

# 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*

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### Meeting Minutes

December 10, 2014

#### Committee Members Present:

Gretchen Beers, Esq.  
Russell Brown, Esq.  
Judge Deane Buchanan  
Judge Timothy Cannon  
Judge Rocky Coss  
Judge Gary Dumm  
Laurie Endly  
Judge Richard Frye  
Judge Laura Gallagher

Judge Kathleen Giesler  
Judge Alan Goldsberry  
Lisa Gorrasi, Esq.  
Judge Michael Hall  
Judge Jerome Metz, Jr.  
Judge Diane Palos  
Judge John Pickrel  
Elizabeth Stephenson, Esq.  
C. Michael Walsh

#### Committee Members Absent:

Judge Anthony Capizzi  
Judge Carol Dezso  
Judge Sheila Farmer

Judge Tom Pokorny  
Judge Joseph Zone

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

Brian Farrington  
Diane Hayes

Tasha Ruth, Esq.  
Alicia Wolf, Esq.

## **Meeting Minutes**

The minutes from the August 8, 2014 meeting were reviewed and approved unanimously.

### **Old Business – Commercial Docket Subcommittee**

Judge Cannon outlined the new requirements of Superintendence Rule 49 which was amended in October 2014. The amended rule contains a list of considerations the subcommittee must review when vetting potential commercial docket judges. He also indicated the subcommittee is currently in the process of reviewing a candidate nominated to serve as a judge on the Cuyahoga County Common Pleas Commercial Docket.

### **Old Business – Update on Superintendence Rule 36 Subcommittee**

Judge Frye indicated the newly formed Superintendence Rule 36 Subcommittee will review Ohio's current single-assignment system, look at other states' assignment systems, and consider the merits of each. Diane Hayes added that the rule is currently silent as to the reassignment of a case following a recusal and this is something the subcommittee should take a look at. Judge Cannon added that the rule is also unclear as to the assignment of appellate cases. The subcommittee's first conference call is scheduled for January 21<sup>st</sup> at noon.

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

Judge Frye reported that a memo recommending the adoption of a Rule of Superintendence creating and governing a Multi-District Litigation program in Ohio was sent to the Chief Justice on November 17<sup>th</sup>. The proposed rule would allow cases filed in multiple counties that contain overlapping factual issues to be consolidated with one judge for pretrial purposes. If approved, the subcommittee will work with John VanNorman to develop a proposed Rule of Superintendence for the Advisory Committee on Case Management's consideration.

### **New Business – Statistical Reporting Instructions**

Following the August meeting, SCO staff prepared instructions for reporting objections to magistrates' decisions and a model to display how this information might look on the Statistical Reporting Forms. The proposal, along with the changes that were made to the Statistical Reporting Instructions was circulated to the ACCM before the December meeting. ACCM members were invited to provide feedback.

Judge Frye suggested the instructions contain a cross reference index. Judge Coss addressed several of the questions and comments that were submitted to staff prior to the December meeting.

The following motions were made and passed regarding the statistical reporting instructions during the meeting:

1. Motion to amend Page 10, Section (I)(7):

**Referral to Dispute Resolution.** ... Although a case may be referred to a dispute resolution process more than once, it may only be placed on inactive status once during the pendency of the initial filing of the case and once during any reopening of the case. In domestic relations or juvenile court, a reopened case may be placed on inactive status once each time the case is redesignated.

2. Motion to amend Page 15, Section (L)(16):

**Settlement Agreement (Court-Facilitated Dispute Resolution).** Cases disposed by a judicial officer-facilitated or court-facilitated dispute resolution program.

3. Motion to amend Page 15, Section (L)(17):

**Settlement Agreement (Other).** Cases disposed following a settlement between the parties that was not the result of a judicial officer-facilitated or court-facilitated dispute resolution program.

4. Motion to amend Page 22, Section (P)(4)(d):

**Reopened – Vacation of Judgment.** If a case previously disposed is reopened because the judgment is vacated by the trial court, the calculation of time following the vacation of the judgment begins as if the case was a new filing in that court.

5. Motion to amend Page 11, Section (I)(15):

**Objection to Magistrate Decision.** ... If the judge's ruling on the objections returns the case to the magistrate for further proceedings, the time guideline for the case shall resume running upon the filing of the judge's entry ordering further proceedings. See Section (M) for additional information on reporting the status of cases subject to magistrate decisions. Cases in which objections are not timely filed shall not be placed on inactive reporting status.

6. Motion to amend the “Preamble” to the instructions to contain the following language:

“These instructions grant no substantive rights or cause of action to any person.”

7. Motion to eliminate the last two paragraphs on page 2, Section (D).

8. Motion to approve the final draft of the Statistical Reporting Instructions.

*(Please note although the instructions have been approved by the ACCM, they have not been approved by the Court.)*

### **New Business – Superintendence Rule 42 – Complex Litigation**

Lisa Gorrasi suggested that Sup.R. 42 be amended to include Complex Litigation cases in domestic relations courts. Under the proposed language drafted by the Domestic Relations Statistical Reporting Subcommittee, divorce cases involving children that are declared complex would gain six additional months beyond the original time standard and divorce cases not involving children that are declared complex would gain 12 additional months beyond the time standard. In either case, the maximum time standard for a Complex Litigation case in a domestic relations court would not exceed 24 months.

Brian Farrington explained that amending Sup.R. 42 is a two-step process: The new case type, Complex Litigation in domestic relations courts, gives rise to a new time standard. The proposed amendments to Sup.R. 39 include only the current case types and their proposed new time standards. Once Sup.R. 42 is amended to include the new case type, Complex Litigation for domestic relations cases, Sup.R. 39 will need to be amended to include this new time standard.

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

The Advisory Committee turned its attention to the topic of Superintendence Rule 39. During the August meeting, ACCM members were invited to send comments regarding the commentary to the rule. As of the meeting no comments had been received. Judge Metz led a discussion to see what further changes needed to be made. Several grammatical and numerical sequencing changes were made.

The following substantive motions regarding Sup.R. 39 were made and passed:

1. Motion to amend the sentence beginning at Line 220:

However, the failure to dispose of cases within these time guidelines may result in intervention by the administrative judge or the Chief Justice. While the time guidelines are keyed to the date of arraignment, the requirement of R.C. 2945.71 begins to run from the date of arrest.

2. Motion to amend the sentence beginning at Line 98:

- (1) In all misdemeanor, including traffic cases, upon arraignment or waiver of arraignment;

3. Motion to approve the amendments to both the rule and commentary to Sup.R. 39.

## **Action Items**

Judge Metz suggested the ACCM focus its attention on developing a plan for SCO staff to assist local courts in implementing these instructions, provide adequate training, develop a calendar to incrementally integrate the changes, and assist local courts in meeting the new time standards.

SCO staff will submit the proposed amendments to Superintendence Rule 39 and the accompanying new time standards to the Court.

## **2015 Meeting Dates**

Friday, March 6, 2015

Friday, May 8, 2015

Friday, August 7, 2015

Friday, October 16, 2015