

THE SUPREME COURT *of* OHIO

ADVISORY COMMITTEE ON CASE MANAGEMENT

Honorable Jerome J. Metz, Jr.
Hamilton County Common Pleas Court
Chairperson

Honorable Kathleen L. Giesler
Ottawa County Court of Common Pleas
Probate/Juvenile Division
Vice Chairperson

Meeting Minutes

March 6, 2015

Committee Members Present:

Gretchen Beers, Esq.
Russell Brown, Esq.
Judge Timothy Cannon
Judge Anthony Capizzi
Judge Rocky Coss
Judge Carol Dezso
Judge Gary Dumm
Judge Richard Frye

Judge Kathleen Giesler
Lisa Gorrasi, Esq.
Judge Jerome Metz, Jr.
Judge Diane Palos
Elizabeth Stephenson, Esq.
C. Michael Walsh
Judge Joseph Zone

Committee Members Absent:

Judge Deane Buchanan
Judge Laura Gallagher

Judge Michael Hall
Judge Tom Pokorny

Supreme Court of Ohio Staff Members Present:

Brian Farrington
Ashley Gilbert, Esq.
Diane Hayes
Stephanie Hess, Esq.

Colleen Rosshirt, Esq.
Tasha Ruth, Esq.
Alicia Wolf, Esq.

Introduction

Tasha Ruth and Judge Metz introduced and welcomed Colleen Rosshirt and Ashley Gilbert, two new members of the Case Management Section at the Supreme Court of Ohio.

Meeting Minutes

The minutes from the December 10, 2014 meeting were reviewed and approved unanimously.

Old Business – Statistical Reporting Instructions

After a lengthy discussion regarding the language in the proposed amendments to Superintendence Rule 36 and Superintendence Rule 39, the following motions were made and passed to amend the statistical reporting instructions to mirror each rule. As amended, the instructions read as follows:

1. Motion to amend Page 19, Section (P)(1)(b):

Criminal Cases. Time begins in criminal cases in common pleas court upon the assignment of a case to a judge which shall occur not later than the arraignment or waiver of arraignment of the defendant, or upon the transfer in of a case from another court of equivalent jurisdiction. Time begins in criminal cases in municipal court and county court **upon the arraignment or waiver of arraignment.**

2. Motion to amend Page 19, Section (P)(1)(c):

Traffic Cases. Time begins in traffic cases in common pleas court upon the assignment of the case to a judge which shall occur immediately upon the arraignment of the defendant. Time begins in traffic cases in municipal court and county court **upon the arraignment or waiver of arraignment.**

3. Motion to amend Page 23, Section (P)(4)(i):

Particular Sessions of Court. In municipal courts and county courts, the assignment of a case to an individual judge following the case being heard during a particular session of court under Sup.R. 36(C) does not **restart** the continued aging of that case. For this reason, the judges of a multi-judge municipal court or county court have a direct interest in ensuring there is no unnecessary delay in case management during pre-individual assignment session activities.

Old Business – Update on Commercial Docket Subcommittee

Judge Cannon outlined Superintendence Rule 49's requirement that a subcommittee of the Advisory Committee on Case Management review and recommend to the Chief Justice

candidates for designation as commercial docket judges. In December 2014, the Commercial Docket Subcommittee reviewed their first applicant and prepared a report which did not recommend the applicant to serve as a judge on the Cuyahoga County Common Pleas Commercial Docket. Judge Cannon explained that subsequent to the Subcommittee's review, Cuyahoga County judges held a meeting which resulted in a decision to disband Cuyahoga's commercial docket.

The group discussed Sup.R. 49 and the criteria required to serve as a commercial docket judge. There was conversation regarding whether these criteria need to be more objective and whether a candidate's length of judicial experience should be eliminated from consideration. The group discussed whether the criteria set forth in Sup.R. 49 need to be revisited. Judge Cannon requested suggestions and asked for counties to provide feedback to the Subcommittee regarding Sup.R. 49's current criteria. Judge Metz asked for the Supreme Court staff to reach out to courts with a commercial docket to see what their criteria are for commercial docket judges.

Old Business – Superintendence Rule 42.1 – Complex Litigation

The Advisory Committee turned its attention to the topic of proposed Superintendence Rule 42.1, which concerns Complex Litigation cases in domestic relations courts. Lisa Gorrasi explained the proposed rule and led a discussion to see what changes needed to be made. The group agreed that Sup.R. 42.1 would not go into effect until Sup.R. 39 is adopted. The following motions regarding Sup.R. 42.1 were made and passed:

1. Motion to amend the first two sentences in Section (A):

A party in a domestic relations action may request that the case be designated as complex litigation. An attorney filing the request shall certify that the attorney has approval from his or her client to file the request.

2. Motion to amend the title of Sup.R. 42.1:

Complex Litigation – **Domestic Relations Cases**

3. Motion to amend the second sentence in Section (A):

An attorney filing the request shall certify that the party has approved the filing of the request.

4. Motion to amend the first sentence in Section (C):

A designation of a case as complex litigation pursuant to ~~division (A) of~~ this rule shall be made within six months of the date on which the case was filed or within a reasonable time for good cause shown.

Sup.R. 42.1 was unanimously approved with all amendments.

5. Motion to amend the first sentence in Section (B):

The judge to whom the case is assigned may designate a case as complex litigation without a request. ~~from an attorney representing a party to the action.~~ The designation shall be made after the judge considers the factors set forth in divisions (A)(1) to (5) of this rule.

***This motion was not voted on although the entire committee agreed the amendment should be made.

A motion was made and passed to direct the Supreme Court staff to revise Sup.R. 42 to make it consistent with Sup.R. 42.1.

Old Business – Update on Superintendence Rule 8 – Court Appointments

Judge Frye reported on the progress of the Superintendence Rule 8 Subcommittee and the outcome of the February 13, 2015 meeting. He gave an overview of the rule and explained how the circumstances in Cuyahoga County Common Pleas Court have led to the Subcommittee's current review of the rule, which has not been amended since 1997. The current focus is on appointment of attorneys for indigent defendants. Judge Frye explained that the main issue is how to define, or redefine, "equitable distribution" as it is used in the rule. There was discussion regarding the pros and cons of how Ohio's courts distribute court appointments, and what further changes need to be made. Additional conversation concentrated on the need to review how the appointments are made (e.g. by a judge, court employee, or the public defender's office) and the size of each court's appointment list (e.g. how many attorneys are on each list). Before the next Subcommittee meeting, the Supreme Court staff will gather information regarding the different appointment systems used throughout Ohio by surveying judges who make these types of appointments.

Judge Frye also gave a brief update on the Sup.R. 36 Subcommittee and its placement on temporary hiatus so that Sup.R. 8 can be addressed immediately.

New Business – eStats

Brian Farrington gave a summary of the current eStats requirements, and the potential changes on the horizon. It is now mandatory that all Form A (General Division) Reports are submitted electronically. Electronic versions of Form B (Domestic Relations Division) and Form D (Juvenile Division) are in the testing phase now; an announcement will be forthcoming regarding when they will be available for electronic submission. Form C (Probate Division) will be rolled-out after Forms B and D. The final forms to be completed will be the Municipal and County Court forms for the Administrative Judge Report and the Individual Judge Report.

Mr. Farrington introduced the eStats portal, which will allow all local courts to view their statistical reporting information and forms electronically. Discussion turned to the topic of log-in credentials for the eStats portal. The Administrative Judge of each court is responsible for all Supreme Court Report submissions. The Supreme Court will provide each court's

Administrative Judge a single set of credentials. The Administrative Judge, in consultation with his/her colleagues in a multi-judge court, will be free to determine what reports will be shared and how they will share them. For example, the Administrative Judge can choose whether to give each judge the log-in credentials so they can have individual access to judge level data. There was concern raised by the group regarding the fact that there will be a single set of credentials per court. The concern was that each judge should have credentials so they are guaranteed access to their statistics and so that each judge must view their statistics each month. Mr. Farrington explained that having one set of log-in credentials for each court is to ensure security and simplicity, while allowing individual courts a high degree of flexibility. Each court will have the ability to adapt whatever process makes sense for them. There was discussion regarding opening this “judge level” data up to the public, however, no consensus was reached.

Mr. Farrington asked for the group’s feedback on eStats user reports for caseload and performance overview. The reports, which are still in the development phase, will include statistics such as trends in incoming cases, caseloads and long and short term clearance rates, age of active pending caseload, and the number of months the oldest case is overage.

Old Business – Update on Superintendence Rule 39 – Case Time Standards

Judge Metz reported that Sup.R. 39 was presented to the Commission on the Rules of Superintendence earlier in the day. The ACCM recommended the Supreme Court publish the proposed amendments to Sup.R. 39 and its corresponding case processing time standards for a 30-day public comment period. The Commission did not take a vote and is currently taking the rule under consideration.

New Business – Update on Superintendence Rule 38 – Physical Case Inventory

Tasha Ruth led a discussion regarding Sup.R. 38 and asked the group to consider forming a subcommittee to begin reviewing the rule. Issues to be considered include revising the rule to address e-Filing, reviewing the three-month time period new judges have to complete a physical case inventory, and looking at whether performing a case inventory once per year is enough. Stephanie Hess suggested that perhaps more commentary is necessary to explain and clarify the reason and intention behind the rule. It should be clear that the purpose of the rule is multifaceted. It is a case management and auditing tool intended so that judges will perform a case inventory. This encourages judges to look at their cases and take that opportunity to move cases to disposition, or close cases out that should have been closed out. The case inventory requirement also gives judges the opportunity to look for potential conflicts of interest and find cases they may need to recuse themselves from. Judge Coss, Judge Dezso, and Elizabeth Stephenson were asked to review the rule and draft an amended rule by the next ACCM meeting.

New Business – Court Consulting

Tasha Ruth provided an outline of services the Case Management Section currently offers, and what has been offered to courts in the past. Ms. Ruth asked for input from the ACCM members as to what types of services would be most beneficial to local courts. A lengthy discussion followed and group members made suggestions that the Supreme Court staff host online classes

and webinars for court staff, provide case management training for judges, court staff, and attorneys, and that staff should meet with new judges within 60 to 90 days of taking the bench.

The Subcommittee for Court Consulting has been formed to evaluate what types of consulting, technical assistance, and training should be offered to local courts by the Case Management Section. Members include: Russell Brown, Judge Pokorny, Judge Metz, Judge Coss, Judge Capizzi, Judge Zone and Judge Giesler.

2015 Meeting Dates

Friday, May 8, 2015
Friday, August 7, 2015
Friday, October 16, 2015