

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

March 15, 2013

Committee Members Present:

Jean Atkin, Esq.
Gretchen Beers, Esq.
Russell Brown, Esq.
Judge Deane Buchanan
Judge Timothy Cannon, Chair
Judge Anthony Capizzi
Mark Combs
Judge Rocky Coss
Judge Carol Dezso
Judge Gary Dumm

Laurie Endly
Judge Sheila Farmer
Judge Richard Frye
Judge Laura Gallagher
Lisa Gorrasi, Esq.
Judge Michael Hall
Judge Diane Palos
Judge John Pickrel
Judge Tom Pokorny

Committee Members Absent:

Judge Judith French, Vice Chair
Judge Kathleen Giesler
Judge Alan Goldsberry

Judge Jerome Metz
Judge Jack Puffenberger
Judge Joseph Zone

Supreme Court of Ohio Staff Members Present:

Brian Farrington
Diane Hayes
Stephanie Hess
Steve Hollon

Milt Nuzum
Tasha Ruth
Alicia Wolf

Meeting Minutes

Advisory Committee Chairperson Judge Timothy Cannon called the meeting to order. The minutes from the October 12, 2012 meeting were reviewed. The minutes were approved, as amended, unanimously.

New Business – Magistrate Caseload Statistics

The Advisory Committee turned its attention to the topic of the collection of magistrate caseload data. Brian Farrington, Statistics Analyst, provided a document which compiled samples of magistrate data that is currently being collected by various courts. The Committee then began to discuss the relevance of magistrate caseload data collection. In doing so, a number of topics were reviewed:

- (1) Increased workload in gathering those additional statistics,
- (2) Should the data be submitted via a magistrate caseload reporting form or via the current reporting form structure?
- (3) Collection of the data would aide in justification to the local funding authority and with the creation of new judgeships,
- (4) What is the rationale behind the Case Management Section's request to collect the statistics?
- (5) The domestic relations judges are universally opposed to the idea of collection of magistrate caseload data.
- (6) How would the submission of a magistrate caseload data reporting form impact a judge's ability to provide judicial leadership?
- (7) The collection of magistrate data would assist judges in providing accountability of their magistrates.
- (8) Is it possible to make a recommendation that the local courts maintain magistrate caseload data which can be provided to the Case Management Section as needed?
- (9) Is there a need to distinguish between quick trials presided over by magistrates versus longer trials presided over by judges?

Judge Coss recommended the following language:

As a best practice for case management, courts shall collect and maintain statistical data on cases assigned to magistrates. If in the future, should the Case Management Section of the Supreme Court of Ohio decide to collect this data, that data should be reported to the Supreme Court.

Discussion followed. Language contained in Sup.R. 37(C) was reviewed. Staff asked if the courts will continue to report magistrate disposition data as required on the current reporting forms. If so, should that reporting be normalized across all jurisdiction types? The subcommittees should review this topic individually.

Judge Cannon asked that a subcommittee create a statement which would refer to Sup.R. 37, which allows the Chief Justice may require additional information from a court. Judge Hall agreed to serve as the chairperson of that subcommittee; Judges Coss, Dezso, Capizzi, and Pickrel agreed to serve on the subcommittee as well.

New Business – Cases Pending in Mediation

The Advisory Committee discussed how cases should be treated while pending in mediation – should a judge be permitted to stay a case while pending in mediation? The Committee contemplated a similar

issue in the processing of foreclosure cases in which it agreed to stay those cases for 90 days while pending in mediation. It was noted that even though the case is in mediation, it is still within the court's ultimate control. It was also mentioned that the term "mediation" might be more accurate if it was reframed as "dispute resolution" to include parenting coordination and early neutral evaluation, etc. Discussion followed.

The Commission on Dispute Resolution would like an opportunity to discuss the issue with representatives from the Advisory Committee on Case Management. Lisa Gorrasi and Judge Dezso agreed to attend the Commission meeting to discuss the issue with its members.

Judge Cannon asked that each individual jurisdiction's subcommittee review the issue and come to a consensus.

New Business – Collection of Visiting Judge Caseload Statistics

Stephanie Hess summarized the current method of collecting visiting judge caseload data and asked for the Advisory Committee's position on the collection of that data. Discussion followed. Topics discussed included:

- (1) Should that data continue to be collected via the originally assigned judge's report form?
- (2) Should the Supreme Court begin to collect data for acting judges as well as visiting judges?
- (3) Should the Supreme Court begin to collect non-dispositive caseload data from visiting judges?
- (4) How should the visiting judge data be used and by who?
- (5) Should sitting judges get "credit" for sitting by assignment in another court?
- (6) Should the Supreme Court collect data regarding the productivity of visiting judges?

Judge Cannon asked the staff to draft a proposal for the Committee's consideration.

Old Business – Statistical Reporting Instructions

The Advisory Committee received an overview of the instructions document from Statistics Analyst Brian Farrington. Judge Cannon then asked for a report from each of the Statistical Reporting Subcommittees.

Appellate Courts – Statistical Reporting Subcommittee

Mark Combs provided the report for the Appellate subcommittee on behalf of Judge Hall who had to leave the meeting early. Ed McNachtan, IT staff with the Supreme Court, has been added to the subcommittee to replace John Crossman who retired. The subcommittee reviewed the distinction between reactivated and reopened cases as it relates to Murnahan cases. It also discussed the collection of magistrate data but did not feel that it was necessary to collect that data as the 10th District is the only court that widely uses magistrates; the court tracks that data internally and can provide it to the Supreme Court on an as needed basis. The subcommittee has completed a draft of the Presiding Judge form and its corresponding instructions and the subcommittee is now working on a draft of the Appellate Judge form. The revised form will allow judges to add comments next to the status of a decision; this will give the authoring judge an opportunity to clarify where a specific case is in the

drafting process. The subcommittee expects to present its final drafts at the next Advisory Committee meeting.

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

Judge Coss indicated that the subcommittee is finishing its discussions regarding the disposition types and then will move onto the draft instructions.

Common Pleas, Domestic Relations Division Courts – Statistical Reporting Subcommittee

Judge Dezso indicated that the subcommittee has completed its review of the case types and is now discussing the treatment of magistrate objections. Judge Dezso and Judge Palos attended the Law and Procedure Subcommittee of the DR Judges Association and presented information on the work of the Advisory Committee and DR subcommittee. Some judges expressed concern regarding the 95% completion time standard; Judge Dezso explained the Advisory Committee's process.

In regards to the issue of magistrate's objections, the subcommittee would like to develop an objection category; ultimately, a case would be closed upon the issuance of a magistrate's decision and reopened in an objection category only if objections are filed. That objection category would have its own time standard (possibly 6 months) or the case may be stayed pending the review of the objections. Discussion followed; issues discussed included:

- (1) Should the Advisory Committee gather additional information to determine how many cases are objected to?
- (2) If the number of cases in which an objection is filed is within the 5% cushion provided by the recommended time standard, it might not be necessary to create a new case category?
- (3) It might also be appropriate to track the number of objections reviewed by each judge during any given reporting month.
- (4) Should objections be tracked via a disposition category or a case type?
- (5) Should objections be tracked as merely a number of objections pending in each case category?

Judge Cannon asked all subcommittees to consider the manner in which objections to a magistrate's decision should be reported and be prepared to make a recommendation on the topic.

Common Pleas, Probate Division Courts – Statistical Reporting Subcommittee

Judge Gallagher indicated that the probate subcommittee is close to finalizing the list of exceptions to the established time standards. The subcommittee will refer back to Judge Puffenberger's comments on the topic. It will also continue its work on the revised report form.

Common Pleas, Juvenile Division Courts – Statistical Reporting Subcommittee

Judge Capizzi indicated that the juvenile subcommittee is almost finished creating a proposed revised form and is currently looking at activity measures and working on case type definitions. The subcommittee is reviewing the "other" case category and may break it up into specific activity categories. As President of the Juvenile Judges' Association, Judge Capizzi updates the Association on the activities of the Advisory Committee on a regular basis.

Judge Cannon welcomed visitor Elizabeth Stephenson, Court Administrator from Tuscarawas County Common Pleas Court.

Old Business:

Superintendence Rule 41: Conflict of Trial Court Assignment Dates

Justice French is no longer chairing the subcommittee and a replacement will be assigned. Judge Capizzi provided a brief update on the progress of the subcommittee.

Multi-County Litigation

Judge Frye drafted a proposed rule which is currently being considered by the Administrative Director of the Supreme Court of Ohio. Judge Frye briefly summarized the proposed rule.

Superintendence Rule 39: Time Limits

Rule 39 must be reviewed to update the time standards included in that rule. Once that rule has been updated, it will be presented to the Court for consideration with the time standards previously approved by the Advisory Committee. A joint common pleas and municipal court time standards subcommittee will be assigned to this task.

Miscellaneous:

Judge Cannon reviewed the timing of the May meeting. Notification regarding that meeting will follow via email.

Action Items:

- (1) A subcommittee was formed to create a statement which would refer to Sup.R. 37, which allows the Chief Justice to require additional information from a court. This statement is in response to the request for tracking of magistrate caseload data by each local court. Judge Hall agreed to serve as the chairperson of that subcommittee; Judges Coss, Dezso, Capizzi, and Pickrel agreed to serve on the subcommittee as well.
- (2) All subcommittees should consider the manner in which objections to a magistrate's decision should be reported.
- (3) All subcommittees should consider if disposition codes should include magistrate disposition information.
- (4) Representatives from the Advisory Committee on Case Management will attend the Commission on Alternative Dispute Resolution's May meeting to discuss how cases in mediation should be tracked for statistical reporting purposes.
- (5) Staff will begin to draft a method by which visiting judge statistics will be collected.

Motions and/or Decisions:

- (1) Judge Frye moved to approve the October 12, 2012 meeting minutes; Mark Combs seconded the motion.

2013 - 2014 Meeting Dates:

Friday, October 4, 2013
Friday, March 7, 2014
Friday, May 2, 2014
Friday, August 8, 2014
Friday, October 10, 2014