

# Caseflow Management

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# Caseflow Management

## 7-01 INTRODUCTION

### A. Definition

Caseflow management is central to the court's mission. The term caseflow management denotes management of the continuum of processes and resources necessary to move a case from the point of initiation through disposition. It is concerned with active attention by the court to the progress of each case once it has been filed with the court.

In 1991 the Michigan Supreme Court, through Administrative Order 1991-4, explicitly recognized that ". . . the management of the flow of cases is properly the responsibility of the judiciary." The court reaffirmed its commitment to ". . . an effective, fair, and efficient system of justice." A guide to caseflow management was originally developed in response to the court's mandate and was revised to incorporate changes produced by Supreme Court Administrative Order 2003-7, which can be accessed on-line at <http://courtofappeals.mijud.net/rules/documents/3AdministrativeOrders.pdf>.

The *Caseflow Management Guide* was prepared for judges and caseflow management practitioners to assist them in developing and improving their caseflow systems. Toward that end, it incorporates information about the following court management principles.

1. Caseflow management is the supervision or management of the time and events necessary to move a case from initiation to disposition or adjudication.
2. Court supervision of case progress, including adjournments, is necessary for an effective and efficient case management system.
3. Judicial support and leadership and the involvement of the bar and justice agencies is critical to the development and maintenance of a caseflow management system.
4. Management information, whether from an automated or manual system, is needed to determine if the court is meeting its caseflow management goals and objectives, assess the effectiveness of case management procedures and practices, and determine the need for change.

The Advisory Committee that assisted in developing the original guide consisted of judges and administrators with extensive case management experience. A revision workgroup was established to assist in rewriting the guide to reflect current information and practice.

See <http://courts.michigan.gov/scao/resources/other/caseflow.htm> for more information on caseflow management.

## **7-02 CASEFLOW MANAGEMENT INFORMATION REPORTS**

### **A. Authority**

The state court administrator, under the Supreme Court's supervision and direction, shall:

1. collect and compile statistical and other data, make reports of the business transacted by the courts, and transmit the reports to the Supreme Court so that the statistics and other data may be used in taking proper action in the administration of justice; and
2. obtain reports from courts, and the judges, clerks, and other officers of the courts, in accordance with rules adopted by the Supreme Court on cases and other judicial business conducted or pending in the courts, and report on them to the Supreme Court.

(MCR 8.103[5],[7])

See references to various SCAO-Approved forms in the information that follows. See also Section 3-04 for a list of other reports to the SCAO, and Section 8-05 for a list of reports to state agencies. These lists are also available, along with some of the forms, at <http://courts.michigan.gov/scao/resources/publications/reports/materials.htm>.

### **B. Delay in Criminal Proceedings Report**

Control of the trial calendar is vested in the trial court. Each judge shall electronically submit a quarterly report of delayed cases through the Delay in Criminal Proceedings (DCP) application on the Michigan Court Application Portal (MCAP). The report will include cases pending at the end of the quarter and cases disposed during the quarter. Cases to report include:

1. felony cases in which there has been a delay of more than 301 days between the order binding the defendant over to circuit court and adjudication.
2. misdemeanor cases and cases involving local ordinance violations that have criminal penalties in which there has been a delay of more than 126 days between the date of the defendant's first appearance on the warrant and complaint or citation and the adjudication.

In computing the 126-day and 301-day periods, the court shall exclude periods of delay between the time a preadjudication warrant is issued and a defendant is arraigned; between the time a defendant is referred for evaluation to determine whether her or she is competent to stand trial and the receipt of the report; or during the time a defendant is deemed incompetent to stand trial. (MCR 8.110[C][5])

See <http://courts.michigan.gov/scao/resources/publications/reports/materials.htm#caseload> for more information.

### **C. Delay in Matters Submitted to Judge**

No later than seven days after the first business day of January, April, July, and October of each year, every trial judge shall use the Delay in Matters Submitted (DMS) application on the Michigan Court Application Portal (MCAP) to report all matters submitted for which a decision on that matter has been delayed or remains undecided for more than 56 days. Both pending and disposed cases shall be reported. A report is required regardless of whether there is any matter to report. The report shall include matters from another court to which the judge has been assigned and all matters under consideration by referees. Each judge shall provide a copy of the report to the chief judge. **NOTE:** In probate court, matters under advisement must be decided within 30 days per statute. (MCL 600.848[2]) Decisions regarding termination of parental rights must be made within 28 days after taking final proofs. (MCR 3.977[H][1])

See <http://courts.michigan.gov/scao/resources/publications/reports/materials.htm#matters> for more information. See also SCAO-Approved form SCAO 27, Delay in Matters Submitted to Judge, at <http://courts.michigan.gov/scao/courtforms/scao/scao27.pdf>.

### **D. Reporting Requirements in Guardianship and Conservatorship Proceedings**

Probate courts must report to the SCAO biannually on the last business day of January and July of each year all guardianship and conservatorship cases where a deficiency exists for more than 182 days, unless the deficiency was cured or a special or successor fiduciary was appointed. Documents that should be monitored for deficiencies are an inventory, an account, a report, and an annual verification of funds on deposit in a restricted account. As prescribed by MCR 5.409, the first day of the deficiency is the day after a document was due.

For more details on requirements in guardianship and conservatorship proceedings, see <http://courts.michigan.gov/scao/resources/publications/reports/materials.htm#deficiencies>. See also SCAO-Approved form SCAO 65, Deficiencies in Guardianship/Conservatorship Administration, at <http://courts.michigan.gov/scao/courtforms/scao/scao65.pdf>.

### **E. Use of Trial Court Caseload Reports**

The trial court caseload reports are a vital source of information for the following purposes.

1. Policy, planning, control, and evaluation of individual caseloads regarding assignment, scheduling, and other caseflow management events and identifying trends.

2. The basis for resource allocation and budget requests, including providing projections for statewide funding and assisting in resolving funding disputes.
3. Making recommendations for additional judgeships.
4. Comparing caseload and activities, providing feedback to trial courts, and providing information to the National Center for State Courts for national analysis.
5. Responding to inquiries from legislative/county government, judicial and other interest groups, and providing general information to the public regarding court activities.
6. Compiling the Annual Report of the State Court Administrative Office to the Supreme Court regarding the caseload of the trial courts.

**F. Trial Court Caseload Collection Reports**

1. SCAO 18, District Court Caseload Report
2. SCAO 22, Probate Court Caseload Report
3. SCAO 31, Circuit Court Caseload Report

Caseload data from report forms SCAO 18, SCAO 22, and SCAO 31 is collected electronically through a web-based application called the Caseload Reporting System (CRS), accessible through the Michigan Court Application Portal (MCAP). This system has a number of features in addition to actual data collection. For details, see MCAP at <http://courts.mi.gov/mcap/>.

## **7-03 CASE ASSIGNMENT SYSTEM**

### **A. Authority**

The chief judge has the authority and the responsibility to direct the apportionment and assignment of the business of the court, subject to the provisions of MCR 8.111. (MCR 8.110[C][3][b])

### **B. Case Assignment and Reassignment Systems**

All trial courts must have a case assignment system and a case reassignment system. Generally, cases are initially assigned randomly and equally among the judges of the court in a method determined by the chief judge. If a judge cannot undertake an assigned case, the chief judge may reassign the case to another judge. When establishing a case assignment and case reassignment system, the provisions of MCR 8.111 must be carefully considered. The State Court Administrative Office can provide technical assistance to trial courts in creating and documenting the court's case assignment system. It is recommended that trial courts document their case assignment system through administrative order.

For more details on case assignment systems, see the *Caseflow Management Guide* at <http://courts.michigan.gov/scao/resources/publications/manuals/cfmng.pdf>.

## **7-04 VISITING JUDGES**

### **A. Authority**

The chief judge has the authority and the responsibility to request assignments of visiting judges and direct the assignment of matters to the visiting judges. (MCR 8.110[C][3][g])

### **B. Assignment of Visiting Judges**

When all the judges of a trial court are unable to undertake a case, or when a trial court needs assistance with its docket, the state court administrator is authorized to assign a visiting judge from another court. The state court administrator has approved procedures regarding assignment of judges for the use of trial court personnel and State Court Administrative Office staff involved in the judicial assignment process. These procedures can be found at <http://courts.michigan.gov/scao/resources/standards/AssignProcedures.pdf>. SCAO-Approved form SCAO 1, Request for Assignment, can also be accessed on-line at <http://courts.michigan.gov/scao/courtforms/scao/scao1.pdf>.

### **C. Assignment and Compensation of Sitting and Retired Judges**

#### **1. Sitting Judges**

The Supreme Court or the state court administrator has the right to assign a judge of any court to serve as a judge in any other court in this state except where the judge is authorized to act as a judge. (MCL 600.225[1]) The amount of compensation is set by statute. (MCL 600.225[6])

#### **2. Retired Judges**

The Supreme Court may authorize any retired judge to perform judicial duties in any court. (MCL 600.226[1]) The compensation for a retired judge is set by statute. (MCL 600.226[2])

If a sitting or retired judge has indicated to a court that he or she is available, an agreement should be reached with respect to the dates of availability and compensation. The court should then contact the State Court Administrative Office to obtain authority for the assignment. If a court is in need of extra judges but has no available sitting or retired judge, the court should contact the State Court Administrative Office for assistance in finding an available judge.

For details, see SCAO-Approved form SCAO 50, Retired Judges Information, at <http://courts.michigan.gov/scao/courtforms/scao/scao50.pdf>

#### **D. Temporary Assignment to Court of Appeals**

The Supreme Court may transfer judges from certain trial courts to the Court of Appeals to act as temporary judges. (MCL 600.306)

#### **E. Marriage Assignments**

If a judge without marriage jurisdiction (circuit court, Court of Appeals, Supreme Court) wishes to perform a marriage, or a judge with marriage jurisdiction (district, municipal, or probate) wishes to perform a marriage outside the territorial jurisdiction of the court, an assignment for that purpose will be made by the State Court Administrative Office. See Section 15-07.

A telephone request to obtain a marriage assignment prior to the date is sufficient. The date of the marriage ceremony and the names of the parties should be supplied. The State Court Administrative Office will issue an assignment to the probate court in the county of the ceremony. If requested, an assignment will be made to the appropriate district court.

The State Court Administrative Office does not assign district court magistrates to other courts.

## **7-05 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

Michigan, by legislation and by court rule, has several alternative dispute resolution mechanisms. The purpose of these mechanisms is to assist parties in resolving their disputes without formal adjudication in the trial court. The following is a brief explanation of the major programs which have been implemented in Michigan. For current information on alternative dispute resolution, please contact the Office of Dispute Resolution, State Court Administrative Office. For general information, see <http://courts.michigan.gov/scao/dispute/odr.htm>.

### **A. Court-Related Alternative Dispute Resolution**

#### **1. Alternative Dispute Resolution Generally**

MCR 2.410 provides that civil matters may be referred to a nonbinding ADR process by stipulation of the parties or on order of the court. Parties are encouraged to select their own ADR process; however if they do not, the court may select both the ADR process and the neutral service provider. Courts must have an approved local administrative order identifying the court's local ADR plan prior to using the authority to order persons to an ADR process. Guidelines for completing the local ADR plan are located at <http://courts.michigan.gov/scao/resources/standards/odr/ADRplngls.pdf>.

#### **2. Mediation**

MCR 2.411 outlines key provisions of courts' use of the mediation process, including identification of matters for mediation, qualifications of mediators, and fee provisions. Standards of conduct for mediators have been adopted by SCAO Administrative Memorandum at <http://courts.michigan.gov/scao/resources/standards/odr/conduct.pdf>. Qualifications for persons serving as mediator trainers are also available from the State Court Administrative Office.

#### **3. Case Evaluation in Civil Cases**

Michigan Court Rules and statutes have created a pretrial case evaluation program for civil cases filed in the circuit, district, and probate courts. All cases involving health care provider malpractice and all other tort cases in which damages are claimed to exceed \$10,000 must receive a case evaluation. (MCL 600.4901 *et seq.*, MCL 600.4951 *et seq.*, MCR 2.403, MCR 2.404)

Each trial court that submits cases to case evaluation pursuant to MCR 2.403 shall adopt by local administrative order a plan to maintain a list of persons available to serve as mediators and to assign mediators from the list to panels. The plan must be in writing and available to the public in the ADR clerk's office. See the guidelines at [http://courts.michigan.gov/scao/resources/standards/adrlao\\_guidelines.pdf](http://courts.michigan.gov/scao/resources/standards/adrlao_guidelines.pdf).

Individuals may apply to the ADR clerk to be placed on the list of case evaluators. The courts may use SCAO-Approved form MC 34, Case Evaluator's Application, for this purpose. The form is available on the SCAO website at <http://courts.michigan.gov/scao/courtforms/caseevaluation/mc34.pdf>.

#### **4. Mediation in Domestic Relations Cases**

Mediation in domestic relations cases is authorized by MCR 3.216. For more information, see the Mediator Training Standards and Procedures at <http://courts.michigan.gov/scao/resources/standards/odr/TrainingStandards2005.pdf>.

#### **5. Mediation in Child-Custody and Parenting-Time Disputes**

The Friend of the Court Act provides for mediation in child-custody and parenting-time disputes. These services are provided through Michigan's friend of the court offices either through utilization of in-house staff or by contract with outside agencies.

Domestic relations mediation through friend of the court offices can apply in prejudgment or postjudgment disputes, as well as Paternity Act or Family Support Act matters. The process is voluntary. The statute also provides for confidential communications, domestic relations mediator qualifications, and entry of consent orders.

(MCL 552.513, MCL 552.515)

### **B. Noncourt Alternative Dispute Resolution**

#### **1. Uniform Arbitration Act**

Michigan has adopted the Uniform Arbitration Act, which permits parties to civil actions to submit to arbitration to resolve civil matters. (MCL 600.5001-600.5035)

#### **2. Medical Malpractice Arbitration Act**

Michigan has adopted an act to provide for arbitration in the resolution of malpractice actions if the total amount of damages claimed is \$75,000 or less, including interest and costs. (MCL 600.2912g, MCL 600.2912h)

#### **3. Community Dispute Resolution Program**

The Community Dispute Resolution Program was legislatively created to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process. The program is funded by the

Community Dispute Resolution Fund and administered by the state court administrator.

Referrals by courts comprise over 75 percent of referrals to the network of CDRP centers. Types of cases mediated include those in district court (small claims, landlord/tenant, and general civil), probate court (contested guardianship and conservatorship matters), and circuit court (personal protection matters, general civil involving pro se litigants, family division matters such as truancy, postjudgment custody and parenting time disputes, juvenile victim/offender matters, and child welfare mediation in child protective proceedings).

The Office of Dispute Resolution frequently initiates pilot projects to test and evaluate new applications of mediation in court cases.

A list of all current Community Dispute Resolution Program centers is in the directory issue of the *Michigan Bar Journal*. The list, plus other information about the program, can be obtained by contacting the State Court Administrative Office or by going to <http://courts.michigan.gov/scao/dispute/index.htm>.

(MCL 691.1553-691.1554)

### **C. ADR Information**

ADR practice is quickly evolving in Michigan. For current information about the use of ADR in the courts, availability of training, academic programs, and further resources, please contact:

Office of Dispute Resolution  
State Court Administrative Office  
PO Box 30048  
Lansing, MI 48909  
Telephone: 517-373-4839  
FAX 517-373-5748  
<http://courts.michigan.gov/scao/dispute/odr.htm>