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WHEN FAMILIES FALL APART COURT AS STRESSED AS ITS CLIENTS

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Step inside Family Court, where tensions run high, caseloads run higher, judges wield vast powers, children are often left powerless, lawyers openly squabble -- and nearly everyone walks away displeased.

The court system itself is a nervous wreck, juggling too many tasks with too little time -- at public expense.

Family Court was created four years ago to ease the burden of civil judges and provide a home for families falling apart. It has evolved into the single busiest arm of Circuit Court, a publicly subsidized system where adults sometimes act like kids.

"Slashed tires, broken windows, threats, fleeing to other countries with children -- you see it all in Family Court," Miami attorney Ana Martin-Lavielle said. "People pay me \$200 an hour to fight over a VCR worth less than \$200."

Making Family Court work more smoothly is critical. With the divorce rate hovering at 50 percent, Family Court is the one arm of the justice system that will affect the most people in the most personal of ways.

Some snapshots:

*** In a Broward County case, a woman, distraught that her husband filed for divorce, said she burned \$78,000 of their cash.**

*** A Lighthouse Point couple so contentious that their divorce file fills 21 volumes -- and he went to jail.**

*** A North Miami Beach businesswoman who sued her son because he wouldn't let her visit the grandchildren.**

It's the bare-knuckles corner of the courthouse, the judges ruling as the ultimate parent in cases where evidence is often little more than "he said/she said."

Family Court has come a long way from its days as a stepchild in Civil Court. A \$12.5 million operation in Dade and Broward counties, it has a long way to go.

A nine-month Herald review of family courts in Dade and Broward found a system as stressed as the people inside it.

Consider:

* In Dade and Broward, which often don the labels of crime capitals of America, domestic cases now outnumber criminal, a startling reversal.

In 1990 in Dade, there were 8,212 fewer domestic relations cases than criminal. In 1995 in Dade, there were 6,091 more domestic cases than criminal.

In 1990 in Broward, there were 2,425 fewer domestic relations cases than criminal. In 1995 in Broward, there were 1,432 more domestic cases than criminal.

The domestic relations category includes all cases in Family Court -- divorce filings, custody matters, child support, visitation, adoption and paternity. It also includes petitions for domestic and repeat violence, handled by special domestic violence judges -- cases seeing an upsurge in Dade and Broward.

* Judges often leave Family Court soon after they arrive -- fleeing after a stint some liken to combat duty.

In October 1992, Broward's Family Court opened with eight full-time judges and one part-time judge. Today, just two of the original cast remain.

"I feel like a rat in a treadmill, trying awfully hard to catch up," said one, Family Administrative Judge Linda Vitale. "When you go away on vacation and come back, every sofa, every desk, every spot of every table in your office is filled with stacks and stacks of 'emergencies.' "

In Dade, Family Administrative Judge Richard Yale Feder is one of only two original judges remaining of 11.

* The fighting is so fierce, some top lawyers refuse to take family cases.

Henry Latimer presided over divorces as a Broward Circuit judge, then handled them as a private lawyer. No more.

"They want the meanest, most obnoxious lawyer they can find to make the other side miserable, irrespective of the merits," said Latimer, past president of the Broward County Bar Association. "That

is the kind of case that would keep me awake at night. I decided I wasn't cut out to do that kind of work."

* Statewide, domestic matters make up the single largest chunk of Circuit Court cases. "It tells you where a lot of the pressure is in the courts," said Kenneth Palmer, Florida's state courts administrator. "We've got to do an effective job in handling that workload."

* Dade and Broward carry the No. 1 and 2 domestic relations caseloads among Florida's 20 judicial circuits.

"You're constantly running on adrenaline -- and then the next crisis will occur," said Broward Family Judge Kathleen Kearney, just off a 7:30 a.m.-to-11 p.m. day in court. "Work is my life, basically."

"It is a frustrating job," admitted Carol Gersten, a Dade family judge. "Sometimes you want to slap these people."

* The special family courts have by their nature contributed to the burgeoning caseloads. Simply, the system makes it easier for some people to get their day in court. "Divorces are always going to happen, court or no court," said Dale Ross, Broward's chief judge. "But admittedly, with the services we provide, you see more and more people."

Beyond the numbers, it's a system where the cornerstone of American life -- the family -- crumbles inside the courtroom.

"Love turns into hate faster than any other emotion," said E. Ross Zimmerman, a Tamarac lawyer who handles family and criminal cases.

He draws a jarring contrast.

"In Criminal Court, you're dealing with bad people on their absolute best behavior," Zimmerman said. "In Family Court, you're dealing with good people on their absolute worst behavior."

Martin-Lavielle found that criminals often behaved better in court than her divorce clients.

"I used to represent accused drug dealers," she said. "Only one ever lied to me. In family cases, almost everyone lies."

Miami lawyer Andrew Rier finds representing accused criminals more peaceful.

"Divorce law is not for the faint of heart," Rier said. "A lot of attorneys say it's a great way to stay single -- work in family law. There are times you look at your clients and say, 'Ten years down the road, how do I know that won't be me?' "

BITTER BATTLES

Divisions even deeper when children involved

Take a peek inside Family Court:

* **Siravo vs. Siravo:** Three years old, the case of Roxanne Siravo vs. Robert Siravo Jr. fills 21 court volumes -- and counting. The ex-husband, in the used car business, went to jail for 10 months after a Broward judge ruled that he squirreled away assets and refused to pay Roxanne.

"He would rather suffer himself before he would dare give her anything," said Roxanne's new lawyer, Randall Leshin.

Robert Siravo tells it differently. "This was the worst 10 months of my life," he said. "I was in love with her. I thought I was going to be married forever. This is my first marriage. And last."

* **Gertner vs. Gertner:** North Miami Beach businesswoman Annabel Gertner filed suit in Broward against her son, Howard Norman Gertner, after he refused to let her see the grandchildren.

"It certainly puts a damper on family dinners," said Linda Marie Jaffe, attorney for the son.

Annabel Gertner lost in court but appealed. "I just do not want to say anything," she said. "It's a very incendiary kind of issue."

* **Smith vs. Smith:** After her husband, James, filed for divorce, Shirley Smith said she went to the bank, withdrew \$124,000, paid some bills -- then burned the rest, \$78,352.

She asked a Broward judge not to hold it against her.

"My father used to call that cutting off your nose to spite your face," said Randi Glick Boven, attorney for James. "I can't see how someone would have that much anger for the length of time it would take to burn \$78,000."

Salt vs. pepper

Family Court is a place where legal fights ensue over sheer trivialities as couples officially untie the knot.

"I had one case where, literally, the husband and wife fought over who would get the salt and pepper shakers," said Joseph Geller, a Dania lawyer. "They were young, they had no money, and it was their nicest wedding gift. They settled the case. One took the salt shaker, one took the pepper shaker."

Add children to the judicial equation, and the divisions dig deeper.

Francesca Austin, a mother of three just divorced in Broward, knows. She tried to shelter her girls from trouble at home -- trouble triggered by an ex-husband who a Broward judge ruled was abusive.

"I thought I was concealing it from the kids, but you can't," Austin said. "No matter how closed you think the door is shut, it's not."

The pain of having a court decide when you can see your kids is undisputed.

Ask Bertha Tubultschinow of South Dade: "I don't let them see me cry. I cry driving home. I look at their pictures on the wall, and I cry myself to sleep."

STILL IN ITS INFANCY

Family matters split to new court in 1992

Family Court is just growing up. It was set up in Dade and Broward in 1992 after the Florida Supreme Court deemed divorces and other family matters important enough to have their own home.

Before, divorces and family fights melded into the cramped world of general civil litigation. You filed for divorce, your case landed on the desk of a judge already burdened by contract disputes, slip-and-fall lawsuits, medical malpractice cases.

The idea was to find one spot for family matters. To that end, Family Court has succeeded.

Before, "Family was always put on the back burner," Broward Judge Vitale said. "It's better now. You've got a Family Court judge used to doing that day in and day out."

Insiders cite other signs of maturity.

- * Requiring divorcing parents to take a four-hour parenting class.
- * Appointing more guardians ad litem to represent children's interests.
- * Pushing more people toward mediation.

Dade General Master Deborah White-Laborah tells all litigants entering her 18th-floor office the same thing: "This is not Perry Mason. Your legal bill will at least triple if you go to trial."

As a result, Judge Feder said nearly 70 percent of Dade divorces are settled early with the help of court-approved mediators. The rest drag on, clogging the system with reams of paperwork, resentment and frustration.

Trying to improve

"People decry this system -- for good reason. But the system has moved forward," said Geller, the Dania lawyer. "People know there's a problem. And we're trying to make it a better system."

Still, by other measures, Family Court has become more contentious with age.

In 1995, the number of divorces filed in the two counties hit the high-water mark this decade -- 22,727. While it could be argued that South Florida's increasing population has pumped up that number, there is no getting around the fact that Family Court is growing while the criminal and civil divisions are shrinking.

Even record numbers don't do justice to the true Family Court workload, Broward Judge Vitale argues. Family cases don't end when a couple divorces. Kids grow up and new disputes grow with them -- over custody, visitation, child support.

But the new hearings on old matters are not counted as new cases.

Vitale said she just handled an alimony dispute from a 1968 divorce. She guesses that half her work is post-divorce cases.

'Final' is relative

"A final judgment in a divorce case is anything but final," said Dale Sanders, a Fort Lauderdale divorce lawyer. "Some of these people want to keep sticking their fingers in each other's eyes."

As the cases drag on, judges shuffle in and out. "When things start to run like clockwork in a judge's division, they seem to get transferred out," Sunrise family lawyer Marc Brawer said. "It would be nice if there were some inducement to stay longer -- like combat pay."

Some wonder whether Family Court gets a sufficient share of judicial resources. In Broward, eight judges are assigned full-time to Family and two to Domestic Violence Court -- compared with 15 in civil and 14 in criminal.

"That's the eternal question -- how to allocate your judges," said Broward Chief Judge Ross, who juggles his own judicial duties between the Family and Criminal courts -- and who says Broward could use another family judge to handle domestic violence cases.

Ross said Broward already benefits from the Family Court Services Division, which helps people who represent themselves through the complex maze of divorce, conducts custody evaluations and helps people file restraining orders against domestic abuse. "Right now, we have more resources dedicated to that particular segment of the court system than any other," Ross said.

Not enough judges

In Dade, 11 judges are assigned full-time to Family Court and five to Domestic Violence Court -- compared with 20 in civil and 27 in criminal. "We have 11 judges but could use 13," Dade Judge Feder said.

For the judges, paid about \$104,000 a year, Family Court is truly different turf.

In criminal and civil arenas, the judge benefits from hard evidence -- be it weapons and eyewitness testimony in Criminal Court or written contracts and hospital charts in civil. And there are jurors to weigh the evidence.

In Family Court, decisions often come down to judicial gut checks.

"Who are the witnesses inside the walls of your own home?" asked Dania lawyer Geller. "Marriages dissolve. What is the truth in that? It's not 'guilty' or 'not guilty.' You have two people, and in most cases there's some responsibility on both parties."

Since there's never a jury, it all falls on the judge's shoulders.

"The only time you feel that you are doing right is when both sides end up hating you," Judge Feder said. "The pressure is just superhuman. You want to do right. You know the decision affects lives."

Childlike behavior

"It's like raising a child, being a judge in Family Court," said Sara Lawrence, a Miami lawyer. "If you're sitting in a real courtroom, you've got level-headed people. If you sit in Family Court, you've got lawyers and clients screaming at each other."

Even when the battling spouses are pleasant, the case isn't. "Let's suppose nobody's got rocks to throw," said Sanders, the Fort Lauderdale lawyer. "You've got an All-American mom and an All-American dad. Both of them want to be with their kids -- full time. How do you make that nonadversarial?"

Judges end up playing the part of accountants, crunching numbers on their calculators, figuring out property values, questioning a spouse's source of income -- or honesty.

"You'll see the invocation of the Fifth Amendment right against self-incrimination," Dade's Administrative General Master Robert Jones said. "I've seen someone file a tax return reflecting \$10,000 in income, yet he lived in a \$300,000 house and drove a Lexus."

In almost every case, the judge's ruling carries the weight of gold; they're rarely overturned on appeal.

"Each judge is a fiefdom to themselves, and they run their courtrooms the way they want," lawyer Sanders said. "In essence, the judge is a great big brown bear. He or she can do whatever they want, within limits."

One judge's trials

Early this year, Dade Circuit Judge Eleanor Schockett was transferred out of the family division after three disgruntled women who had appeared before her publicly campaigned for her ouster.

The women charged that Schockett maintained a bias toward men. They demonstrated with placards and leaflets on the steps of the Dade County Courthouse. They complained to the Judicial Qualifications Commission and the chief judge. Both the panel and Chief Judge Joseph Farina found nothing wrong.

Court officials said the transfer had nothing to do with the complaints. And Schockett said the pressure would not have been so intense if the media had not aired the women's objections.

But privately some Miami area divorce lawyers agreed with the unhappy litigants, saying the judge has been predisposed toward men. Those allegations, though, were undercut after several men clamored that they, too, had been "victims" of Schockett.

For their part, judges say they're often left to solve problems better solved at home.

"I see a number of cases, if you would substitute the word mama or daddy for every time you used the word judge, what you've got is an argument in which you want the judge to be the ultimate parent," Broward Family Judge J. Leonard Fleet said.

'Emergency' overused

"Everything becomes an 'emergency,' " Fleet said. "An 'emergency' does not mean you're not going to be able to have the child for Christmas or Thanksgiving. 'Emergency' means the welfare of the child is in danger."

To some, being a family referee is all part of the judge's job.

"Everything is a fight," said Lawrence, the Miami lawyer. "Every case ends on 'How are we going to divide up the photos?' If we could make the decisions, we wouldn't be here."

The key to survival, insiders say: Keep your work separate from your life.

"If you take this stuff home, it will cause your relationship to go down the tubes," said lawyer Boven of Smith vs. Smith, a married mother of two. "Other people's problems don't enter my house."

Still, she and others thrive on the system. "Your clients appreciate what you've done, even when you lose," Boven said. "I was doing corporate work. I hated it. You never knew why you were doing something."

After Broward Judge Fleet finished his two-year stint, he signed up for another.

"It's usually considered the burnout division, but I find it quite enjoyable," Fleet said. "In Family Court, you're dealing with human beings with the opportunity to truly be a judge -- to make decisions which require insight and reflection."

Judge Kearney agrees. "When I can try and help families and children, I don't feel tired. I don't realize that I've only had four hours of sleep. I don't realize I didn't have dinner last night."

WHAT LIES AHEAD

The ideal situation: pre-empting litigation

From Miami to Tallahassee and beyond, court officials gather and ask: Can we make Family Court more civilized?

"What we do now just doesn't work very well," said Rod Smith, state attorney for the 8th Judicial Circuit based in Gainesville and participant in a recent Family Court brainstorming session. "It embitters people for a long period of time. It hurts the children."

"Litigation is an inadequate way to settle issues of parenting. One parent need not be the loser, and one parent need not be the winner. The truth is, that's a bad starting point for the rest of the relationship."

Smith and others envision a system more front-end loaded, where couples consider the consequences of marriage -- and divorce -- before they tie the knot, not after.

Look to the future

Think about it, dreamy-eyed aspiring husbands and wives: If you have kids, then divorce, who gets custody? Who keeps the house? The car? The boat? The living room table? The patio furniture? The bathroom towels?

Smith speaks of his grandparents, 95 and 92, married 70 years, living in the same Oklahoma house.

"We grew from a system that really frowned on divorce. Two generations ago, especially for someone raised in small towns like myself, if somebody got a divorce, it was a tremendous moral failure on their part. It was typically whispered about, and one or two of the participants usually left the small town they lived in. Children of divorce were literally viewed differently than other children."

"We had a major change, now about 25 years old, from a system that almost prevented a divorce to a system that says, 'If you want a divorce, come down here and have a divorce.' We forgot people still had property to divide. They had children together."

MONDAY: The judges and lawyers.

Today: Family Court, where as many as half of the married couples in South Florida will eventually wind up, is a court in crisis. Tensions run high, caseloads run higher, judges wield vast powers, children are often left powerless, lawyers openly squabble -- and nearly everyone walks away displeased.

Monday: Meet the judges and lawyers of Family Court. Most all of them feel the same way about what they must deal with on a daily basis -- it's akin to combat. Judges often make gut-level rulings that rarely are overturned by higher courts. Lawyers charge thousands of dollars to help people fight over who gets a \$200 TV set. And when the clients' money runs out, the warring couples often are left to navigate the law on their own.

Tuesday: You fell in love and married. Then you both made that beautiful little child. But things have changed at home for the worse. And both of you swear to the grave that you will be the one to win custody of your child. Children, the most helpless players in Family Court, are the biggest losers.

Wednesday: In New York, a divorce lawyer wants to save marriages. In Michigan, a legislator wants couples to undergo counseling -- before they tie the knot. And in Florida, court officials brainstorm to make Family Court more civilized and easier on kids. From coast to coast come proposals to change the way we marry -- and the way we divorce.

Memo: BREAKING UP; THE CRISIS IN FAMILY COURT; First of four parts

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