

# 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 Probate/Juvenile Court of  
Common Pleas  
*Vice Chairperson*

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### Meeting Minutes

May 2, 2014

#### Committee Members Present:

Gretchen Beers, Esq.  
Russell Brown, Esq.  
Judge Anthony Capizzi  
Mark Combs, Esq.  
Judge Rocky Coss  
Judge Carol Dezso  
Judge Gary Dumm  
Laurie Endly

Judge Richard Frye  
Judge Kathleen Giesler, Vice Chair  
Judge Laura Gallagher  
Lisa Gorrasi  
Judge Jerome Metz, Chair  
Judge Diane Palos  
Judge Tom Pokorny

#### Committee Members Absent:

Jean Atkin, Esq.  
Judge Deane Buchanan  
Judge Timothy Cannon  
Judge Sheila Farmer

Judge Alan Goldsberry  
Judge John Pickrel  
Judge Joseph Zone

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

Brian Farrington  
Diane Hayes  
Stephanie Hess

Tasha Ruth  
Alicia Wolf

#### Guests:

Elizabeth Stephenson, Court Administrator Tuscarawas County Common Pleas Court  
John VanNorman, Senior Policy and Research Analyst, Supreme Court of Ohio

## **Meeting Minutes**

The minutes from the October 4, 2013 meeting were reviewed and approved unanimously.

### **Announcements**

Judge Metz informed the Advisory Committee of the resignation of Jean Atkin and thanked her for her years of service as a member of the committee.

### **Old Business – Super Subcommittee Report**

Judge Coss presented the Advisory Committee with the draft of the Statistical Reporting Instructions and indicated that this document was to provide one document for local trial courts to locate the instructions to complete their monthly or quarterly statistical reports. Each of the jurisdictional subcommittee chairs were instructed to review this document with their respective subcommittees and recommend any changes to the super subcommittee which plans to convene a conference call in July.

Judge Frye raised concern with the instruction regarding when new judges must complete a physical case inventory. His concern was that new judges are instructed to complete their first physical case inventory within 90 days of taking office, right around the time that new judges are required to attend New Judge Orientation. He proposed extending the time period to 120 days. Ms. Hess indicated the intent of the 90-day time period was to encourage new judges to look at their cases early on so that cases that may be a conflict can be quickly identified and a new judge can be appointed to preside over the case, preventing delay. Judge Coss indicated that the super subcommittee would take a look at this instruction. Ms. Hess indicated there was room for flexibility with this time period.

### **Old Business – Statistical Reporting Subcommittee Reports**

#### Appellate Courts

Judge Hall presented the Advisory Committee with the appellate statistical reporting subcommittee's recommendations for changes to Sup.R. 39(C)(2)(a) – Case Type Aggregations. The recommendation adds “Original Actions” to the list of “Criminal” and “Civil (all other case types combined)”.

#### Common Pleas, General Division Courts

Judge Coss indicated that the work of the subcommittee has been temporarily on hold while the super subcommittee works on the Statistical Reporting Instructions.

#### Common Pleas, Domestic Relations Division Courts

Judge Dezso indicated that the subcommittee has been temporarily on hold while the super subcommittee works on the Statistical Reporting Instructions.

### Common Pleas, Probate Division Courts

Judge Gallagher indicated the subcommittee had a productive conference call where they added estate provisions and instructions for reporting an initial action in probate cases to the Statistical Reporting Instructions. The subcommittee will continue to review the Statistical Reporting Instructions.

### Common Pleas, Juvenile Division Courts

Judge Capizzi reported that the juvenile subcommittee has been temporarily on hold while the super subcommittee works on the Statistical Reporting Instructions. The subcommittee will convene a conference call to complete the juvenile jurisdiction-specific areas of the instructions.

### Municipal and County Courts

Judge Dumm reported on behalf of Judge Pickrel that the subcommittee has been temporarily on hold while the super subcommittee works on the Statistical Reporting Instructions.

### **Old Business – Update on Multi-District Litigation Subcommittee**

Judge Frye reported the subcommittee was investigating how other states handle multi-district litigation. He indicated there may not be enough cases in Ohio to warrant mapping out the process. Judge Metz indicated that larger law firms and local bar associations may have a handle on how many of these cases exist in Ohio.

### **New Business – Superintendence Rule 39**

The Advisory Committee turned its attention to the topic of Superintendence Rule 39. Judge Metz led a discussion regarding the proposed aggregate case types in Section (C)(2)(a). He asked the individual jurisdictional subcommittees to consider if there are a significant number of cases within one of the proposed aggregate case type categories it may be appropriate to make it a separate category.

The Juvenile, Domestic Relations, Probate, and Appellate Statistical Reporting Subcommittees reported they have each reviewed and approved the proposed aggregate case types within their individual jurisdictional subcommittees. The Municipal and County Courts Statistical Reporting Subcommittee was instructed to review and approve its proposed aggregate case types.

Judge Hall suggested changing the language in Sup.R. 39.05 (B) [currently (C)] to read, “Excluding the time in which a case is tolled pursuant to Sup.R. 39.03, for any reporting period ~~month~~ in which more than ten percent...” given that both appellate and probate jurisdictions complete quarterly reports.

John VanNorman, the Supreme Court’s Senior Policy and Research Analyst, explained the internal process for final approval of Sup.R. 39. Ms. Hess stated that when Sup.R. 39 is presented for final approval, it will include the proposed new time standards as an appendix to the rule. Ms. Hess requested the Advisory Committee review the commentary to Sup.R. 39. Judge Metz requested each committee member email comments to Tasha Ruth

([Tasha.Ruth@sc.ohio.gov](mailto:Tasha.Ruth@sc.ohio.gov)). The comments should concern three major areas: (1) items in the commentary that should be moved into the rule; (2) items in the commentary that ought to be moved into the instructions; and (3) items in the commentary that ought to be eliminated.

### **New Business – Superintendence Rule 39.02: Calculation of Time**

The Advisory Committee discussed the appropriate trigger to begin calculating time as indicated in proposed Sup.R. 39.02 (3) and (4). It was suggested that the proposed language be changed to reflect the time clock in felony cases in a general division of a court of common pleas begins “upon arraignment or waiver of arraignment.” Likewise, in delinquency, traffic, or adult cases in a juvenile division of a court of common pleas the clock begins “upon arraignment or waiver of arraignment.”

In civil cases (proposed Sup.R. 39.02 (5)) it was suggested the clock begin “upon the filing of the complaint or other initial pleading with the clerk of court.”

### **New Business – Superintendence Rule 36: Individual Assignment (Felony Criminal Cases)**

Judge Metz asked the group to consider the appropriate time to assign a judge in a felony criminal case.

Ms. Hess provided some background regarding what some Ohio courts are doing to frontload felony criminal cases. Pursuant to the current Sup.R. 36, a judge is assigned at arraignment. However, some courts would like to fast track fairly simple criminal cases – the goal being to get an attorney and a judge assigned early so the defendant can come to arraignment, plead and be sentenced the same day.

A lengthy discussion followed.

The Advisory Committee agreed that a felony criminal case should be assigned, “not later than arraignment or waiver of arraignment of the defendant.”

### **Action Items**

- (1) Each statistical reporting subcommittee chair should re-engage the work of their group by reviewing the Statistical Reporting Instructions.
- (2) The Municipal and County Courts Statistical Reporting Subcommittee will review and approve their proposed aggregate case types in Sup.R. 39.
- (3) The Advisory Committee members should review the commentary to Sup.R. 39 and email comments to Tasha Ruth ([Tasha.Ruth@sc.ohio.gov](mailto:Tasha.Ruth@sc.ohio.gov)). Comments should concern three major areas: (1) items in the commentary that should be moved into the rule; (2) items in the commentary that ought to be moved into the instructions; and (3) items in the commentary that ought to be eliminated.

- (4) The Advisory Committee members should review proposed amendments and commentary to Sup.R. 36 and email comments to Tasha Ruth ([Tasha.Ruth@sc.ohio.gov](mailto:Tasha.Ruth@sc.ohio.gov)).
- (5) If possible, schedule a vote on August 8, 2014, concerning the Statistical Reporting Instructions.
- (6) If possible, schedule a vote on August 8, 2014, concerning Sup.R. 39.
- (7) The Multi-District Litigation Subcommittee will gather information from larger law firms and local bar associations on how many multi-district litigation cases might exist in Ohio.

### **Motions and/or Decisions**

- (1) Judge Capizzi moved to approve the March 13, 2013 meeting minutes; the motion carried unanimously.
- (2) Judge Frye moved to table voting on Sup.R. 39 until the August meeting; the motion carried unanimously.
- (3) Judge Coss moved to amend the language in proposed Sup.R. 36(B)(2)(d) to read, “In a criminal case in a general division of a court of common pleas, not later than arraignment or waiver of arraignment of the defendant ~~when the warrant or summons in lieu of a warrant is issued.~~”; the motion carried unanimously.

### **2014 – 2015 Meeting Dates**

Friday, August 8, 2014  
Friday, October 10, 2014  
Friday, March 6, 2015  
Friday, May 8, 2015  
Friday, August 7, 2015  
Friday, October 16, 2015