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CIVIL MEDIATION PROGRAM

The interest in mediation grew substantially in the 1990s as litigants became increasingly frustrated with the time, cost and aggravation related to traditional litigation.

Mediation is generally defined as a process in which a neutral third party assists with communication between litigants. The mediator will identify issues and help explore solutions that may eventually lead to a settlement.

There are several perceived advantages to mediation as it relates to early case disposition. These include less cost and time, greater control of the process by the parties and a higher degree of satisfaction with the results.

In 2000, the Michigan Supreme Court adopted two new rules, MCR 2.410 and MCR 2.411, establishing mediation in trial courts. Pursuant to the rules, trial courts that submit cases to mediation must adopt an Alternative Dispute Resolution (ADR) plan by Local Administrative Order (LAO).

In addition, the LAO must state how the roster of mediators will be maintained, how the court will disseminate information about the operation of the program and how access to mediation will be provided for indigent parties.

There are several requirements for individuals who wish to serve in a mediator capacity. All mediators must complete a SCAO approved 40-hour training course. Additionally, all mediators must have observation and co-mediation experience.

In addition to the 40 hours course, educational requirements include; a juris doctor



degree, graduate degree in conflict resolution or 40 hours of mediation experience over two years.

In 2003, through the efforts of the local ADR committee of the Genesee County Bar Association, an effort was undertaken to adopt a local ADR plan.

Judge Geoffrey Neithercut, the presiding judge of the civil division, oversaw the development of the ADR plan.

Other members of the ADR committee who made significant contributions in drafting the ADR plan include: Brian

Barkey, Richard Barron, Lawrence Day, Richard Figura, Alan Himelhoch and Ed Powers. This included a presentation to the local bar on the benefits of mediation in early 2004.

Simultaneously in 2004, the ADR plan was submitted to the State Court Administrative Office and approved. In the initial year of operation, 241 cases were submitted to mediation with a settlement rate of 60%. In that year there were 49 civil mediators on the roster.

In 2015 and 2016, 767 civil cases were ordered into mediation. Of these cases, 492 cases were settled through the mediation process. Additionally, another 83 cases were closed before the mediation completion deadline, without mediation taking place. These two factors resulted in a 75% docket reduction due to mediation referrals.

Finally, House Bill 5073 introduced October 10, 2017 would require 'automatic' mediation. Under the bill, a judge would be required to refer an action to mediation within 30 days after a response to the complaint is filed, unless an objection is timely filed. This bill is currently before the Judiciary Committee.

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THE CHIEF SPEAKS

I had the opportunity to recently attend a court administrative leadership meeting.

This is a quarterly meeting established by the circuit court administrator to sit down with the administrative leadership team to discuss recent projects, what worked, what did not work, determine strategies that were successful, are there other applications in the court that could benefit from the same strategy and chart new goals.

The meeting has an agenda, is limited to approximately one hour and selected staff are asked (in advance) to be one of the presenters for the meeting.

It is easy for a judge to forget that the court is an organic institution and it has many foundational components. Likewise, it is a complex business environment.

The court has a substantial operating budget, which requires submission and approval by the Genesee County Board of Commissioners. Once adopted, there is daily activity required to insure that the ac-

counts receivable are approved for payment, sometimes requiring multiple levels of approval before payment.

Nearly 10 years ago, the court led the way in requiring that court appointed attorneys agree to electronic (EFT) payment. This saves postage,

printing and processing costs by the court and other county departments. The circuit court

processes nearly 6,000 requests for payment each year. The savings mount up.

The EFT payment process is also designed to accomplish payment faster than the hard copy check process.

The court is also subject to a financial audit by the State Court Administrative Office (SCAO) on a semi-regular basis. The last one for the circuit court was in 2016. This activi-

ty requires a significant time commitment from multiple financial and administrative staff over the course of a week. Exit meetings are held with the Chief Judge and Court Administrator with a list of findings that typically require follow up and verification.



Approximately 28,000 residents will be qualified for jury service each year. The jurors are selected in compliance with state law, with names randomly selected from Michigan Driver's License or Non-Driver's Identification cards. The circuit court jury board goes through the process of qualifying jurors for service in all of the Genesee County Courts, based upon the statutory eligibility criteria.

The individual courts, district, circuit/probate will summons jurors from those lists as the trial docket requires. The new

jury software provides an electronic communication option for prospective jurors and permits the court to communicate with jurors by text or email.

In some respects it is a new world, with a high percentage of prospective jurors opting to electronically communicate.

New ideas about how to provide local services for youth and their families, who find themselves involved in our family division, is very much on the forefront for the court. The status of the Genesee Valley Regional Detention Center (GVRC) has been topical with the Family Division Judges since its return to Genesee County from the State of Michigan in 2002.

A conversation between the Court and members of the Genesee County Board of Commissioners has taken on new energy. We look forward to the next level of activity.

Self-represented litigants are the focus of new initiatives between Legal Services of

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ADMINISTRATOR CORNER

I recently attended a State Court Administrative Office (SCAO) conference for court administrators and chief judges. It was a one day presentation, packed with good information and multiple sessions of interest.

One of the presenters was Ed Zobeck, Chief Administrative Officer, Michigan Supreme Court. I opted to attend one of his sessions and was glad that I did. Not only was Ed an interesting presenter, his topic was thought provoking. It was entitled "*Handling Conflict.*"

There were three books that were highlighted as the basis for the presentation. I admit that I am not always drawn into the "how to books," having grown up with a family that imprinted me with go to school, read, always arrive early for work (or court), seek out other work if you are done with your work, listen, be respectful of others no matter

their station in life and things will work out pretty well. I still think all of these things are good advice.



I ordered two of the three books referenced by Zobeck, *Crucial Conversations, Tools for Talking When the Stakes are High*, by Patterson, Grenny, McMillan & Switzler and *The Five Dysfunctions of a Team*, by Patrick Lencioni.

Crucial Conversations is a book about how to have a conversation that is meaningful, not trivial. It does not only mean a high level political conversation with world peace hanging in the balance, although it could. It could mean explain-

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EMPLOYEE SPOTLIGHT



Left to Right: Alex Petropoulos, Avery Oaks, Becky Gillette, Dawn Finnemore, Jason Tanner

Alex Petropoulos worked at the Register of Deeds before joining the FOC.

He started as a program clerk in October. He grew up in Clio and currently resides there.

Avery Oaks previously did medical billing before joining FOC. She started in November as a program clerk. She is currently assigned to the enforcement unit. Avery has a son and a daughter.

Becky Gillette started as a program clerk assigned to the information counter in October. She is married with 1 daughter. She previously worked in the educational field as an academic advisor at Baker College.

Dawn Finnemore was hired in September as a program clerk in the modification unit. She is originally from Maine and is married with 2 daughters and 2 grandchildren. Dawn's work career has always been in an administrative capacity.

Jason Tanner started in September as a caseworker assigned to Judge Beagle. He previously worked with the sheriff's department for 12 years as a corrections officer. Jason is married with 3 children.

Jennifer Keillor (not pictured) was a former judicial advisory assistant in the circuit court. She joined the FOC in October as a staff attorney. She is married with 3 daughters. Before receiving her law degree, Jennifer worked in the retail industry.

Laura Temple (not pictured) hired into the FOC before joining Probate Court. Laura rejoined the FOC in November as a program clerk.

Benjamin Stoltman is the judicial advisory assistant for Judge Barkey. He is originally from the metro Detroit area and currently lives in Flint with his wife. Benjamin is a graduate of Aquinas College and University of Detroit Mercy Law School where he earned several awards and was active in a number of student organizations. After graduation he taught American Law in France for an academic year.

Kristen Williams is the newest member of the circuit court staff. She is the judicial advisory assistant for Judge Theile. She graduated from Western Michigan University Thomas M. Co-

ley Law School after receiving her undergraduate degree from Oakland University. Kristen is a Goodrich High School graduate and currently resides with her 3 children in Grand Blanc.



Left to Right: Benjamin Stoltman, Kristen Williams

Correction: In the October 2017 addition, new employee Sparkle Walker was included. We did not mention that she is married with 4 children. -sc/tm



- Welcome back to Nancy Clark, Information Desk Volunteer and Court Ambassador. Nancy returned to her post, after a hiatus. She brings an important presence to the court and enjoys her work.

- Congratulations to the Mental Health Court for 10 years of operation.

- *Hearsay* says farewell to Judge Archie L. Hayman, upon his retirement. He will once again be on the other side of the bench, as he returns to private practice. Jackie White, judicial administrative secretary for Judge Hayman, will also move on to other administrative work at the federal

level. Good luck to both in their next chapters.

- Congratulations to Dena Altheide, Director of Court Operations for the 67th District Court, upon her retirement. Dena was instrumental in the organizational growth of the court, serving in many capacities over 40+ years of service. Her partnership was always appreciated by other court administrators.

- Congratulations to the Genesee County Bar Association for another successful year (the 27th year) of providing a Holiday Dinner to the community at the Masonic Temple. A turkey dinner, Santa, gifts, music

In addition to the Genesee County Holiday Schedule, the Genesee County Courts will be closed to the public, to comply with furlough day requirements, on the following dates:
Friday, January 12, 2018
Friday, May 25, 2018
Tuesday, July 3, 2018
Friday, August 31, 2018

and this year age appropriate books. This event is entirely funded by donations from the legal community. Over 1200 meals were served.

The unsung hero award once again goes to Larry Battiste, Temple Dining Room, and his crew.

REFLECTIONS ON A JUDICIAL CAREER

Archie L. Hayman retired from the Genesee County Circuit Court effective December 31, 2017. He was first appointed as a judge in 1995, serving in the 68th District Court for the City of Flint.



In 1996 he was appointed to the Circuit Court. He most recently served in the Criminal-Civil Division of the Court, preceded by a few years as a Circuit Judge before the family division was

created on January 1, 1998. This meant that his docket included civil, criminal and domestic matters.

Hayman was the Chief Judge of the Circuit Court from 2004-2009

and held a dual appointment as Chief Judge for the Circuit Court and the 68th District Court from 2006-2009.

His other assignments included presiding over the Adult Felony Drug Court from 2010 to 2012.

I recently had the opportunity to ask Judge Hayman a few questions about his service.

What will you miss about being a judge?

He indicated that he will miss

working with his immediate staff, other judges, members of the court staff and the other entities that support the work of the court.

He further indicated that he will miss having an impact on the people who came in front of him as a judge, both civil and criminal. Lastly, he will miss his ability to intersect with members of the community as a judge and stress the importance of education and service.

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CRAIG VARGO

Craig Vargo began as a Volunteer Probation Officer in 2010. He enjoys meeting weekly with his clients who are on Consent Calendar Probation.

When counseling, Mr. Vargo's two most frequently used phrases are "Always do the difficult right over the easy wrong" and "behind every if is a different consequence and sometimes the consequences may last a lifetime".

Craig often uses Sean Covey's book The 7 Highly Effective

Habits for Teens as a stepping stone for conversations and directions when speaking with his clients.

Craig graduated from Swartz Creek High School and attended Western Michigan University where he earned his BA in Education. He went on to achieve a Master's in Education from MaryGrove College.

He recently retired from Grand Blanc Middle School. During his free time, he enjoys golfing, biking, volunteering in the

community and spending time with his wife, Kim, their two children and five grandchildren.

Craig is also one of the better joke tellers you will ever find and is truly an extremely happy soul.

Craig would like to thank Donald Rockwell and Barb Menear who he says were instrumental in helping him become a Volunteer Probation Officer. He also wishes to thank Patrice Stiehl who mentored him in

the first months of his volunteer position with the courts. – mk



BAIL BONDS

Each year, pursuant to MCL 750.167b(4) the circuit judges compile a list of individuals authorized to act as bail bond persons in the county.

The list must be sent to the jail and prominently posted. If the court has a website, the list must be included as required by SCAO standards.

In November of each year, the application window for the upcoming year is opened. A

letter is sent to all the existing bail bond companies reminding them that it is time to renew their application.

The application must be completed for every bail bond agency. In addition, all agents must produce the following documentation: 1. a copy of their driver's license; 2. ICHAT criminal history report (<30 days old); 3. power of attorney from the surety underwriter with a "not to exceed" value

and 4. a copy of their resident producer license.

There are 60 agencies on the current list and nearly 250 agents. All documentation is reviewed to make certain that all of the requirements have been met. A secondary spreadsheet is compiled for all the agents that have a criminal history record.

In January of 2015, the judges agreed to omit any agents who had a conviction for drinking

and driving, domestic violence offense, weapons offense or a property offense within the past five years.

After the final list has been compiled, it is submitted to the criminal/civil judges for approval. Once approved, it is sent to the various entities for posting. -tt

ADOPTION DAY



parties for adoptive families and educate the public about the adoption process.

Genesee County District Judge Mark Latchana and his daughter, Eva, were the event speakers. They shared their family's experience with adoption.



us an opportunity to take a moment to acknowledge what is important – family; and we encourage other individuals and families to consider adoption, as we celebrate the joy of adoption and express our thanks for adoptive parents throughout our community,” commented Judge Barkey.

who worked together to make this day such a success.

The adoptions unit, Sheonna Hill, Dana Anderson, Darious Baylock and Mary Anne Falk should be commended for their hard work in highlighting both the need and the joy in adopting a child who needs a family. –sh

Probate Judge Jennie Barkey and the adoptions staff celebrated Michigan Adoption Day on November 21, 2017 by finalizing adoptions for three families.

Five children were adopted. It is the only time of year the public is allowed to see these hearings.



Adoption Day was established by the Michigan Supreme Court in 2003. Participating courts finalize adoptions, hold

It was a joyous occasion for all of the families and the local media covered the event as well. “This celebration offers

After the hearings a reception was held in the jury quarters for all of the family members, court staff and agency staff



FINANCIAL OVERVIEW

During the course of this calendar year, the county utilized two financial management software systems: A360 and GEMS. A360 was in place the first three quarters of the fiscal year (FY).

In September, the controller migrated to GEMS. This was done to facilitate the preparation of a mandated independent audit known as the Comprehensive Annual Financial Report (CAFR).

During the data migration, several line items did not import into GEMS satisfactorily. These accounts are being reviewed and corrected. With the migration, financial staff now have the ability to pre-

pare income statements, balance sheets and other necessary accounting reports.

Our current focus is the balance sheet preparation for the dozen non general fund accounts directly related to court activity. These include grants and special revenue budgets.

Throughout the year, the Reimbursement Office processes approximately 9,300 invoices amounting to nearly \$10M in payables. Payment to defender program attorneys is about 70% of the payables and the remaining 30% are vendor payments.

As the Court Financial Officer, I handle the quarterly and

annual financial reporting for nine grants including the Child Care Fund. These grants combined are nearly \$12M.

The total general fund budgets are \$10.63M. These include the circuit court, family division, jury management, court services, law library and reimbursement office budgets. The grand total of the budgets prepared by the court equal \$22.63M. A total of 25 budgets were submitted to the controller for FY 17/18.

New this fiscal year, is a juvenile drug court grant to rehabilitate juveniles with substance abuse issues. The program targets post-

adjudicated youth who demonstrate a need for intensive recovery services as a result of substance abuse.

In addition, there is also a United Way grant to provide Arts for Detention & Juvenile Probation. This program is designed improve interpersonal skills by providing a positive and creative outlet for youth through visual arts, theater and poetry. -cb



REFLECTIONS (CONT'D)

What are you most proud of accomplishing during your service?

Hayman indicated that he is proud of having a reputation of running an efficient docket, serving the public, helping to solve problems and helping the less fortunate.

What advice to you have for your successor?

The answer was to be respectful of all who appear in front of you. He further advises his successor to follow the law so that decisions are not dependent upon who is front of you.

Judge Hayman plans on returning to private practice.

On behalf of myself, the judges and court staff, congratulations to Judge Hayman and thank you for your service. -cjrby

CIVIL MEDIATION PROGRAM (CONT'D)

It does appear that mediation is here to stay and is the future trend for dispute resolution. Advocates for mediation state that it is the answer to a flawed legal

system that is expensive and takes too long to reach a resolution. -jp



TECHNOLOGY UPDATES

In the last quarter of the year, the court tech team has been productive. Listed below are a few projects and accomplishments:

•**Security on the juror e-response page has been enhanced.** The e-response page is where a juror completes their personal history questionnaire used during jury selection prior to trial. All data exchanged between the web server and the web browser is now encrypted through the secure browsing protocol used on the web.

•**Installed a new SCAO electronic docket display system.** This solution integrates the daily docket of all courts and displays them in an easy to read format. The product was marketed to the courts with no local cost. This resulted in an annual savings of \$1,500 in maintenance fees from a private vendor. There are 4 elec-

tronic displays centrally located in the in the Genesee County Courthouse. There are 12 displays at the McCree Building, including 4 centrally located displays and 8 displays outside of individual courtrooms. In addition, there are 2 displays at the Genesee County Jail.

•**WI-FI at McCree building has been updated.** This is an open network that does not require a password. By updating the hardware, the new network is more robust and can meet the digital needs of all court users.

•**The millwork on the tech cart and the lectern in the double jury courtroom were repaired and replaced.** A sound amplification system is installed and other technology components including a document camera and an annotation display system are being utilized. Additional details are available on the following link:

<https://7thcircuitcourt.com/wp-content/uploads/2017/08/Double-Jury.pdf>

•**The server that houses the records of the circuit, probate and district courts was replaced.** There are currently over 2M court records on that server. The former IBM server was over 10 years old and was no longer supported due to hardware unavailability. The new server allows faster access and has additional storage for future growth.

•**SCAO has selected ImageSoft as the electronic filing manager for a statewide e-filing initiative in Michigan.** Statewide rollout begins in 2018. Genesee County is included with other SCAO Region 2 courts in the sixth roll out wave. The tentative timetable for this to take place is 12 – 18 months.

Other projects that are being considered in 2018 include:

1 Updating the video recording system at the City of Flint lockup with improved video conferencing capabilities

2 Developing a paperless process for the testimony cards utilized in probate proceedings. Currently, these are paper forms that are manually completed and stored.

3 Updating the FTP server that is used to share discovery materials between the prosecutor and defense counsel. The goal is to optimize security, encryption and overall performance of the server. -rg

If you have any additional suggestions please email: courthelpdesk@7thcircuitcourt.com

CHIEF SPEAKS (CONT'D)

Eastern Michigan, the Circuit Court, Genesee County Pro Bono attorneys and other community partners. Having on site resources and pro bono attorneys at select times is a work in progress.

It may provide a valuable resource to answer questions that will permit qualifying litigants to complete court business.

The community continues to be well served by the specialty courts that are available in Genesee County. District, Probate and Circuit Court all have problem solving treatment courts that reach various segments of our community. The Adult Drug Court has been in operation over 15 years and the Mental Health Court just celebrated 10 years of service.

As the Chief Judge for the Genesee County Courts, I look forward to what we can accomplish in 2018. —cjrby



ADMINISTRATOR CORNER (CONT'D)

ing to a client the ramifications of rejecting a case evaluation. It could mean telling a criminal client what habitual offender means and there is little, if any, defense. It could mean delivering a bad work performance review or disagreeing with an ex-spouse over a parenting time issue.

In short, a crucial conversation is one that matters and has consequences.

The authors go on to explain that there are 3 possible approaches to a crucial conversation: (1) avoid them (2) face them and handle them poorly or (3) face them and handle them well. Most thinking people would prefer to opt for #3.

The core of every successful conversation is the free flow of relevant information. It is labeled dialogue. Talking, listening and acting together.

Once there is a free flow of relevant information, the participants often find that they know much more together than they do separately and from that point common ground and satisfying decisions can be made.

Of course, this is not the only take away from the book. How to be persuasive without being abrasive and how to control the outcome with all of the

participants respecting the conclusion are a couple of the other themes.

I am only giving you a taste of what the book addresses. It is an easy read and all of us can identify with at least some of the examples. I commend it to your reading. —bam

STREAMLINED ACCESS

The proximity cards used for parking and door access, along with your photo ID will soon be merging into a singular card no bigger than the one you already have.

This new streamlined access badge is a printable proximity card that will showcase your

photo. This is the same photo currently being used on your Genesee County ID.

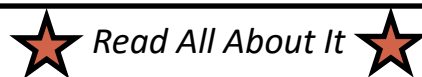
Once you exchange your old card with this new card all access levels will be carried over. This includes parking and door access. The new cards will eliminate the need to in-

sert your card into the card reader, a feature seen on some of the older county parking lots.

The department heads will be contacted and you will be advised regarding the process to receive the new card. Keep in

mind you will only be issued one card.

There is not a specific date when this transition will occur, but Building and Grounds are currently installing the new card readers at our parking locations. —dc



Hearsay is now available on the Circuit Court website www.7thCircuitCourt.com/hearsay-newsletter

We want to hear from you! Send us an email letting us know what you would like to see in the newsletter and feedback on the current edition. You can also submit ideas and information about activity in your department. hearsay@7thcircuitcourt.com