

HEARSAY

GENESEE COUNTY
CIRCUIT AND
PROBATE COURTS
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THE COURT IS ESSENTIAL

This is the first time that an edition of Hearsay has not published on time since launching the e-newsletter in 2014.

It took the COVID-19 pandemic to alter the publish on time birth certificate.

Please accept the following article as the much abbreviated April 2020 edition. by Barbara A. Menear, Administrator, Circuit Court

As I write this article, we are still in the midst of the pandemic and what it means to all of us, not just to the court, but to our own sense of what matters in our personal lives. We cannot yet enter the phase of “what it will come to mean” because the scourge is still upon us.

The pandemic has revealed the best in most of us and the worst in some. Big and life changing events have a tendency to do this, if we are honest and reflect on those times in our lives when it seems like our sense of normalcy has been snatched from us.

Why is it important that a court continues to be accessible? Is a court essential and what does that even mean in times like these?

Circumstances have forced the court to narrowly interpret essential. It is not a time, however, to permit the narrow in-

terpretation to define the significance of a court.

The judiciary is essential to a free society. The prism through which this should be viewed is to imagine that there is no court.

An individual is accused of committing a crime, arrested and then what, without a court. The bedrock of democracy is the right to a jury trial and for citizens from the community to determine if there is sufficient evidence that the accused committed the crime.



The verdict is not known and only a pronouncement deferred. The trial has not yet been conducted.

Defendants are presumed innocent *unless and until* the accusations are sustained by evidence which establishes guilt

beyond a reasonable doubt. Words matter and the constitutional rules of engagement matter.

Jurors may not come to the proposition appreciating the rules. The judicial process educates and imposes the rules.

We have suspended jury trials because of the pandemic. The court is concerned about the right of the accused and the prosecutor to a jury trial. We are also mindful of executive orders to stay home, social distancing, masks and what will the unshackling of the doors mean as we try to edge back to performing the historically essential work of a court. The jury trial.

The circuit judges have been very engaged with ongoing discussions and are concerned about the inability to conduct jury trials, especially for defendants in criminal cases who are detained awaiting trial. The accusations lodged and not yet tested by a jury trial.

At the same time, executive orders have permitted judges to review jail populations for early release or reduced bonds, as if a jail overcrowding emergency had been declared by the Sheriff. The jail population is at a record low.

(Continued on page 2)

Courts do not solicit work. Courts are the judicial field of dreams.

Each of the releases has been made by a judge after a thorough review of the nature of the charge, length of incarceration and risk to public safety.

If no court and no judges, what would be the rules by which a civilized society steps up in times like these?

Judges and referees continue to confront ill treatment toward children and delinquency behavior. The court continues to have a referee on call after hours to respond to requests to remove a child from their home or from law enforcement who seeks to lodge a youth at the detention center.

These middle of the night decisions must be followed by a hearing the next day to insure that all of the parties have an opportunity to be heard and be represented by counsel.

Electronic workflow in the middle of the night must be reviewed and encrypted to prevent access to confidential information.

The behind the scenes work of a family clerk and supervisor to set the judicial table correctly before the hearings are held is vital.

Not surprisingly, people still want to get their divorces finalized. Without a court, no judgment of divorce and no movement toward the next chapter of life for parties and children. Essential, just ask the parties.

Some would suggest that civil cases do not rise to the same level of essential court work as

the ones that I have mentioned above.

In truth, perhaps a motion to compel answers to interrogatories does not have the same sense of urgency at this time.

But, does approval of a settlement which can provide funds to retrofit a home for an injured party in which to live with their family rise to the level of essential? Does settling a property line dispute which has the potential to boil over to actual confrontation rise to the level of essential? These are but just a couple of examples.

Parties and businesses have struggles. They are part of the constituency of the court. Is the court essential, yes.



Is getting the proper mental health services for a person who does not realize that they need treatment, essential? The family stress associated with how to even seek the help is unimaginable for most of us.

Courts do not solicit work. Courts are the judicial field of dreams. If you build it, they will come. Why, because the judiciary is the place where citizens come to settle disputes. No more. No less.

I hear people talk about their "brand." Most of the time, I am not really sure what it even means. But, the brand of a court must be the neutral playing field, commitment to due process and application of the law to the cases that come before it.

The staff of the court have been outstanding, as they have been called upon to reinvent the workplace in a condensed period of time.

The State Court Administrative Office (SCAO) has passed along numerous orders from the Michigan Supreme Court directing what local courts are permitted to do and not permitted to do. Following those directives has been challenging at times.

The necessity of the orders is not in issue but implementation often has multiple layers all of which take judges, administrators and other court staff to understand and effectively roll out.

Teamwork between all of the courts, 67th District Court, Probate Court and Circuit Court has provided the foundation which permitted innovation to rise up and solve issues of first impression.

I have a renewed appreciation for the court leadership and staff who work with me every day.

While others may have stood down, the court stood up and met the challenge.

Yes, I have apologized a few times for the expediency and tone in my voice.

Every apology was graciously accepted and the underlying reason understood.

The court is essential. –bam