

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

August 7, 2015

Committee Members Present:

(Magistrate) Gretchen Beers, Esq.
Judge Deane Buchanan
Judge Timothy Cannon
Judge Anthony Capizzi
Judge Rocky Coss
Judge Gary Dumm
Judge Patrick Fischer
Judge Richard Frye
Judge Laura Gallagher
Judge Kathleen Giesler

Judge Carrie Glaeden
Judge Jerome Metz, Jr.
Judge Diane Palos
Judge Tom Pokorny
Elizabeth Stephenson, Esq.
Susan Sweeney
C. Michael Walsh, Esq.
Judge Gene Zmuda
Judge Joseph Zone

Committee Members Absent:

Russell Brown, Esq.
Judge Carol Dezso

Lisa Gorrasi, Esq.
Judge Michael Hall

Supreme Court of Ohio Staff Members Present:

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

Colleen Rosshirt, Esq.
Tasha Ruth, Esq.
John VanNorman, Esq.

Introduction

Tasha Ruth and Judge Metz introduced and welcomed Judge Patrick Fischer, Judge Carrie Glaeden, Susan Sweeney, and Judge Gene Zmuda, four new members of the Advisory Committee on Case Management.

Meeting Minutes

The minutes from the March 6, 2015 meeting were reviewed and approved unanimously.

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

Judge Metz reported that the Commission on the Rules of Superintendence approved Superintendence Rule 39 and its corresponding case processing time standards as recommended by the Advisory Committee on Case Management. The Commission recommended that the ACCM make two changes to the preamble (Appendix K) of the Case Time Standards in order to ensure that it provides guidance and sets forth a clear and consistent message to the courts. The group discussed how the amendments would affect the ability to hold courts accountable if they do not comply with the time standards and whether the proposed amendments would be consistent with Ohio's rules, statutes, and the National Center for State Courts' national standards. After a lengthy discussion regarding the proposed amendments to the rule, a motion was made and passed to amend the preamble of the Case Time Standards. The following motion was made and passed unanimously:

1. And to amend line 293 and 294 of the preamble:

~~The case time standards are not intended to establish a benchmark for discipline or reprimand. However, a~~ Consistent reporting, over a number of years, of greater than ten percent of a judge's cases pending past these established time standards may indicate a systemic caseload management issue.

Sup. R. 39 was unanimously approved with the amendment.

Old Business – Update on Superintendence Rule 8 – Court Appointments

Judge Frye reported the progress of the "Draft Report of the Subcommittee on Court Appointments Pursuant to Superintendence Rule 8" which focuses on how court appointments are made for indigent criminal defendants. Judge Frye explained that the draft report recognizes the best practice of the attorney appointment rotation system is a wide distribution of attorney appointments which helps give new lawyers experience and avoids the appearance of favoritism. The subcommittee's ultimate recommendation is to amend Sup. R. 8 without making any radical changes. A motion was made and passed unanimously to approve the "Draft Report of the Subcommittee on Court Appointments Pursuant to Superintendence Rule 8."

Old Business – Statistical Reporting Instructions

The Advisory Committee turned its attention to the topic of the Statistical Reporting Instructions for Trial Courts. A motion was made to amend Page 19, Section (P)(1)(a) to read:

Time begins in civil cases upon the assignment of a case to a judge upon the initial filing of a case or upon the transfer in of a case from ~~another~~ another court of equivalent jurisdiction court. This includes all domestic relations cases and all juvenile cases except Delinquency and Unruly cases.

The motion died for want of a second and no change was made to Section (P)(1)(a).

A lengthy discussion commenced regarding Section (P)(1)(b), which addresses calculation of time in a criminal case, and its consistency with proposed Superintendence Rule 39.05 Section (B). The ACCM agreed that the statistical reporting instructions must be amended to reflect that time begins in a criminal case “upon arraignment” and not “upon assignment to a judge.” Motions were made and passed to amend Sup. R. 39.05 and the statistical reporting instructions to make the instructions consistent with Sup. R. 39. As amended, the statistical reporting instructions and Sup. R 39.05 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 Sup. R. 39.05 (B):

Aggregate case delay. Excluding the time in which a case is tolled pursuant to Sup.R. 39.03, for any period in which more than ten percent of an assigned judge’s caseload within the following aggregated case types has been pending for longer than the applicable time standards of Sup.R. 39 and 39.01, the judge shall report ~~the each~~ case and the cause for the delay to the administrative judge or, in a single-judge court or division, to the Case Management Section, which shall report the delay for report to the Chief Justice.

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

Judge Coss summarized the work that the subcommittee has completed since the last ACCM meeting which includes a draft amended rule. The subcommittee reviewed the current rule and made multiple changes to account for advances in technology in the courts and to ensure that the rule is serving as a case management tool for judges. Judge Coss explained that the most substantial amendments include 1) clarifying the description of what a case inventory involves, 2) removing the word “physical” from the rule and commentary to conform to modern practices, and 3) making the process for reporting discrepancies found during a case inventory clear.

The group discussed the proposed changes and how the new rule would affect paperless courts. The conversation focused on the word “file” as used in the rule and whether it is broad enough to cover all electronic files. A consensus was reached to adopt the language as proposed in the amended rule. A motion was made and passed to approve the rule as amended. A second motion was made and passed to move the description of what a case inventory involves from the commentary to Section B of the rule. The amended rule was approved for submission to the Commission on the Rules of Superintendence for their approval.

New Business – Court Consulting

Judge Pokorny reported that the Subcommittee for Court Consulting has met twice to discuss what types of training and services the Case Management Section can offer to local courts and how the ACCM and Supreme Court staff can get information regarding rule changes out to local courts. Judge Pokorny asked the group for feedback and ideas concerning how the ACCM can provide information to courts, specifically regarding the time guidelines and changes in case management systems. Suggestions included, Supreme Court staff and ACCM member presentations at meetings and conferences, distributing fact sheets and FAQs to highlight significant rule changes, notifying Ohio court services vendors of future rule changes, and Lunch and Learns for frontline staff and magistrates.

New Business – Superintendence Rule 36

Judge Metz notified the committee that the Subcommittee on Superintendence Rule 36, which has been on pause, is gearing back up to review assignment of cases. Brian Farrington reported that Diane Hayes will provide input regarding common reassignment scenarios (e.g. when a case needs reassigned, how it is reassigned to a judge in that court). There was discussion regarding the pros and cons of how Ohio’s courts distribute cases with specific concern surrounding capital cases.

Future Meeting Dates

Friday, March 11, 2016

Friday, May 6, 2015

Friday, August 12, 2016

Friday, October 7, 2016