering sheet.

Continue to enter dates and presiding officer codes for all other hearings in the case, continuing to the second row of boxes if needed. If the total number of other hearings exceeds 14, continue recording data on the bottom of the data gathering sheet with an arrow showing the person who will enter the data into the database that this is additional other hearings data.

Post-decree motions – These are motions filed after the entry of the first decree in the case. They usually follow the first CLAD date, and are usually accompanied by an administrative code reopening the case. The date of a post-decree motion cannot pre-date the original disposition date for the case.

Information on each post-decree motion is to be entered into a series of eleven boxes arranged in a vertical column. There are 14 columns, providing for the entry of information on 14 post-decree motions for this case, starting with the first such motion in the first column at the left side of the data gathering page. If there are more than 14 such motions, use a second data gathering sheet, labeling it as page 2 for the case and crossing through all of the other boxes on the page except for the post-decree motion columns.

FOR EACH POST-DECREE MOTION, GATHER THE FOLLOWING INFORMATION:

47. Motion Type

Data gathering	Coding
Select the code most appropriate to the particular motion from the following list:	Enter the code recorded on the data gathering sheet:
PT – Parenting Time (the motion asks for a change in the decision making authority of a parent, the time the child spends with a parent, or the nature (e.g., supervised or unsupervised) or timing of visitation)	1 PT
CS – Child Support (the motion seeks a change in the amount of child support payments or how arrearages are calculated or to be paid)	2 CS
Combo – the motion seeks modification of both parenting time and child support so that it is not possible to determine which is the primary objective of the motion	3 Combo
Contempt – the motion asks the court to force the other party to perform some obligation created by an earlier court order	4 Contempt
Reloc – the motion seeks permission of the court for one parent to move to another place far enough away that it will restrict the ability of the other parent to spend time with the child(ren).	5 Reloc
Paperwork – this is the filing of papers showing the completion of an obligation imposed on a party by court order, such as sale of a residence.	6 Paperwork
Other – all other post-decree motions, with the exception of motions to withdraw, motions for attorney charging liens, and wage withholding orders. These three types of motions are not recorded for the study because they are purely administrative and do not represent a further	7 Other

dispute between the parties.

48. Date Motion Filed

Data gathering	Coding
Record date motion was filed.	Enter date as mm/dd/yyyy.

49. Petitioner Representation on Motion

Data gathering	Coding
Choose one of the three representation statuses that most accurately reflects the petitioner's legal representation during the resolution of this post-decree motion. Use SRL if the petitioner does not have a lawyer at any time during the post-decree process. Use Partial if the petitioner has an attorney for some part, but not all of the post-decree process; this category is intended to cover cases in which the petitioner represents her or himself during some part of the process. (We will not attempt to determine whether the petitioner has obtained unbundled legal services.) Use Full if the petitioner is represented during all, or virtually all, of the post-decree process	Enter the number for the code shown for the case 1 SRL 2 Partial 3 Full

50. Respondent Representation on Motion

Data gathering	Coding
Choose one of the three representation statuses that most accurately reflects the respondent's legal representation during the resolution of this post-decree motion. Use SRL if the respondent does not have a lawyer at any time during the post-decree process. Use Partial if the respondent has an attorney for some part, but not all of the post-decree process; this category is intended to cover cases in which the respondent represents her or himself during some part of the process. (We will not attempt to determine whether the respondent has obtained unbundled legal services.) Use Full if the respondent is represented during all, or virtually all, of the post-decree process	Enter the number for the code shown for the case 1 SRL 2 Partial 3 Full

51. CSE

Data gathering	Coding
Use "Yes" to indicate that a Child Support Enforcement Officer (CSE) appeared in the post-decree proceeding, use an "No" if this is not the case.	Enter the code shown for the case 1 Yes 2 No

52. Number of Hearings on Motion

Data gathering	Coding
Record a tick mark for every court hearing held on this post-decree motion. Include court events, including status conferences, at which at least one party appeared. Disregard hearings scheduled that did not take place.	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

53. Court-Ordered ADR

Data gathering	Coding
Use "Yes" to indicate that the court ordered ADR for the post-decree motion, use "No" if this is not the case. We	Enter the code shown for the case 1 Yes

are not attempting to differentiate the type of ADR process used, nor record its date.	2	No
--	---	----

54. Presiding Court Officer

Data gathering	Coding
Use the following codes for the presiding court officer: J – Judge M – Magistrate FCF – Family Court Facilitator (other titles may have been used for this position during the period of the Phase I study) J&F – Judge and Family Court Facilitator	Enter date as mm/dd/yyyy. Enter the code for the presiding officer: 1 J 2 M 3 FCF 4 J&F
Multiple court officers may have presided at various stages of the post-decree process. Use the code that best represents the allocation of court personnel to the case. Use J&F for a case in which the FCF conducted status conferences and the judge conducted a hearing or hearings and ruled on the motion. Use M if all matters were heard by a magistrate.	

55. Resolution Date

Data gathering	Coding
Record date judge enters final orders on the post-decree motion or the date a stipulation or dismissal was filed.	Enter date as mm/dd/yyyy.

56. Motion Disposition

Data gathering	Coding
Enter the disposition from the list below that most closely fits what happened: Stip – the parties filed a stipulated agreement without making a court appearance Stip+1 – case was resolved by agreement of the parties (by stipulation) and there was one court appearance (e.g., an initial status conference) Stip+CtDec – case was resolved by agreement of the parties (by stipulation) after there was one court decision of a contested matter before the parties reached agreement StipOther – case was resolved by agreement of the parties (by stipulation) after there was more than one court appearance or court decision CtDec – the motion was resolved by court decision VolDis – the moving party withdrew or dismissed the motion CLLP – the motion was closed by the court for failure to prosecute (whether or not court staff used the CLLP code)	Enter the number for the code shown for the case: 1 Stip 2 Stip+1 3 Stip+CtDec 4 StipOther 5 CtDec 6 VolDis 7 CLLP

57. Administrative Re-Closing Date

Data gathering	Coding
Record date case was reclosed administratively. Should be designated POST, but record date regardless of court event code used.	Enter date as mm/dd/yyyy.

58. Petitioner Total Post-Decree Attorneys

Data gathering	Coding
Record a tick mark for every different attorney representing the petitioner during the whole post-degree phase of the case (all post-decree motions considered <i>in toto</i>).	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).

59. Respondent Total Post-decree Attorneys

Data gathering	Coding
Record a tick mark for every different attorney representing the respondent during the whole post-degree phase of the case (all post-decree motions considered <i>in toto</i>).	Enter the number of tick marks recorded on the data gathering sheet (i.e., IIII will be entered as 4).