

FAMILY LAW COURTS—A BETTER WAY

Justice Donald B. King (Ret.)

I approach the topic of how to make our family law court system better from an unusual perspective. As a lawyer, I was a user of the system. As a Superior Court judge, I served six years in the family law assignment and I now work in a parallel, but voluntary, system where we make our own procedural rules. To me the question to ask is, what should a family law judge be? The answer is simple—a helper, one who helps divorcing couples reach their own solutions, not one who imposes those solutions upon them as a first resort, only as a last resort. Our present system is not only impersonal, inhumane, production line justice, it fails to help people at one of the most critical points in their lives. Indeed, all too often, those who the law requires to go through the system are worse off at the end than they were when they entered it.

We all know what our system is like, but no one ever stated it better than San Mateo Judge Rosemary Pfeiffer did 15 years ago when she wrote:

“If one were to use situation comedies as an analogy for our work with families, then the long running show M.A.S.H. would be my choice. Like that legendary M.A.S.H. unit, our lives in our professional and often personal sense are marked by drama, comedy and tragedy. We live our lives in a frontline, emergency situation in which we are called upon without adequate preparation or sufficient notice to diagnose injuries and to treat traumas. We bandage them, we supply them with IVs, we give them the support and rehabilitation that we can call up based on our own resources, and we send them on their way.”

“The difference, of course, is that the injuries and trauma which we deal with are those injuries and traumas to the heart. What we attempt to salvage and rehabilitate are relationships and the dysfunction that we treat is an emotional one rather than a physical one.”

“Like a M.A.S.H. unit, the conditions under which we operate are seldom optimum. We rarely have the resources or the support that we feel we need to do the job that needs to be done. And when our patients/clients walk away from us, the sight is rarely a pretty one. The scars are deep, often enduring and sometimes permanent. There are those that don't survive. For them, the estrangement, the anger and the depression caused by a marital separation is a permanent condition and they cannot be rescued from that condition even with our help.”

