



DIVISION ONE
 FILED: 10/23/2013
 RUTH A. WILLINGHAM,
 CLERK
 BY: mjt

**IN THE COURT OF APPEALS
 STATE OF ARIZONA
 DIVISION ONE**

LORI KRENZEN,) 1 CA-SA 13-0274
)
 Petitioner,) DEPARTMENT B
)
 v.) Maricopa County
) Superior Court
 THE HONORABLE BENJAMIN NORRIS,) No. FC 2012-091110
 Judge of the SUPERIOR COURT OF)
 THE STATE OF ARIZONA, in and for)
 the County of MARICOPA,) **DECISION ORDER**
)
)
 Respondent Judge,)
)
 ADAM KATZ,)
)
 Real Party in Interest.)
 _____)

The court, Presiding Judge Peter B. Swann and Judges Diane M. Johnsen and Samuel A. Thumma, has considered the petition for special action filed by Petitioner and Petitioner's motion for interlocutory stay pending disposition of petition for special action. After consideration,

IT IS ORDERED, in the exercise of the court's discretion, declining special action jurisdiction.

IT IS FURTHER ORDERED denying as moot the motion for interlocutory stay pending disposition of petition for special action.

DISCUSSION

I. Procedural Background.

This special action is filed by Petitioner in a pre-decree divorce proceeding pending in Arizona Superior Court, Maricopa County, and challenges the adequacy of a three-hour trial setting. The case involves a child with special needs. In addition, the Petition indicates the couple has significant and/or complicated assets to be addressed at trial, including various businesses, two homes, other properties in which Petitioner claims an interest, vehicles and retirement accounts.

Trial is scheduled for November 4, 2013. The issues to be addressed and resolved at trial include final decision-making authority; spousal maintenance; child support; identification, allocation and distribution of assets (including businesses, real property, vehicles, retirement accounts and debt) and attorneys' fees. Petitioner has listed 12 intended trial witnesses, including the parties, the child's treating physician, the court-appointed custody evaluator and witnesses necessary to address other issues to be resolved at trial.

At an August 13, 2013 hearing, the Respondent Superior Court Judge acknowledged that there were numerous witnesses required to adequately resolve the issues to be tried. The court, however, set the matter for a three-hour trial, with each side allocated half of that time (i.e., 90 minutes per side).

Petitioner argues that schedule is not nearly enough time for her presentation and that she needs approximately four hours for her evidentiary presentation at trial. Given these concerns, on September 12, 2013, Petitioner filed a motion to extend time for trial or, in the alternative, for reconsideration re: length of time for trial, which the court denied on September 20, 2013. Petitioner then filed this special action.

II. Special Action Jurisdiction.

Special action jurisdiction is highly discretionary, and is generally disfavored when used to consider trial scheduling or management. Special action jurisdiction is not appropriate "where there is an equally plain, speedy, and adequate remedy by appeal." Ariz. R.P. Spec. Act. 1(a).

The superior court may impose reasonable time limits on trials in family court, provided those limits are consistent with due process. See Ariz. R. Fam. L.P. 77(B)(1). In this case, there appear to be numerous fact-intensive issues to be resolved at trial, the full extent of which the superior court has not yet heard. Moreover, when setting the time for trial, the superior court did not have the benefit of the joint pre-trial statement, which is to be filed October 28, 2013, the same date exhibits are due. Similarly, the superior court does not yet know how the parties will use their allocated trial time. At the conclusion of the time currently scheduled for trial, it may be

that the superior court will find additional time necessary and appropriate and afford the parties more time for trial. Given these possibilities, accepting special action jurisdiction could result in addressing discretionary issues "on a situation that may never occur." *Kool Radiators, Inc. v. Evans*, 229 Ariz. 532, 536, ¶ 13, n.6, 278 P.3d 310, 314 n.6 (App. 2012) (citation omitted; discussing ripeness and standing).

Finally, even if the superior court does not alter the three-hour trial limit in this case, and Petitioner continues to believe that was not appropriate after trial, Petitioner retains an equally "plain, speedy, and adequate remedy" by way of appeal. See A.R.S. § 12-2101(A)(1); *Neary v. Frantz*, 141 Ariz. 171, 177, 685 P.2d 1323, 1329 (App. 1984) ("A remedy does not become inadequate merely because more time would transpire by pursuing a conventional action.").

For all of these reasons, this court declines special action jurisdiction and denies as moot the motion for interlocutory stay pending disposition of petition for special action.

/s/ _____
SAMUEL A. THUMMA, Judge