

THE SUPREME COURT *of* OHIO

ADVISORY COMMITTEE ON CASE MANAGEMENT

Honorable Timothy Cannon

Eleventh Appellate District

Chairperson

Honorable Judith French

Tenth Appellate District

Vice Chairperson

Meeting Minutes

October 12, 2012

Committee Members Present:

Russell Brown, Esq.
Judge Deane Buchanan
Judge Timothy Cannon, Chair
Judge Anthony Capizzi
Mark Combs
Judge Rocky Coss
Judge Carol Dezso
Judge Sheila Farmer
Judge Judith French, Vice Chair
Judge Richard Frye

Judge Laura Gallagher
Judge Kathleen Giesler
Lisa Gorrasi, Esq.
Judge Michael Hall
Judge Jerome Metz
Judge Diane Palos
Judge John Pickrel
Judge Tom Pokorny
Judge Jack Puffenberger
Judge Joseph Zone

Committee Members Absent:

Jean Atkin, Esq.
Gretchen Beers, Esq.
Judge Gary Dumm

Laurie Endly
Judge Alan Goldsberry

Supreme Court of Ohio Staff Members Present:

Brian Farrington
Diane Hayes
Stephanie Hess

Stephanie Graubner Nelson
Tasha Ruth

Guests Present:

John Van Doorn, Executive Director of the Ohio Association for Justice

Meeting Minutes

Advisory Committee Chairperson Judge Timothy Cannon called the meeting to order. The minutes from the August 10, 2012 meeting were reviewed. Judge Hall moved to amend the minutes to reflect his attendance at the meeting. The minutes were approved, as amended, unanimously.

Old Business – Time Standards Subcommittees

Probate Time Standards Subcommittee Report

Judge Cannon clarified his expectations of the Probate Time Standards subcommittee and indicated that he attended the Probate Judges Association's Executive Committee meeting. Judge Gallagher presented proposed probate time standards to the Advisory Committee for its consideration. The recommendations included standards for all case types with the exception of wrongful death. Judge Giesler indicated that the Executive Committee voted on October 3, 2012 to request that the standards be adopted by the Advisory Committee on Case Management with the caveat that a judge could extend the time guideline, by court order, at the court's discretion. It was noted that the court could stay a case, for statistical reporting purposes, for a limited number of reasons, which would be outlined in the report from instructions. Discussion followed.

Judge Puffenberger addressed the Advisory Committee and presented information as to why the Probate courts should be excluded from the time standards requirement. Discussion followed on the following topics:

- (1) Variances between urban and rural jurisdictions;
- (2) Appropriateness of reporting interim orders which do not legally terminate a case;
- (3) The reactivation of cases terminated for statistical reporting purposes;
- (4) The use of time standards as a case management tool;
- (5) Appropriateness of allowing a judge to extend a time standard with or without a showing of good cause.

Judge Gallagher moved to approve the probate time standards and to allow the probate judge to stay or extend the time standard in accordance with the instructions; Judge Giesler moved to amend the motion to approve the probate time standards and to allow the extension of the time standard by order of the probate judge. Judge Coss moved to amend Judge Giesler's motion to amend to allow for the probate judge's extension of the time standard as authorized by the report form instructions. Discussion followed. The question was called and the motion as amended carried 11 votes in favor to 9 votes against.

Juvenile Time Standards Subcommittee Report

The Ohio Department of Job and Family Services (ODJFS) contacted the Case Management Section regarding time standards which impact permanency placement. ODJFS receives federal dollars based on permanency placement timelines. The proposed time standard of 6 months for Abuse, Neglect, and Dependency cases may impact that federal funding provided to ODJFS. The subcommittee held a conference call with representatives from ODJFS to obtain additional information about the issue.

Judge Capizzi moved to amend the Abuse, Neglect, and Dependency time standard from 6 months to 3 months and Judge Farmer seconded that motion; the motion was unanimously approved.

New Business – Magistrate Caseload Statistics

Stephanie Hess indicated that the issue of capturing magistrate caseload data is on the table for discussion. Judges Coss and Pickrel have addressed the topic on the joint subcommittee conference calls. Judge Coss outlined the issue as discussed by the subcommittee and presented a document and motion for consideration by the Advisory Committee. Discussion followed as to the appropriateness of additional magistrate caseload statistics reporting. Topics discussed included:

- (1) Should magistrates submit their own statistical report form to the Supreme Court of Ohio?
- (2) Should greater detail be included on a judges' statistical report form to provide more granular magistrate caseload data?
- (3) Should the ACCM consider establishing a time standard for ruling on objections to magistrates' decisions? Or terminate a case when a magistrate's decision is filed?
- (4) Would the submission of separate magistrate caseload statistics cast a negative shadow on judges due to the ratio of magistrate workload versus judge workload?
- (5) Should a time standard for ruling on magistrate objections be developed and folded into the Rules of Superintendence for the Courts of Ohio?

After discussion, Judge Coss amended his motion as follows:

The ACCM hereby determines that part of its recommendation to the Ohio Supreme Court will be that there should be an additional ~~ease-type~~ reporting category added to the reporting requirements for each court required to file periodic reports, which shall be known as "Review of Magistrate's Decisions/Recommendations" or another appropriate title.

This ~~ease-type~~ reporting category will consist of all cases that have been reported as terminations on the periodic reporting form for cases ~~referred~~ assigned to magistrates in which there was not a waiver of the 14 day objection period by the parties. ~~When the case is reported as termination of the magistrate's case on the report, that case shall automatically be added to the new case type and shall be part of the judge's caseload in that category until terminated or transferred back to the magistrate for further proceedings.~~

The time guidelines subcommittees for each of the various courts that report ~~shall recommend~~ will consider whether the time guidelines ~~that~~ should be established for each court division for final disposition by the judge in accordance with the previous time guidelines determinations of the ACCM. ~~This determination shall not apply to those case types which have specific state or federal statutory time limits such as dissolutions, certain juvenile and probate cases etc.~~

Mark Combs seconded the motion. Discussion followed regarding the application in the courts of appeals. Motion passed unanimously.

Judge Cannon asked each Statistical Report subcommittee to develop an action plan of the work it will focus upon before the next meeting and to consider the issue of magistrate caseload reporting in anticipation of a Statistical Report subcommittee chairs conference call after the first of the year. Discussion followed.

Old Business – Statistical Reporting Subcommittees

Judge Cannon then asked for a report from each of the Statistical Reporting Subcommittees.

Appellate Courts – Statistical Reporting Subcommittee

Judge Hall provided the report back for the subcommittee. The subcommittee discussed the difference between a “decision” and an “opinion” in terms of statistical reporting but determined that it was best to leave the current method in place. It also discussed the reporting of cases in mediation and decided not to extend the time guideline for cases while in mediation because the case is still under the court’s control. The subcommittee reviewed the language which determines when a case is assigned to an individual judge and revised the instructions accordingly. It will take up the issue of magistrate caseload reporting in its future conference calls and will consider adding a method by which to indicate if a decision has been written and is in circulation but has not yet been journalized. Discussion followed.

Joint Subcommittee for CP, General Division & Municipal/County Courts – Statistical Reporting

Judge Coss indicated that the subcommittee has discussed the issue of magistrate caseload reporting as well as the reporting of post-judgment proceedings such as probation violation hearings, etc. The subcommittee will continue its work on both topics in future calls. The treatment of specialized docket cases will be addressed separately. Discussion followed. Judge Pickrel indicated that the magistrates’ association seems amenable to more granular magistrate caseload reporting.

Common Pleas, Domestic Relations Division Courts – Statistical Reporting Subcommittee

Judge Dezso indicated that the subcommittee also discussed the treatment of magistrate objections, and a manner by which to capture work done by a judge or magistrate during settlement negotiations. The topic of early neutral evaluation has also been discussed.

Common Pleas, Probate Division Courts – Statistical Reporting Subcommittee

Judge Gallagher indicated that the probate subcommittee has been working on both topics of time guidelines as well as a review of the statistical report form itself. The bulk of the committee’s work has centered on creating the new time standards and it will begin work on the statistical reporting data elements now that the time standards have been approved. The subcommittee has reviewed several topics relevant to statistical reporting and will continue its work in the next several weeks.

Common Pleas, Juvenile Division Courts – Statistical Reporting Subcommittee

Judge Capizzi indicated that the juvenile subcommittee continued to work in conjunction with the domestic relations subcommittee. It has begun to focus on the report form instructions and will focus on that work before the next Advisory Committee meeting.

A discussion followed regarding the manner in which each subcommittee will develop its instructions to the report forms. Judge Cannon indicated that Supreme Court staff should review each of the

subcommittee's report form instructions and work to normalize language among the forms. It was suggested that staff develop a glossary for the ACCM's review which will provide definitions to common terms for each of the subcommittees.

Old Business:

Superintendence Rule 41: Conflict of Trial Court Assignment Dates

Judge French reported that the committee has been formed with diverse members from outside the ACCM. The subcommittee hopes to have a draft of the revised rule for the ACCM's review at the March meeting.

Multi-District Litigation

Judge Frye indicated that the subcommittee has been formed. He also indicated that he wrote letters to various attorneys and litigation groups to gather their opinions on the topic. John Van Doorn, Executive Director of the Ohio Association for Justice attended the ACCM meeting and provided written feedback to the subcommittee as well. All feedback received was positive in response to the proposal of establishing a multi-district litigation rule. Discussion followed regarding a similar rule currently in use in the Federal courts. A proposed rule should include input from the Chief Justice or his/her designee; the rule may also keep more cases in state courts as opposed to being removed to the Federal District Court. Judge Frye moved that the subcommittee continue its work on a draft rule. Discussion followed regarding the makeup of the subcommittee – should it include representatives from both the plaintiff and defense bar as well as representatives from the Ohio State Bar Association? Judge Capizzi seconded the motion; the motion was approved unanimously.

Action Items:

- (1) Subcommittees should consider if a separate time standard for a judge's action on magistrates' decisions is warranted; if so, it should recommend an appropriate time standard.
- (2) Subcommittees should develop an action plan by which it will continue its work before the March 2013 meeting.
- (3) Subcommittees should develop a list of post-judgment/adjudication activities or proceedings which should be considered for addition to the statistical report forms.
- (4) Subcommittees should begin revising the instructions to the statistical report forms.
- (5) Supreme Court staff will draft a glossary of terms for use in all instructions to the statistical report forms.
- (6) Superintendence Rule 41 subcommittee will provide a draft revision of the rule at the next ACCM meeting.

Motions and/or Decisions:

- (1) Mark Combs moved to approve the August 10, 2012 meeting minutes; Judge Zone seconded the motion.
- (2) Judge Gallagher moved to accept the probate time standards as presented with the amendment that a judge can extend or stay the time standard in accordance with the instructions to the report form.
- (3) Judge Giesler moved to amend the motion to accept the probate time standards and allow an extension of the time standards upon the order of the probate judge.
- (4) Judge Coss moved to amend Judge Giesler's motion to amend to allow for the extension of the time standard as authorized by the report form instructions. Judge Frye seconded the motion.
- (5) Judge Capizzi moved to amend the Abuse, Neglect, and Dependency time standard from 6 months to 3 months Judge Farmer seconded that motion.
- (6) Judge Coss moved to add an additional reporting category for magistrates' decisions and that each time guidelines subcommittee shall consider an appropriate time guideline for such a reporting category. Mark Combs seconded the motion.
- (7) Judge Frye moved that the Multi-District Litigation subcommittee prepare draft language of a rule to allow for the creation of Multi-District Litigation. Judge Capizzi seconded the motion.

2013 Meeting Dates:

Friday, March 15, 2013
Friday, May 17, 2013
Friday, August 9, 2013
Friday, October 4, 2013