

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

October 4, 2013

Committee Members Present:

Jean Atkin, Esq.
Gretchen Beers, Esq.
Russell Brown, Esq.
Judge Deane Buchanan
Judge Timothy Cannon, Chair
Mark E. Combs, Esq.
Judge Rocky Coss
Judge Carol Dezso
Judge Gary Dumm

Laurie Endly
Judge Richard A. Fry
Judge Laura J. Gallagher
Judge Michael Hall
Judge Jerome Metz, Vice Chair
Judge Diane Palos
Judge John Pickrel
Judge Tom Pokorny

Committee Members Absent:

Judge Anthony Capizzi
Judge Joseph J. Zone
Judge Sheila Farmer
Lisa Gorrasi, Esq.

Judge Kathleen Giesler
Judge Alan Goldsberry
Judge Jack Puffenberger

Supreme Court of Ohio Staff Members Present:

Stephanie E. Hess
Diane Hayes

Tasha Ruth
Alicia Feehery Wolf

Meeting Minutes

The minutes from the August 9, 2013 meeting were reviewed and were approved unanimously.

New Business – Treatment of Cases Pending Mediation and Consideration of Commission on Dispute Resolution’s Recommendations

The Advisory Committee addressed the topic of the treatment of cases pending mediation. The Commission on Dispute Resolution recently met and approved guidelines regarding how cases should be treated while cases are in mediation and the length of time various types of cases should be tolled while a case is in mediation. Ms. Hess reviewed the Commission’s recommendations.

Judge Coss agreed that cases should be tolled for mediation and recommended each jurisdiction should review the rule and weigh in. Judge Dezso stated a concern that tracking all types of mediation would lead to several subcategories of tolling which would need to be tracked. Judge Coss agreed.

Judge Hall indicated that appellate cases would not need to be tolled.

Ms. Beers, who attended the Commission on Dispute Resolution meeting, stated that the Juvenile Subcommittee has opposed this recommendation. Like Judge Dezso, Ms. Beers is concerned with the variety of cases and types of mediation that would have to be tracked. Ms. Beers pointed out that the Commission report does not address abuse/neglect/dependency cases. Ms. Beers is concerned with the statutory guidelines and how tolling the cases will affect the timeliness of juvenile cases.

Judge Cannon then directed the group to a discussion of the Commission’s questions and recommended answers. The Advisory Committee agreed that a case could be referred to mediation more than once, but the time should not be tolled more than once. Judge Coss recommended bringing this topic before the Super Committee for further discussion.

Ms. Hess stated that this is valuable information for courts and the Supreme Court to monitor. While it may be difficult to capture, it is valuable to track success and measure productivity of mediation. This led to a discussion of how to track private mediation. Judge Frye and Judge Coss agreed that it is difficult to track civil cases that are privately mediated, especially where mediation has not been court ordered. Judge Coss recommends that the Super Committee consider how to track mediation.

In response to the Commission on Dispute Resolution’s question as to whether there is a system to track cases in mediation, whether tolled or not, Judge Cannon indicated that we capture this information in DR cases only. Judge Cannon suggests that the Advisory Committee would have to create its own system to track these cases. Ms. Hess recommends that this information should be included in the current reporting system.

Judge Cannon directed each subcommittee to consider the recommendations of Dispute Resolutions Commission.

Old Business - Statistical Reporting Subcommittee Reports

Super Committee

Judge Coss reported that the Super Committee met in person on September 16, 2013 for 4½ hours and made great progress reviewing all but one section. A telephone conference is scheduled for October 28, 2013 to review the committee's revisions, review the last section of the draft, address mediation and dispute resolution, and review any tolling commonalities. Judge Coss indicated that the Super Committee's report will be sent out to all subcommittees and that he anticipates a recommendation regarding common instructions from the Super Committee by the next meeting.

Appellate Courts

Judge Hall reported that the Appellate Court Subcommittee wants to table its recommendation for final approval pending the review of the report from the Super Committee. Once the Super Committee recommendations have been reviewed, all other recommendations of the Appellate Court Subcommittee will be ready for the next meeting.

Common Pleas, General Division Courts

Judge Coss indicated that the Common Pleas Subcommittee has approved the case types and instructions. The subcommittee plans to address the common guidelines and finish the Common Pleas recommendations by next meeting.

Common Pleas, Domestic Relations Division Courts

Judge Dezso reported that the Domestic Relation Subcommittee is making progress. Judge Dezso indicated that the subcommittee will be reviewing the Commission on Dispute Resolutions newest report and is waiting on the report of the Super Committee before it can proceed with any recommendations.

Common Pleas, Probate Division Courts

Judge Gallagher indicated that the subcommittee had a telephone conference in July. The subcommittee has agreed on case types and tolling of time. The subcommittee is waiting for the Super Committee's recommendations before it begins to work on specific instructions.

Common Pleas, Juvenile Division Courts

Ms. Beers reported on behalf of Judge Capizzi. The subcommittee has agreed on terminations and is now waiting for the Super Committee's recommendations. Ms. Beers anticipates having something to report by the March meeting.

Municipal and County Courts

Judge Pickrel reported that the Common Pleas General and Municipal and County Courts Joint Subcommittee has made progress on case categories and is now ready to focus on instructions.

Old Business - Superintendence Rule 39: Case Term Limits

Judge Metz reported that the subcommittee took a long, wide range look at the rule and its impact on various cases. Judge Metz led a review of the final red-line proposal of Rule 39. After extensive discussion of the proposed rule and some revision to the draft, the amended Rule 39 was unanimously approved by the group after motion by Judge Metz. A copy of the adopted rule is attached to these minutes.

Ms. Hess stated that the Statistical Reporting Subcommittees should review and finalize their aggregate case types as soon as possible. Once those are completed, the approved aggregate case types will be inserted into Rule 39 along with the approved time standards. Once those sections have been revised with the approved information, the rule will be presented to the Court during Administrative Conference. Ms. Hess reviewed the process for approval.

Judge Frye suggested an effective date of 2016 for this rule. Judge Coss concurred.

Old Business – Multi-County Litigation Proposal

Judge Frye reported that the inter-county litigation proposal is progressing. Judge Frye stated that there will be additional meetings with the Supreme Court Commission on Rules and Procedures, to determine which section of the Supreme Court will be handling this proposal.

Action Items

- (1) Judge Cannon reported that he reached the end of his first term on the Advisory Committee and will not be continuing as chair of the Committee. Ms. Hess addressed re-appointments and stated that she would be discussing re-appointments with the Chief Justice. Please let her know if you do not wish to be re-appointed, so that a replacement can be found.
- (2) Judge Cannon suggest that each subcommittee continue to work on their instructions.
- (3) Each subcommittee should review and finalize their aggregate case types, as outlined in Superintendence Rule 39, as soon as possible.
- (4) Each Subcommittee and the Super Committee should consider and address the recommendations of Dispute Resolutions Commission regarding the tolling of cases for mediation.

Motions and/or Decision

- (1) Judge Frye moved to approve the August 9, 2013 meeting minutes; the motion carried unanimously.

- (2) Judge Metz moved to approve the revised proposal of Superintendence Rule 39; the motion carried unanimously.

2014 Meeting Dates

The Advisory Committee discussed meeting before March 7, 2014. Judge Coss stated that he hopes that the Super Subcommittee will have its recommendations by January or February. Ms. Hess recommended scheduling a meeting in January and re-evaluating in December to determine if the meeting will be necessary. The Advisory Committee agreed to schedule a meeting for January 24, 2014. The following are the Advisory Committee meetings scheduled for 2014:

Friday, January 24, 2014
Friday, March 7, 2014
Friday, May 2, 2014
Friday, August 8, 2014
Friday, October 10, 2014