

# 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*

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### Meeting Minutes

June 10, 2011

#### Committee Members Present:

Jean Atkin, Esq.  
Gretchen Beers, Esq.  
Anne Brown  
Russell Brown, Esq.  
Judge Timothy Cannon, Chair  
Mark Combs, Esq.  
Judge Rocky Coss  
Judge Carol Dezso  
Judge Robert Douglas  
Judge Gary Dumm  
Judge Judith French, Vice Chair

Judge Sheila Farmer  
Judge Laura Gallagher  
Judge Kathleen Giesler  
Judge Alan Goldsberry  
Lisa Gorrasi, Esq.  
Judge Michael Hall  
Judge Jerome Metz  
Judge John Pickrel  
Judge Tom Pokorny  
Judge Joseph Zone

#### Committee Members Absent:

Judge Anthony Capizzi  
Judge Richard Frye

Judge Edward O'Farrell  
Judge Jack Puffenberger

#### Supreme Court of Ohio Staff Members Present:

Christine Bratton  
Brian Farrington  
Diane Hayes

Stephanie Graubner Nelson  
Stephanie Hess

#### Summary of Meeting:

Advisory Committee Chairperson Judge Timothy Cannon called the meeting to order and asked the Advisory Committee members who were not present at the previous meeting to make introductions. The minutes from the April 29, 2011 meeting were then reviewed and approved. Judge Cannon then asked for the subcommittee reports (see Subcommittee Reports below).

A number of subcommittees indicated that they would like add additional individuals to their subcommittee. Judge Cannon clarified how additional feedback for the subcommittees can be obtained: (1) by including additional individuals to the subcommittee, or (2) by contacting individuals as consultants to the subcommittee. The subcommittee must provide the names to the staff for presentation to the Chair for approval. He went on to state that the issue of mandatory versus optional time guideline reporting is a topic that should be discussed in the subcommittees with a recommendation to the full Advisory Committee.

It was also discussed that there may be overlap between the time guidelines and statistical reporting subcommittees. Discussion followed. It was determined that the subcommittees will meet in joint session as needed and communicate with one another as necessary.

The topic of when the time guideline begins on various case types was presented. Topics discussed were delay due to the perfection of service in civil cases and in appellate courts, delay caused by the court reporter's failure to file the trial court record in a timely fashion. Discussion followed.

It was determined that the time guidelines subcommittees should review the time guidelines under the current statistical reporting instructions and relevant Rules of Superintendence as it pertains to when a case is considered filed. The statistical reporting subcommittees will then address the issue during their analysis of the statistical reporting structure as a whole.

Judge Cannon addressed the issue about communicating with the judges and clerk's associations. The question was posed about what the Advisory Committee's message should be when making those connections with the associations. Discussion followed and the members were referred to the Talking Points document that was provided in the meeting packets.

## **Subcommittee Reports:**

### Appellate Courts

Judge Farmer indicated that the subcommittee had a frank discussion regarding the time guidelines and the statistical reporting forms. The subcommittee plans to schedule a conference call for the end of July. The subcommittee will also ask Judge Cannon to appoint a representative from the 8<sup>th</sup> Appellate District as well as an attorney who specializes in appellate practice.

Judge Farmer indicated that the appellate courts' time guidelines are often impacted by issues beyond the court's control, such as filing of the trial court's record. The subcommittee will compare the Ohio time guidelines to those promulgated by the American Bar Association, etc.

Discussion followed regarding the differences among the twelve appellate districts and the purpose of the time guidelines.

### Domestic Relations Courts

Lisa Gorrasi indicated that the subcommittee approached the time guidelines from the litigants' point of view. The subcommittee agreed to solicit feedback from additional individuals such as attorneys

who practice regularly in the domestic relations courts. It went through the statistical report Form B and outlined the group's initial thoughts about revisions:

- The marriage terminations with children case time guideline may be decreased from 18 months to 12 months with the ability to declare a case as "complex" if need be; the group must still define the term "complex."
- The change of custody case time guideline may be increased from 9 months to 12 months to account for issues such as psychological evaluations, etc.
- The visitation, enforcement or modification case time guideline may be decreased from 9 months to 6 months.
- The support enforcement or modification case time guideline may be decreased from 12 months to 6 months.
- The subcommittee did not address the domestic violence case type; additional issues must be addressed such as the proper point in time in which a domestic violence case is terminated.
- The UIFSA case time guideline may be increased from 3 months to 6 months to account for issues with service.
- Parentage case time guidelines may remain at 12 months.
- The "all others" category may be broken up into additional categories such as post decree property enforcement, spousal support modification, motions for change of tax exemption, 60(B) motions, and allowing time for objections.

The subcommittee also discussed how the review of the time guidelines should be presented to the judges and bar. It was stressed that the time guidelines are only reduced in some areas to allow for additional time in the cases that require a higher level of judicial involvement.

#### Probate Courts

Judge Gallagher led the probate court discussion on behalf of Judge Puffenberger. She noted that probate courts are unique in that time guidelines do not currently exist for that caseload. As such, the subcommittee discussed the general philosophy of the need for time guidelines and in which case types a time guideline would be appropriate. The subcommittee also discussed the possibility of time guidelines to account for the length of time from the date of filing to the appointment of a guardian as opposed to the time of final disposition.

An issue facing the probate time guidelines subcommittee is gaining the support of the Probate Judges Association. As such, Judge Gallagher outlined a possible plan by which to communicate with the association on the topic; one possibility is discussing the issue with the Executive Committee at its meeting in July. Judge Gallagher will work with Judge Puffenberger on this meeting and presentation.

Judge Gallagher also indicated that the subcommittee may recommend that the probate time guidelines be implemented in phases; the first phase may allow optional time guideline reporting with a mandatory reporting phase to follow in a few years.

### Juvenile Courts

Judge Giesler indicated that the subcommittee will seek to include a member of the prosecutor's office, a member of the defense bar, and a representative from CASA or a guardian ad litem on the subcommittee. The subcommittee's goal is to have a final product to the full Advisory Committee by the December 2011. A first draft will be completed by August 19, 2011. Magistrate Beers will draft a living document for the subcommittee to work from; with a conference call being scheduled later in June.

The subcommittee will group parts of juvenile law together and look at them collectively. It will also do some additional research on the national time guideline standards and discussed the overall process by which the subcommittee will operate.

Judge, clerk, and court staff awareness of the subcommittee's work was identified as a concern. As a result, a presentation will be made to the Juvenile Court Clerks Association at the end of June and feedback will be requested.

### Municipal and County Courts

Judge Douglas indicated that the subcommittee reviewed each area and its corresponding time guidelines. The initial reaction was the time guidelines were not unreasonable. The subcommittee did agree that the data exposed some areas of concern with a high number of cases pending past the time guidelines. The reasons for that are varied and the subcommittee will continue to research the issue. It was determined that a special time guideline may be warranted for specialized dockets or for "parking lot cases" in which the time must be tolled.

The subcommittee may recommend additional data collection and better statistical reporting. It will also look to include a magistrate and a representative from the clerk's office on the subcommittee. The subcommittee has requested an additional face-to-face meeting on July 22, 2011.

### Common Pleas, General Division Courts

Judge Metz and the subcommittee reviewed the national time guidelines in comparison to the Ohio time guidelines. Most notably, the time for disposition for administrative appeals, seemed to be much higher than the national average. The subcommittee felt that the criminal time guideline of 6 months, measured from arraignment, was adequate. It also discussed the possibility of allowing for a complex criminal case category.

The subcommittee discussed gathering additional data regarding the criminal overage rates to determine if the cases pending past the time guidelines were due to attorney delay or complexity of the case. It also discussed either adding individuals to the subcommittee or using individuals as consultants. Such persons may be representatives from the prosecutor's office, the public defender's office, or in-house counsel on civil cases to gain a client's perspective on civil cases.

**Action Items:**

- (1) The time guidelines subcommittees should review the time guidelines under the current statistical reporting instructions regarding when a case is considered filed. The statistical reporting subcommittees will then address the issue of when a case is considered as filed.
- (2) Each jurisdiction type should ensure that a representative is available to speak about the Advisory Committee's work to their respective judges' associations.
- (3) The Advisory Committee members should review the 2012 meeting dates (listed below) and provide feedback as to availability on those dates.
- (4) Subcommittees should strive to hold a conference call before the August 19<sup>th</sup> meeting date.

**Motions and/or Decisions:**

Judge Zone moved to approve the April 29, 2011 meeting minutes; Judge Dezso seconded that motion. The April 29, 2011 meeting minutes were unanimously approved.

**Next Meeting:**

Friday, August 19, 2011

- Statistical Reporting Subcommittees 9:00 AM – 11:00 AM (2<sup>nd</sup> Floor Dining Room)
- Full Advisory Committee Meeting 11:00 AM – 1:00 PM (Room 281)
- Time Guidelines Subcommittees 1:00 PM – 3:00 PM (2<sup>nd</sup> Floor Dining Room)

**Future Meeting Dates:**

Friday, October 14, 2011

Friday, March 9, 2012

Friday, May 18, 2012

Friday, August 10, 2012

Friday, October 12, 2012