

**ELDERCARING COORDINATION**  
**FREQUENTLY ASKED QUESTIONS**  
**TOPICS, QUESTIONS & OPTIONS REGARDING ELDERCARING COORDINATION**

These Frequently Asked Questions were developed through the queries received and responses given by the Association for Conflict Resolution (ACR) and Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) Task Forces on Eldercaring Coordination, the Eldercaring Coordination Pilot Sites and their designated Eldercaring Coordinators. Florida is one of five states currently piloting eldercaring coordination, and FLAFCC is the umbrella organization for the eight Florida Pilot Sites.

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**GENERAL**

**What is Eldercaring Coordination:**

Eldercaring coordination is an alternative dispute resolution process during which an Eldercaring Coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation, to resolve disputes with high conflict levels that impact the elder's autonomy and safety by:

1. Enabling more effective communication, negotiation and problem-solving skills;
2. Offering education about elder care resources;
3. Facilitating the creation and implementation of an elder care plan;
4. Making recommendations for resolutions; and
5. Making decisions within the scope of a court order or with the parties' prior approval.

**Who are Eldercaring Coordinators (ECs)?**

An eldercaring coordinator is an impartial third person whose role is to assist parties to resolve disputes in a manner that respects the elder's need for autonomy and safety. The role of an Eldercaring Coordinator requires extensive training and experience. Unless there is a written agreement between the parties, and while the process is still in the pilot stage, the court may appoint only a qualified eldercaring coordinator.

According to the Association for Conflict Resolution Guidelines for Eldercaring Coordination, Eldercaring Coordinators (ECs) must meet the following qualifications:

1. An Eldercaring Coordinator shall be licensed or certified by a regulatory body of a jurisdiction, state or province, with at least a master's degree and all of the following:

- a. Completion of family mediation training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution; and
  - b. Completion of elder mediation training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution; and
  - c. Completion of eldercaring coordination training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution; and
  - d. Extensive practical experience in a profession relating to high conflict within families.
2. An Eldercaring Coordinator shall be psychologically and cognitively able to perform the requirements of the Eldercaring Coordinator role; and have no situation, condition, impairment, or disorder that prevents the ethical, responsible and effective exercise of the Eldercaring Coordinator role.
  3. An Eldercaring Coordinator must decline a case, discontinue service and immediately report to the court and the parties if any disqualifying circumstances as noted above occur, or if he or she no longer meets the minimum qualifications.

#### **Why is all that training necessary?**

- *Why can't a civil mediator do this without additional training?*
- *The lawyers can do anything an EC could do!*
- *How can someone with a mental health background effectively serve as EC if the issues among family members are strictly financial?*

The families referred to eldercaring coordination have been identified as high conflict and therefore are, by definition, the most difficult families to work with. If you required specialized/delicate surgery, would you go to your family physician or a well-trained Board certified surgeon for the task? Similarly, an EC with all the required education and experience is necessary to work with these high conflict family situations, which include family members who are prone to escalate disputes, frequently file complaints and initiate adversarial actions. The qualifications for ECs, including educational background, experience and training, were especially vetted by the Task Forces that developed the Eldercaring Coordination Guidelines. The agencies and organizations that made up the Eldercaring Coordination Task Forces felt fervently that training and experience with high conflict family dynamics, as well as the unique needs of elders, were not only helpful but imperative. For quality control, consumer protection and accountability to the court, according to the Guidelines, all ECs must be licensed or certified in their profession of origin by a regulatory or government board. This will further insure the ethical behavior of ECs as well as support the need for their continuing education since there is no standard state certification (as yet) for eldercaring coordination.

Three tiers of training were emphasized by the Elderaring Coordination Task Forces to address the multi-layer, interdisciplinary education required:

- Family Mediation Training addresses the basic dispute resolution skills (of civil mediation) plus the special role of family dynamics and relational issues. It is helpful for the EC to learn to temper personal agendas and help families reach

resolutions regarding topics concerning care and time-sharing, while promoting ongoing effective communication between parents, mindful of the needs of their children. The conflict and interworkings of elders and their family of origin continue to be complicated by multiple marriages, blended families, step-children and siblings.

- Elder Mediation Training focuses on the specific needs of the elder and multi-party disputes. The training teaches a person-centered process for the elder who has rights, values and wishes to be respected as potential capacity issues are raised. Additional skills are needed to work with many people at the table simultaneously, including multiple generations, and juggling all their concerns while still focusing on the elder's care and safety.
- Eldercaring Coordination concentrates on the effects high conflict, litigious and vindictive behaviors have on the elder as well as family members and other stakeholders. Exploitation, neglect and abuse of elders, domestic violence, substance abuse, as well as cognition issues in the elderly and other relevant topics are all covered in the training, too.

It is true that civil mediators have a great deal of expertise and are effective in those cases reaching a settlement. However, the information provided in the required trainings will help them work specifically with high conflict, multi-party, family cases regarding the care and needs of an elder. Attorneys familiar with probate cases must take off their "lawyer hat" to serve in the role of a neutral EC. The emotional dynamics in these cases exacerbate the legal issues. ECs are capable to address the family dynamics, although they need to understand the relevant laws and consequences. While it is true that financial issues may drive the conflict of the parties, the ECs' role is specifically to reduce the conflict so that the family can better address all issues pertinent to the elder, including those about money; but, the EC is not there to serve as a financial advisor, make any monetary decisions, or give any legal advice. Attorneys that represent the elder or other participants, and legal advocates invited into the process, can address the issues related to the law.

The initial demographics show that there is relatively equal diversity in EC professional backgrounds between attorneys, mental health professionals and mediators. The EC is involved to complement, not replace, the other professionals and community resources that can assist the family. In fact, the EC is there to help the family work more productively with their resources, instead of constantly butting heads and challenging them.

### **Who Pays for the work of the EC?**

The sharing of the EC's fees by the parties is determined by the court on the court's Order of Referral to Eldercaring Coordination, not by the EC.

Rather than each person paying for separate lawyers to fight in court and increase the costs, the EC's fees are split among several participants. With the EC's help, everyone focuses on reducing the conflict now and into the future. This decreases the overall costs to each person. The attorneys continue to represent their respective clients to help with education and administration of legal issues as needed.

The EC cannot modify the fee sharing allocated on the court order. If someone is not paying their share of the fees, and it is brought to the Court's attention, the Judge might threaten the non-compliant person with contempt (which could result in incarceration or a fine).

**Is it appropriate for the EC to charge a retainer? And insist that the retainer is paid in full before the meetings?**

Having a retainer is not unusual and even recommended in most cases if the parties can afford it – even a small retainer may be required, sufficient to keep the parties current with each meeting (i.e., an amount equivalent to the fee for a single appointment paid in advance). ECs are providing a valuable professional service and are entitled to be paid. Since the EC is dealing with people in high conflict situations, we know that withholding fees is often used to manipulate the process, to punish the EC, delay, or stop the process altogether. Additionally, ECs in the Inaugural Training pointed out the importance of both accountability and engagement in the process, and that participants will feel more engaged in eldercaring coordination if they pay something toward it. If the EC wants to engage the parties from the start, the EC may require the initial consultation fee or a reasonable retainer fee to be paid in advance.

**How often do people meet with the EC?**

Eldercaring coordination sessions are scheduled as needed and this will vary from one family to another. When a decision affecting the elder needs to be made, but family conflict interferes with decision making, eldercaring coordination sessions will be more frequent. As family members and other participants acquire *appropriate* more productive communication and negotiation skills, and as an elder care plan is developed and implemented, the frequency of eldercaring coordination sessions will diminish.

**How does the court identify cases for Eldercaring Coordination?**

Cases appropriate for eldercaring coordination can be identified by a judge or court staff when there is a surge of motions in a case, multiple cross allegations, or parties who are not able to implement or facilitate court orders. Additionally attorneys, guardians, other professionals and the parties themselves can request that eldercaring coordination be utilized. For instance, attorneys may notice that the parties are so entrenched in conflict that they are not able to focus on the legal issues at hand; mediation became a forum for the parties to vent and exacerbate their contention, rather than resolve issues; or, issues surface and require attention to ensure their elder’s safety.

<b>IDENTIFYING CASES FOR ELDERCARING COORDINATION</b>	
<b>CASE CHARACTERISTICS</b>	
Mediation has reached an impasse	
Multiple motions to the court; high rates of litigation over non-legal issues	
Imbalance of power – some family members have attorneys and others do not or all parties self-represented	
Constant disputes about un-measurable or unsubstantiated items	
Possessive or controlling behavior toward the elder	
Difficulty in others separating elder’s needs and desires from their own; high degree of rigid thinking; win/lose mentality	
Chronic disputes over access and support	
Coalitions/sibling splitting entrenched	
Possible endangerment of elder or other parties	
History of domestic violence in family	

Cross allegations of family members; possible safety concerns
Drug/alcohol abuse
Elder being denied access to family member(s) and/or significant others
Parties being denied access to information
When money is used as bargaining tool or being withheld for care of the elder
High emotionality expressed by parties in court; verbal abuse; loud quarreling
Parties are not able to work cooperatively with collaterals and resources for the elder
Number of collaterals/agencies involved
Multiple motions on non-legal issues regarding care and safety of the elder
Multiple calls to law enforcement or APS regarding issues of family conflict about an elder
Case completed with APS where concerns that family conflict may continue to impede welfare of elder
Competing applications for appointment as guardian citing non-legal reasons why one applicant is more appropriate than another
Guardian or other authorized decision-maker constantly being questioned and second guessed
Chronic interference with elder's care or decisions affecting elder's welfare
Suspicion – founded or unfounded – of financial mismanagement (by elder or by elder's authorized decision-maker)
Others' conflict may place elder in jeopardy
"Grey" Divorce or separation – may be first or after multiple marriages or relationships, especially if children are involved

**What is a possible timeline from the point the case is identified to when the Order of Referral for Eldercaring Coordination comes through?**

Eldercaring coordination is a court ordered dispute resolution process. That means that either the parties or their representatives can request that the court order the parties to the process, or the court can identify a high conflict case with issues pertaining to the care and safety of the elder. Once the process is requested or the court, on its own, identifies a case, the time between identification of the case, and entry and processing of the Order of Referral to Eldercaring Coordinator will vary depending on the jurisdiction. One to three weeks should be expected. The parties are directed to contact the appointed EC within ten days of entry of the Order. There may be a delay, however, if the parties or attorneys are not on board. Unfortunately, these kinds of cases are so time sensitive that such delays should ideally be avoided. The death of an elder has occurred in some cases between the time the Order of Referral was entered and the time the EC was officially on board.

Within thirty days of receiving the Order of Referral to Eldercaring Coordinator, the EC is required to send the Response Form back to the Pilot Site Administrator indicating if the EC will take on the case. Ideally, the EC would return the Response Form within three days, as **time is of the essence in these cases.**

If accepting the case, the EC will attempt to contact all of the parties within the next two weeks. The EC may send out the Intake Form along with their Professional Services Agreement to be completed by each party independently, or may choose to work jointly with the parties to

complete those forms before the first meeting is scheduled. This way the EC can make sure to have the information required to begin the process safely, and to make sure that all of the parties have an explanation of eldercaring coordination and understand the fee arrangement of the EC as well as the allocation of payment ordered by the Court. A court-appointed or other surrogate (e.g. Power of Attorney), such as a Guardian, may complete the Intake Form for the elder if necessary.

### **How long is the term of ECs for each case?**

It is important to remember that eldercaring coordination is a process, not an event and therefore, the EC is generally designated to assist the family for a two-year term. However, it is the judge's discretion as to the duration of the eldercaring coordination process, and the term might be modified if necessary. Even if issues are initially settled or resolved, with the general two year term the EC will be available to focus on subsequent problems as they arise, avoiding delays in appointment or re-appointment, reducing contention as needed, mobilizing the use of available resources, and strengthening support among family members at times of need. In that way, the EC remains accessible to assist the elder and parties throughout the many transitions during this difficult time, saving the family from unnecessary and frequent adversarial court hearings.

### **What does the EC do if issues are resolved before the term expires?**

ECs should continue with the case throughout their term of appointment, which is usually for two years. It takes time to build a relationship and to demonstrate that the EC is looking out for the bigger picture. Once initial issues are resolved, the EC follows-up with the participants periodically. If new issues arise, the parties should consider returning to eldercaring coordination rather than initiate further court proceedings. The eldercaring coordination process can continue to address the new issues as well as any other outstanding issues. If the family renews court proceedings, eldercaring coordination may be suspended until the legal process is complete. Then the EC assists the parties in implementing the court's order.

### **What if the elder passes before the end of the ECs term?**

This question points to how important it is to identify cases for eldercaring coordination as early as possible. In the unfortunate circumstance that the elder passes before the end of the process, the EC may continue to assist the parties with non-legal issues, upon their request, in order to keep the elder's voice prominent in their transition process.

### **What should ECs know about veterans?**

ECs obtain information about the elder, such as if the elder was in the military, and if they were honorably or dishonorably discharged, to help the family learn about benefits for those who have served our country. The EC should be aware of how to obtain information regarding local resources, such as a County Veteran Association.

### **What are Guidelines for Eldercaring Coordination?**

The Association for Conflict Resolution Guidelines for Eldercaring Coordination include the following:

1. Ethical Guidelines for Eldercaring Coordination
2. Recommended Grievance Procedure
3. Eldercaring Coordination Training Guidelines and Protocols
4. Pilot Project Court Proposal Template, including standardized forms
5. Eldercaring Coordination Project Assessment Tool/Pre- and Post Surveys for Elders, other participants and the Eldercaring Coordinator

(These Guidelines were accepted by the Florida Chapter of the Association of Family and Conciliation Courts Task Force on Eldercaring Coordination and used as a guide when Florida Guidelines for Eldercaring Coordinators were concurrently developed, including statewide specific standards.)

An independent Eldercaring Coordination Project Assessment Team will utilize the information obtained from participating Court Pilot Project sites to continue to enhance the development of the eldercaring coordination process. Analysis conducted will be provided to the Project sites on an interim basis to inform improvements to the process throughout its implementation. The success of this project may be assessed by:

- Reduction in the number of hearings before the court in cases referred to eldercaring coordination;
- Review of Eldercaring Coordination Survey given to the participants, judges and ECs in eldercaring coordination;
- Instances of reports of elder abuse, neglect, and exploitation;
- Increased use of community resources (e.g. physicians, attorneys, guardians, elder mediators, health care and treatment providers, care managers, psychosocial and financial experts, aging and life care managers, etc.) to assist the elder and family;
- A project design that can be replicated statewide and nationally by other circuits interested in pursuing project goals and objectives.

### **Who developed the Guidelines for Eldercaring Coordination?**

Eldercaring coordination was developed through the ground-breaking collaboration between the Association for Conflict Resolution Task Force of twenty prestigious US/Canadian organizations and agencies, and the FLAFCC Task Force composed of twenty respected statewide organizations and agencies, in an effort to improve the lives of elders and families involved in high conflict litigation.

### **ACR Task Force members:**

Alternative Dispute Resolution Institute of Canada  
American Association for Marriage and Family Therapy  
American Bar Association Commission on Law and Aging  
American Bar Association Dispute Resolution Section  
American Psychological Association  
Association of American Retired Persons  
Association of Conflict Resolution  
Association of Family and Conciliation Courts  
Elder Justice Coalition  
National Academy of Elder Law Attorneys  
National Adult Protective Services Association  
National Aging Life Care Association  
National Association of Area Agencies on Aging  
National Association of Social Workers  
National Center for State Courts  
National Committee on the Prevention of Elder Abuse  
National College of Probate Judges  
National Council of Juvenile and Family Court Judges  
National Guardianship Association  
National Guardianship Network

### **FLAFCC Task Force Members:**

Department of Children and Families  
Adult Protective Services  
Elder Justice Center  
Florida Association for Marriage and Family Therapy  
Florida Attorney General's Office  
Florida Bar Elder Section  
Florida Chapter of the Association of Family and Conciliation Courts  
Florida Chapter of the National Association of Social Workers  
Florida Coalition Against Domestic Violence  
Florida Dispute Resolution Center  
Florida Health Care Association Florida Legal Services  
Florida Psychological Association  
Florida State Guardianship Association F  
Florida State Ombudsman  
National Association of Professional Geriatric Care Managers (Aging Life Care Professionals)  
National Patient Advocate, Inc.  
Mediation Training Group  
Office of the Public Guardian  
Stetson University College of Law Center for Excellence in Elder Law  
University of South Florida Conflict Resolution Collaborative

In addition, both Task Forces utilized a growing list of experts in related fields who comprised their Advisory Committees and were available to provide information, answer targeted questions, and vet the Guidelines as they were developed.

**What happens to other professionals already engaged by the parties?**

Eldercaring coordination is a dispute resolution option specifically for those high conflict cases involving issues related to the care and needs of elders, and is meant to compliment, not replace, other services such as provision of legal information or legal representation, financial management, individual/family therapy, care management, medical, psychological or psychiatric evaluation or mediation. The eldercaring coordination process is devoted to the care and safety of elders and the concurrent reduction of conflict so the parties will be better able to cooperate with court-appointed decision-makers and other professionals to best provide for the care and safety of the elder.

**Are EC's the same in every state?**

The ACR Guidelines for Eldercaring Coordination are broad enough to encompass the different needs of states, circuits and provinces and provide an overarching framework for best practices and ethical standards; however, specific standardized forms and procedures must be tweaked as necessary to follow the laws and court rules.

**When were the initial ECs trained?**

On July 7-10, 2014, the Ohio Supreme Court hosted the Inaugural Training for ECs, and on July 14-17, 2014, FLAFCC sponsored the Inaugural Training of Florida ECs. Both Eldercaring Coordination Trainings met all learning objectives specified in the Guidelines for Eldercaring Coordination, and research was conducted in order to improve future trainings.

**Tell me more about Florida. What about the Florida Chapter of the Association for Family and Conciliation Courts (FLAFCC) definition and qualifications for ECs in Florida and why are they more specific?**

FLAFCC created a Task Force on Eldercaring Coordination to collaborate with the Task Force created by the Association for Conflict Resolution on the creation of Guidelines for Eldercaring Coordination. Since Florida already had a well-developed statute and Family Law Rule of Procedure on Parenting Coordination, the FLAFCC Task Force integrated the ethical guidelines developed by the twenty US and Canadian organizations into statewide Guidelines that would work for Florida. Although adhering to the broader framework provided by the ACR Task Force, the FLAFCC Guidelines are more specific, following the formats already used for Florida parenting coordination so that Eldercaring Coordination would be more likely to be accepted in Florida.

**Then what are the qualifications of an Eldercaring Coordinator in Florida?**

To be qualified in Florida, an eldercaring coordinator must:

1. Meet one of the following professional requirements:
  - a. Be licensed as a mental health professional under Chapter 491 with at least a master's degree in the professional field of practice;
  - b. Be licensed as a psychologist under Chapter 490;
  - c. Be licensed as a physician under Chapter 458;
  - d. Be licensed as a nurse under Chapter 464 with at least a master's degree in the professional field of practice;
  - e. Be certified by the Florida Supreme Court as a family law mediator with at least a master's degree in the professional field of practice;
  - f. Be a member in good standing of The Florida Bar; or
  - g. Be a professional guardian as defined by section 744.102 (17) (Florida Statutes 2016), with at least a master's degree in the professional field of practice.
2. Complete all of the following:
  - a. Three years of postlicensure or postcertification practice;
  - b. A family mediation training program certified by the Florida Supreme Court;
  - c. An elder mediation training that meets the standards approved and adopted by the Association for Conflict Resolution; and
  - d. An eldercaring coordination training that meets the standards contained in the FLAFCC Guidelines for Eldercaring Coordination ([www.eldercaringcoordinationfl.org](http://www.eldercaringcoordinationfl.org)).
3. The court may require additional qualifications to address issues specific to the parties.
4. A qualified eldercaring coordinator must be in good standing, or in clear and active status, with all of his or her respective professional licensing authority or certification board(s), as applicable.

Disqualifications of eldercaring coordinator.—

The court may not appoint a person to serve as eldercaring coordinator who, in any jurisdiction:

1. Does not meet the Level 2 background screening as defined in section 435.04(2) and (3), Florida Statutes, or meet the provisions of section 435.07.
2. Is or has been a respondent in a final order for injunction for protection against domestic, dating, sexual, or repeat violence or stalking.

An eldercaring coordinator must discontinue service and immediately report to the court if he or she no longer meets the minimal qualifications or if any of the disqualifying circumstances described above occur, and the court may appoint another eldercaring coordinator.

**I understand that this project is being researched. Why is research important?**

Research from the very beginning assures us that we are creating appropriate practices to meet the needs of the elder, the family, and the court. Improvements are implemented as we learn best practices.

Surveys were developed in the format of Intake Forms to ensure that all ECs obtain at least the minimum of essential information from each party and participant in order to plan a responsive and safe eldercaring coordination process. Only authorized ECs are given copies of these Intake Forms and coding system for the elder, each participant, each “invited participant” at their discretion, and themselves. The Pilot Sites complete a survey for each case as well. At the end of the eldercaring coordination process, there will also be an Exit Form to learn about the successes and challenges faced by the EC, elder, participants and Pilot Sites. These forms, also referred to as Surveys, will be shared anonymously with an independent ElderCaring Coordination Project Assessment Team that will utilize the information obtained to continue to enhance the development of the eldercaring coordination process. Analysis conducted will be provided to the Project to inform improvements to the eldercaring coordination process throughout its implementation. The success of this project may be assessed by:

- Instances of reports of elder abuse, neglect, and exploitation;
- Reduction in hearings before the court in cases referred to eldercaring coordination;
- Increased use of community resources (e.g. physicians, attorneys, guardians, elder mediators, health care, mental health and psychosocial professionals, aging life care managers, financial experts, Aging Life Care Professionals, etc.) to assist the elder and family;
- Review of ElderCaring Coordination Surveys given to the participants in eldercaring coordination;
- A project design that can be replicated statewide and nationally by other circuits interested in pursuing project goals and objectives.

Research is essential for two reasons: first, it ensures that each EC is obtaining the same essential intake information from their clients; next, it provides an objective way for the process to be measured and enhanced in order to develop promising practices and provide the best service possible.

**The difference an ElderCaring Coordinator can make TO ELDERS, THEIR FAMILIES AND OTHER STAKEHOLDERS:**

BENEFIT	ELDER	FAMILY	STAKEHOLDER	COURT
Fewer delays in medical treatment decisions	Treatment results improved; stress reduced	Less worry, less contention, less time needed for medical treatment	Can focus more productively on other issues	Fewer emergency hearings on medical treatment and care
Generates more ideas/options	Optimizes elder’s life	May provide options that work better for elder and family	Forwards elders and families to resources and	May resolve issues without court intervention

		members	providers	
Expands perspectives through engagement and education; meaningful participation where each participant feels heard	Elder becomes the central focus	Family members recognize joint interest and focus more on elder rather than anger toward one another	Increases appropriate expectations of professionals	Less motions to the court
Develops support system for elder and family; identifies available resources to assist	Enhances elders care and reduces feelings of isolation and helplessness	Reduces care giver burnout.	Enhances cooperation with professionals and engages community providers	Opportunity to resolve issues without court intervention increases
Development of a person-centered care plan submitted as a settlement agreement	Expectations are clarified; greater compliance in providing care and safeguarding welfare of elder	Empowerment of family in providing solutions for elder; less contention	Greater and appropriate utilization of resources	Less time in court; Judge is able to see details never possible in a court order. Examples: a. Specific treatment modalities; b. Schedule and protocols for visitation between elder and family members
Roles better defined	Less contention regarding care, decision-making and representation of elder	More appropriate expectations	Greater clarity and increased functioning; greater collaboration	Less confusion and contention in court processes
Issues identified and addressed earlier	Prompt attention given to elder's needs	Goals prioritized; procedures developed through eldercaring plan, contention reduced when family members feel heard	Needs addressed earlier; potential for conflict reduced	Reduction in court hearings when parties resolve their issues; makes sense of cross allegations and pleadings reduces time needed in court.
Reduces risks and increases safety for Elder and others participating	Reduces risks and increases safety for Elder and others participating	Reduces risks and increases safety for Elder and others participating	Reduces risks and increases safety for Elder and others participating	Reduces risks and increases safety for Elder and others participating

Available resources identified earlier	Elder receiving better care sooner; spectrum of care options expanded	Family has more options to assist elder, share care	Resources in communities better utilized including veterans' benefits identified	Less need for court intervention
Process seen as neutral since parties share in payment of fees	Focus can be shared upon elder rather than competing individual agendas	Less perception that EC can be "bought" or "influenced" by participant	In neutral environment, there is greater chance of cooperation; takes parties out of the adversarial framework of the court	Court may be perceived as providing fair process toward justice
EC can serve as liaison when necessary to share information	Keeps the door open to communication and information from/about the elder	Promotes collaboration even when parties cannot speak directly; takes away adversarial component when they contact their attorneys for non-legal issues	Addresses non-legal issues so attorneys can address legal issues without constant disruptions; parties better able to use resources effectively	Promotes informed decision-making out of court when everyone has the same information
Relational and intergenerational modeling; EC can continue to assist past initial term, upon court order, or upon request with court notification; EC can continue to assist past interim term	Elder's wishes and voice maintained as priority for parties	Less general contention and greater collaboration	Resources utilized with less resistance and greater cooperation	Fewer, if any, court actions for non-substantive issues; less contentious probate actions
<b>SYSTEM OUTCOME</b>	<b>ELDER</b>	<b>FAMILY</b>	<b>STAKEHOLDER</b>	<b>COURT</b>
Outcome: Justice versus Process	Elder retains center focus in legal process	Family becomes supportive role rather than vying to be focus of court process	Greater cooperation with stakeholders, less stressful for stakeholders and providers	Better outcomes for court actions
Increased familiarity of process for attorneys, guardians, court through education and experience	Reduced exposure and effects of conflict on elders	More families referred to the process	Attorneys and Guardians requesting eldercaring coordination	Judges identify cases, especially early on

Heightened awareness of Alternative Dispute Resolution by the court (e.g. mediation AND eldercaring coordination)	More options identified to assist elders	Recognition that “not one size fits all” for families so more options available, including mediation	When families use best option, most suited to their unique needs, then issues have better chance of resolution	Differentiated case management assigns families to services most suitable, saves time and resources
Fewer Guardians appointed; greater use of family as guardians	Still working with familiar people/saving resources	Developing support system not antagonism as elder ages, becomes more dependent on them	Greater use of resources	Public funds saved; fewer non-legal issues

**If a party takes issue with the way things are being done for the elder, how is that issue brought to the Court’s attention and what does it take for the party to get an Order from the Court resolving the issue? What if the case had been referred to an Eldercaring Coordinator?**

1. Whenever an issue arises in a case pending before the Court, and the Court is expected to decide that issue, the issue must be reduced to writing in the form of a Motion. The Motion must provide all the other parties with sufficient information for them to prepare for a hearing on the Motion.
2. Once the Motion is drafted, the attorney who is going to file it must estimate how much time it will take to present the Motion, and anticipate how much time other parties in the case will need to respond to the Motion. Then the moving attorney must contact the Court and obtain several potential dates when the Court will have sufficient time available to hear the Motion. Several dates are obtained because, before the hearing can be set, the attorney must confirm that everyone else is available at the same time on the same date that is available on the court’s calendar. Depending upon how much time is needed to hear the Motion, the dates the Court has available might be weeks (for a short hearing) or months (for a long hearing) away.
3. The attorney must contact all the other parties or attorneys involved in the case and coordinate the hearing on their calendars, proposing each of the dates that the Court has available to hear the Motion, until all of the other parties/attorneys confirm their availability on the same date.
4. A Notice of Hearing is then prepared. The moving attorney files the Motion and the Notice of Hearing with the Court, and ensures that all the other parties/attorneys receive copies. This could be through electronic filing or by regular mail.
5. The attorney must then notify the witnesses that will be expected to testify at the hearing. Some of the witnesses might need to be subpoenaed so subpoenas have to be prepared and sent to the Sheriff’s office or to a process server so that they can be served on the witnesses sufficiently in advance of the hearing to make sure that service is perfected before the hearing date. Each subpoena must be accompanied by a check for the statutory witness fee plus mileage from the witness’s home or office to the courthouse.

6. The attorney will need to meet with the witnesses before the hearing to prepare those witnesses to testify.
7. The attorney will have to prepare his/her own arguments and might also have to do some legal research.
8. When the hearing date finally arrives, the attorney argues the Motion and presents the testimony of his/her witnesses. Assuming sufficient time has been reserved, the other parties respond to the Motion and present the testimony of all of their respective witnesses. If sufficient time was not reserved, then another hearing date might have to be scheduled in order to accommodate the responding parties' rights to be heard.
9. Often the testimony in a contested matter is hurtful and creates bad feelings among the participants in the hearing, but if it is relevant to the issue to be decided it is offered to the Judge to assist the Judge in deciding the issue.
10. When all the evidence and testimony is in, and all the arguments have been made, the Judge makes an oral ruling based on the evidence admitted.
11. The prevailing party's lawyer must return to his/her office and, as soon as time allows, and reduce that ruling to a written Order. The Order must be circulated to all of the other parties/attorneys for their approval before it is submitted to the Judge. The attorneys/parties are allowed to request changes to the Order if they think that it does not accurately reflect the findings and rulings orally announced by the Judge. Sometimes there is agreement right away but sometimes there are unresolved disputes about what the Judge said. In those instances, the language of the Order is changed and revised until everyone agrees to what it says.
12. Once all of the parties/attorneys have approved of the proposed Order it is sent to the Judge for signature. The Judge usually signs the Order without any changes, but the Judge has the right to revise the proposed Order if he/she does not find that it reflects what the Judge said when the oral ruling was announced. The proposed Order might sit in the Judge's in-box for a few days if the Judge is too busy with hearings or trials to go through the in-box and sign whatever is in it.
13. When the Order is finally signed, it is sent to the Clerk and copies are sent out to all the parties.

**OR a more efficient Eldercaring Coordination process:**

As an alternative to this process, **if a case has been referred to an Eldercaring Coordinator**, the Eldercaring Coordinator can be contacted by any of the parties whenever an issue arises. The Eldercaring Coordinator would then either schedule a meeting with everyone, or get everyone on the phone. The issue would be discussed; ideas and proposals exchanged; and the Eldercaring Coordinator would facilitate resolution of the issue by consensus or agreement of the parties. The resolution of the issue could then be incorporated into the Eldercaring Plan. This could all happen within the same day!

**FOR JUDGES, MAGISTRATES AND PILOT SITE ADMINISTRATORS**

**What is a Pilot Project on Eldercaring Coordination?**

An Eldercaring Coordination Pilot Site is defined as a judge or judges/magistrates that will refer at least six cases for eldercaring coordination, or a group of attorneys that will refer at least six cases for eldercaring coordination through agreed orders. There are currently Pilot Projects in Florida, Idaho, Indiana, Ohio and Minnesota.

**What kinds of cases should be referred to eldercaring coordination?**

The following chart is provided as an illustration of the cases that are appropriate for referral to an Eldercaring Coordinator. High conflict cases, matters that are repeatedly seeking hearings to address issues that are not legal but are related to decisions affecting an elder, and cases that the Court suspects are being driven by emotional chaos, are the kinds of cases Eldercaring Coordinators expect to have referred to them.

**IDENTIFYING CASES FOR ELDERCARING COORDINATION**

***Do you recognize any of these characteristics?***

CASE CHARACTERISTICS CHECK LIST	✓
Mediation has reached an impasse	
Multiple motions to the court; high rates of litigation over non-legal issues	
Imbalance of power – some family members have attorneys and others do not or all parties self-represented	
Constant disputes about un-measurable or unsubstantiated items	
Possessive or controlling behavior toward the elder	
Difficulty in others separating elder’s needs and desires from their own; high degree of rigid thinking; win/lose mentality	
Chronic disputes over access and support	
Coalitions/sibling splitting entrenched	
Possible endangerment of elder or other parties	
History of domestic violence in family	
Cross allegations of family members; possible safety concerns	
Drug/alcohol abuse	
Elder being denied access to family member(s) and/or significant others	
Parties being denied access to information	
When money is used as bargaining tool or being withheld for care of the elder	
High emotionality expressed by parties in court; verbal abuse; loud quarreling	
Parties are not able to work cooperatively with collaterals and resources for the elder	
Number of collaterals/agencies involved	
Multiple motions on non-legal issues regarding care and safety of the elder	
Multiple calls to APS regarding issues of family conflict regarding an elder	
Case completed with APS where concerns that family conflict may continue to impede welfare of elder	
Competing applications for appointment as guardian citing non-legal reasons why one applicant is more appropriate than another	
Guardian or other authorized decision-maker constantly being questioned and second	

guessed	
Chronic interference with elder's care or decisions affecting elder's welfare	
Suspicion – founded or unfounded – of financial mismanagement (by elder or by elder's authorized decision-maker	
Others' conflict may place elder in jeopardy	
"Grey" divorce may exacerbate conflict and place the elder in the middle of a family tug-of-war	

**FOR ATTORNEYS, GUARDIANS AND OTHER PROFESSIONALS**

**Why shouldn't cases just go to mediation?**

While most cases can resolve their issues through mediation, some are in such high conflict that they are not amenable to the process. As one issue is resolved, another one is exposed. High conflict cases may even use their mediation meeting(s) exclusively to vent, as the parties are unable to focus on the issues at hand, further exacerbating their conflict. These are the cases appropriate for eldercaring coordination, where specially trained eldercaring coordinators will focus on managing their conflict, reducing tension and helping them move forward from their entrenched hostilities. At that time the eldercaring coordinator may even refer the parties back to their mediator, as they are better able to focus on the issues at hand rather than their own personal agendas.

**Should everyone be represented by counsel during eldercaring coordination?**

Attorneys are typically already involved in the kinds of cases that are expected to be referred to eldercaring coordination. There is no requirement that anyone involved in eldercaring coordination be represented by an attorney, nor is there any prohibition against having an attorney. The eldercaring coordination process is intended, however, to be a confidential process, meaning that, what is discussed during eldercaring coordination sessions is not to be offered as evidence at any court proceedings. The EC's role is to remove the adversarial perspective from the process of making decisions for the care and safety of an elder loved one. Therefore, attorneys who are invited to the sessions must attend the sessions with a collaborative approach.

