

THE SUPREME COURT *of* OHIO

ADVISORY COMMITTEE ON CASE MANAGEMENT

Honorable Timothy Cannon

Eleventh Appellate District

Chairperson

Honorable Jerome Metz

Hamilton County Court of Common Pleas

Vice Chairperson

Meeting Minutes

August 9, 2013

Committee Members Present:

Jean Atkin, Esq.
Gretchen Beers, Esq.
Judge Deane Buchanan
Judge Timothy Cannon, Chair
Judge Anthony Capizzi
Judge Rocky Coss
Judge Carol Dezso
Judge Gary Dumm
Laurie Endly

Judge Richard Frye
Judge Kathleen Giesler
Lisa Gorrasi, Esq.
Judge Michael Hall
Judge Jerome Metz, Vice Chair
Judge Diane Palos
Judge John Pickrel
Judge Tom Pokorny
Judge Joseph Zone

Committee Members Absent:

Russell Brown, Esq.
Mark Combs, Esq.
Judge Sheila Farmer

Judge Laura Gallagher
Judge Alan Goldsberry
Judge Jack Puffenberger

Supreme Court of Ohio Staff Members Present:

Brian Farrington
Diane Hayes

Tasha Ruth

Appointment of New Vice Chairperson

Advisory Committee Chairperson Judge Timothy Cannon called the meeting to order. Judge Cannon announced the appointment of Judge Jerome Metz by Chief Justice O'Connor as the new Vice Chairperson to replace Justice Judith French who resigned her membership on the Advisory Committee.

Meeting Minutes

The minutes from the March 15, 2013 meeting were reviewed and were approved unanimously.

New Business – Creation of the Commercial Docket Subcommittee

Judge Cannon announced that pursuant to the recently adopted Rules of Superintendence concerning commercial dockets, the Advisory Committee has established a subcommittee to review applications from judges seeking to be designated or assigned by the Chief Justice to operate commercial dockets under Sup.R. 49.02(A). The commercial docket subcommittee will only meet on an as needed basis.

The members of the subcommittee are:

- (1) Judge Timothy Cannon
- (2) Judge Jerome Metz
- (3) Jean Atkin, Esq.
- (4) Judge Patrick Fischer
- (5) Judge Reeve Kelsey
- (6) Harry Mercer, Esq.
- (7) Tim Collins, Esq.

New Business – Creation of the Super Subcommittee on Statistical Reporting

The Advisory Committee turned its attention to the topic of creating a subcommittee comprised at a minimum of the chairs of the various statistical reporting subcommittees that will be charged with reviewing and recommending changes to those statistical reporting topic areas that are common to multiple jurisdictions. Judge Cannon described the merits of creating such a subcommittee so that the disparate jurisdictional subcommittees would not be making recommendations on common topic areas that were inconsistent with one another and could instead focus on those areas which are unique to their particular jurisdictions.

Judge Rocky Coss, who raised this suggestion with Judge Cannon, explained the nature of the various topic areas which are common to multiple jurisdictions. He suggested each chair of the various statistical reporting subcommittees be members of the super subcommittee and that they each nominate one other person from their respective jurisdictions to be members of the super subcommittee. Judge Cannon instructed that each chair should advise staff of their selection for additional members of the super subcommittee.

Discussion followed concerning the general merits of this approach. At Judge Carol Deszo's suggestion, Judge Cannon instructed that the existing statistical reporting subcommittee chairs could, at their discretion, continue discussions with their members to obtain feedback and ideas concerning the topic areas to be discussed by the super subcommittee.

Judge Cannon nominated Judge Coss to be the chair of the super subcommittee.

New Business – eStats Update

Brian Farrington, Statistics Analyst, provided the Advisory Committee with an overview and status update on the Supreme Court's new eStats statistical report collection process. Mr. Farrington described the general operation of the process whereby paper-based reports will be eliminated and replaced by an online data upload process implemented through a secured connection. The uploads can be achieved either through the upload of an Excel spreadsheet that closely resembles the current report form or through a standardized file transfer protocol (FTP) process in which the court's computer will automatically upload the data with very little interaction by staff at the local court level. Mr. Farrington indicated that the staff anticipates having the judges of the general divisions of the common pleas courts begin the eStats submissions in the fall of 2013, with possibly the municipal and county courts to follow immediately thereafter.

Old Business – Magistrate Caseload Statistics

The Advisory Committee turned its attention to the topic of the collection of magistrate caseload data. Judge Cannon noted this is a topic that presents competing points of view, with good points offered by both positions. There is a concern that the amount of time it will take to establish new procedures and criteria in this area creates a risk of delaying the final revisions to the time guidelines and instructions. He raised the idea of the Advisory Committee deferring for the time being any further work on the topic of collecting caseload statistical reports from magistrates and instead continue to focus on the remaining statistical reporting topics which essentially involve revisions to the existing framework rather than magistrate-specific reporting which necessarily involves the creation of something entirely new.

Judge Cannon encouraged the members to continue to engage their colleagues and association members on this topic in a broad sense so that when the topic is raised again by Advisory Committee, it will have clearer insight into things so that the Advisory Committee's work in the future will be that much more efficient.

Discussion followed concerning the ongoing feedback the Advisory Committee members have been receiving from the judiciary. Judge Richard Frye suggested that staff could prepare some sort of document that the members could share with their colleagues to foster these discussions. Judge Cannon supported that idea. Judge Coss noted the increasing national trends toward courts gaining greater control over costs and magistrate-related costs are not insubstantial. Judge Michael Hall noted that courts should be monitoring and tracking the work of their magistrates as a matter of course and that perhaps the Supreme Court's statistical reporting instructions could require the tracking of such data locally.

Judge Coss moved that the Advisory Committee formally table the topic of the collection of any magistrate-related statistics beyond the current framework in which dispositions by magistrates, generally, are reported. Before voting on the motion, Judge Diane Palos asked for clarification concerning the ideas that have previously been discussed by the Advisory Committee regarding tracking and counting objections to magistrate decisions. Judge Coss clarified that objections-

related statistics concern judges and not magistrates and therefore are not part of his motion. The motion was carried unanimously.

Old Business – Appellate Court Statistics

Judge Hall presented the Advisory Committee with the appellate statistical reporting subcommittee's recommendations for changes to the Presiding Judge Report and Appellate Judge Report as well as the statistical reporting instructions for those reports. Discussion followed concerning the appellate subcommittee's recommendations, focusing particularly on the Appellate Judge Report and the inclusion of new elements regarding the status of opinions being circulated among the panel members.

Judge Hall moved that the Advisory Committee adopt the recommended changes to the Appellate Judge Report and Presiding Judge Report. The motion was carried unanimously. Judge Cannon indicated that if the appellate subcommittee agrees with his suggestion to add an asterisk to the codes reflecting the status of circulating opinions, that those changes can be made automatically and need not be brought before the Advisory Committee again.

Due to an issue being raised concerning the potential for staying cases pending the resolution of appeal before the Supreme Court, Judge Cannon put aside a vote on the appellate statistical reporting instructions until the next meeting of the Advisory Committee.

Old Business – Statistical Reporting Subcommittee Reports

Joint Subcommittee for Common Pleas, General Division and Municipal/County Courts

Judge Coss indicated that the subcommittee has essentially finished its discussions regarding the case types and disposition types. In June, Judge Coss joined staff and met with the members of the Supreme Court's Commission on Dispute Resolution in an effort to begin discussions with them concerning the work of the Advisory Committee as it relates to alternative dispute resolution methods and the capture of related statistics, including the potential tolling of time while cases pend in mediation.

Common Pleas, Domestic Relations Division Courts

Judge Dezso indicated that the subcommittee has begun in-depth work on the reporting instructions and identified issues common to it and the juvenile courts. She indicated that those issues are therefore ripe for review by the super subcommittee. She also reported on her recent discussions with the Commission on Dispute Resolution, including the tolling of time while cases pend in mediation.

Common Pleas, Probate Division Courts

Judge Cannon described communications he received from Judge Gallagher in which she expressed her support of the super committee concept.

Common Pleas, Juvenile Division Courts

Judge Anthony Capizzi indicated that the juvenile subcommittee has finished discussing case types and disposition categories. He noted that issues exist that overlap with domestic relations cases. He noted further that his subcommittee is not in favor of tolling time for cases pending in mediation.

Municipal and County Courts

Judge John Pickrel explained that the subcommittee has determined that it will recommend the Supreme Court continue to use the two-form reporting framework in light of the provisions of Sup.R. 36 which permit the assignment of cases to particular sessions of court.

Old Business – Superintendence Rule 39: Case Time Limits

Judge Metz and Judge Pickrel provided reports on the discussions underway by the Superintendence Rule 39 subcommittee.

Old Business – Tolling Time While Cases are in Mediation

Judge Hall initiated discussions concerning an idea for allowing courts to toll for one time only the calculation of case aging while cases pend in mediation and to have that one-time window be for a discrete period of time. Judge Cannon noted that a variety of issues surround this topic including situations in which one party to a case does not consent to mediation but is ordered by the court to try and do so in any event and whether it is fair from their perspective that time could be tolled in that situation. Discussions followed concerning the various types of cases amenable to mediation and other aspects to the appropriateness of tolling time while cases are in mediation, especially in family law-related cases.

Old Business – Superintendence Rule 41: Conflict of Trial Assignment Date

Judge Cannon noted that Justice French had been chairing this subcommittee and that due to Stephanie Hess's absence from the meeting, a report on the status of this work would be deferred to a future meeting.

Old Business – Multi-County Litigation Proposal

Judge Frye reported that staff have indicated that perhaps this topic would be best suited for review by the Supreme Court's Commission on the Rules of Practice and Procedure. He indicated that he will await further guidance from staff on the next steps for this proposal.

Action Items

- (1) Each statistical reporting subcommittee chair should let staff know whom they have recruited from their respective jurisdictions to participate on the super subcommittee.
- (2) As soon as the super subcommittee has been formed, staff should proceed forthwith to work with Judge Coss to schedule their first meeting.
- (3) Staff should create a document that summarizes the issues raised concerning magistrate statistics so that the Advisory Committee members have a resource at their disposal as they are communicating with their colleagues and judicial association leadership.
- (4) If possible, schedule a vote on October 4, 2013, concerning the appellate statistical reporting subcommittee's revisions to the appellate statistical reporting instructions.

Motions and/or Decisions

- (1) Judge Frye moved to approve the March 13, 2013 meeting minutes; the motion carried unanimously.
- (2) Judge Coss moved to table indefinitely the topic of collecting magistrate-related statistics; the motion carried unanimously.
- (3) Judge Hall moved for the adoption of the revisions to the Presiding Judge Report and Appellate Judge Report forms; the motion carried unanimously.

2013 – 2014 Meeting Dates

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