



THE 2022 ANNUAL REPORT is published by THE MICHIGAN COURT OF APPEALS

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INTRODUCTION

It is my pleasure to introduce the Michigan Court of Appeals' annual report for 2022, describing the Court's achievements, and summarizing its work. Throughout the last year the COVID-19 virus was better controlled than it had been in the preceding two years, allowing our judges to return to our courtrooms and to conduct in-person arguments. Due to a variety of causes, however, the Court had fewer than our normal complement of 25 judges during most of the year, resulting in a reduced number of panels deciding cases. But despite lingering uncertainties related to the pandemic and our judicial vacancies, the Court remained resilient, flexible, and efficient.

As this annual report details, last year the Michigan Court of Appeals delivered appellate justice to thousands of our state's citizens, deciding more than 1,700 opinions and issuing more than 2,400 dispositive orders. Our appellate filings were up considerably in 2022 when compared to 2021, no doubt due to the waning of the pandemic and trial courts' return to business as usual. Although our dispositions were reduced when compared to previous years, judicial vacancies explain this decrease. Michigan's Court of Claims, which resides within the Court of Appeals, also managed a substantial caseload involving complicated, controversial, and time-sensitive matters.

By continuing to invest in and upgrade our equipment, we have demonstrated our commitment to accessibility, and enhanced our ability to seamlessly conduct virtual hearings. More than 160 arguments were conducted remotely in 2022, and our Court of Claims judges held most of their hearings using Zoom technology. Court of Appeals arguments are uploaded to the Court's YouTube channel within 48 hours and most Court of Claims arguments are livestreamed, allowing for increased public access to our important work. Along with their regular work, the judges, commissioners, and clerks of the Court of Appeals confronted 47 election cases during 2022, nearly all of which were emergencies. These cases demanded that the lawyers and judges responsible for deciding these matters work weekends and even overnight to prepare timely, thoughtful, and accurate opinions and orders. On top of the emergency election cases filed in the Court of Appeals, the Court of Claims fielded 22 election emergency cases, many of which required immediate injunction hearings. On behalf of all the judges of the Court, I am grateful for the dedication of the clerks and research lawyers who put aside their personal lives and rearranged their work schedules to make sure that these critically important cases were handled properly.

During 2022, three beloved judges on our Court concluded their service. Judge Cynthia Diane Stephens retired on March 31, concluding an extraordinary judicial service of 37 years: 23 as a trial judge in Wayne Circuit Court, 14 in our Court, and (simultaneously) almost seven as a judge in the Court of Claims. Judge Amy Ronayne Krause resigned to work in private practice, capping 12 years of distinguished work in the Court of Appeals in addition to the eight years she served as a district court judge. Judge David Sawyer, the longest-serving judge in the history of the Court of Appeals, retired at the end of the year. Judges Stephens, Ronayne Krause, and Sawyer were hardworking, insightful colleagues and friends, and will be sorely missed. On behalf of all the judges on the Court, I offer our profound thanks for their service.

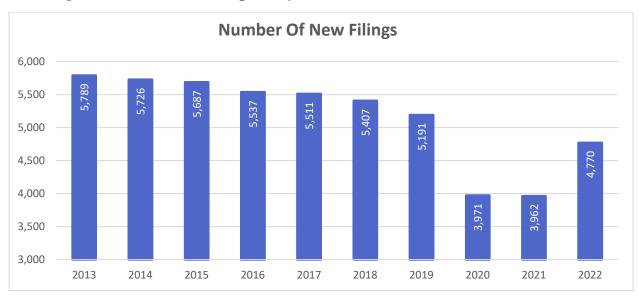
This report presents the statistics regarding our performance and accomplishments and describes the roles of the people whose work is indispensable to the Court's success. I congratulate the judges, attorneys, and our staff for the fine work they did in 2022. As a team, we have remained committed to our Court's mandate, which includes the just and economical determination of every action before us. As Chief Judge, I am grateful to every employee of the Court of Appeals for their work in 2022, and am confident that in the next year we will together set even higher standards of court excellence.

—Chief Judge Elizabeth L. Gleicher

COURT PERFORMANCE

New Filings

The Court of Appeals received 4,770 new case filings in 2022. This was well above the 2021 total of 3,962, but is still below pre-pandemic filing totals. The chart below depicts the number of new case filings with the Court over the past 10 years.



Appeals by right made up 49.5% of new filings in 2022; appeals by leave accounted for 48.8% of cases, and 1.7% of the new filings were original actions. Appeals from civil matters made up 59.1% of the filings, and 40.9% were appeals in criminal cases. Discretionary appeals from guilty plea convictions accounted for 33.6% of all criminal appeals. Civil appeals cover a broad spectrum of case types from all of the state's counties. The table below shows those civil case types that make up the highest percentage of civil filings (all other case types each account for less than 2%).

Type of Civil Appeal	% of Total Civil Appeals
AA - Agency General	2.1%
AV - Appeal from Circuit Court Appeal	2.3%
CB - Business Claims	6.0%
CH - Housing and Real Estate	4.3%
CK - Contracts	2.6%
CZ - General Civil	8.8%
DM - Divorce, Minor Children	5.0%
NA - Child Protective	12.6%
NF - No-Fault Automobile Insurance	9.0%
NH - Medical Malpractice	4.3%
NI - Personal Injury, Auto Negligence	8.5%
NO - Other Personal Injury	6.5%
TV - Inter Vivos Trust	2.0%

Dispositions

Cases filed with the Court of Appeals are resolved by order or opinion. Dispositions by order generally occur in appeals by leave when the Court denies the application. Opinion dispositions typically occur in appeals by right and in those cases where leave to appeal is granted. Opinion dispositions take longer due to the need for transcript preparation, briefing, and record transmission—a process largely outside the control of the Court that takes more than seven months on average. Typically for opinion cases, a staff attorney in the Court's research department prepares a report on the relevant facts and applicable law. The report, completed prior to the appeal being scheduled for oral argument, assists the three-judge panel that will ultimately issue the opinion disposing of the appeal.

In 2022, the Court issued 1,762 opinions and 2,428 dispositive orders, for a total of 4,190 dispositions. The accompanying chart shows the number of opinion and order dispositions over the past 10 years.



Appellate outcomes expressed in an opinion are often difficult to concisely define for purposes of statistics. Opinions can involve separate rulings on multiple issues arising out of one or more lower court orders. However, the Court's opinion dispositions can be broadly categorized as: affirm the trial court (a denial of relief in full), reverse the trial court (a grant of relief in full), grant of partial relief from the trial court's ruling, or dismissal of the appeal. The tables below categorize the results of the cases decided by opinion in 2022 in those broad terms.

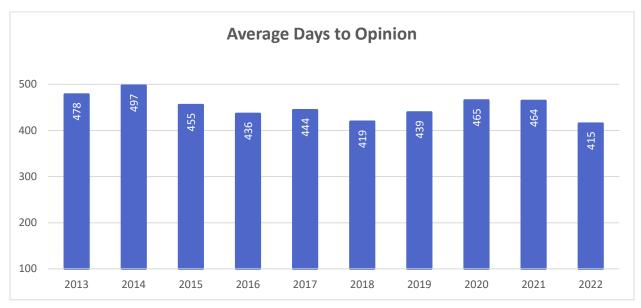
Opinion Outcomes						
Case Category		Reverse (Relief Granted in Full)	Partial Relief Granted	Dismissed		
Criminal	67%	22%	10%	1%		

Criminal	67%	22%	10%	1%
Civil	65%	22%	12%	1%
Agency	76%	18%	3%	3%
All Cases	66%	22%	11%	1%

Case Type	Affirm (Relief Denied in Full)	Reverse (Relief Granted in Full)	Partial Relief Granted	Dismissed
AA - Agency General	65%	26%	3%	6%
CB - Business Claims	67%	14%	19%	0%
CD - Employment Discrimination	70%	17%	13%	0%
CH - Housing & Real Estate	61%	21%	16%	2%
CK - Contracts	44%	36%	20%	0%
CZ - General Civil	60%	22%	17%	0%
DC - Custody	70%	30%	0%	0%
DE - Decedents Estates	50%	29%	21%	0%
DM - Divorce, Minor Children	59%	17%	24%	0%
DO - Divorce, No Children	50%	21%	29%	0%
FC - Criminal, Capital Felonies	73%	16%	11%	0%
FH - Criminal, Noncapital Felonies	63%	28%	8%	2%
MZ - Court of Claims, Other Damage Suits	78%	22%	0%	0%
NA - Child Protective Proceedings	88%	7%	3%	2%
NF - No-Fault Auto Insurance	48%	41%	10%	1%
NH - Medical Malpractice	60%	27%	13%	0%
NI - Personal Injury, Auto Negligence	35%	52%	12%	1%
NO - Other Personal Injury	53%	35%	12%	0%
NZ - Other Damage Suits	71%	19%	10%	0%
Tax Tribunal	63%	21%	16%	0%
TV - Trust Inter Vivos	44%	15%	37%	4%

Time on Appeal

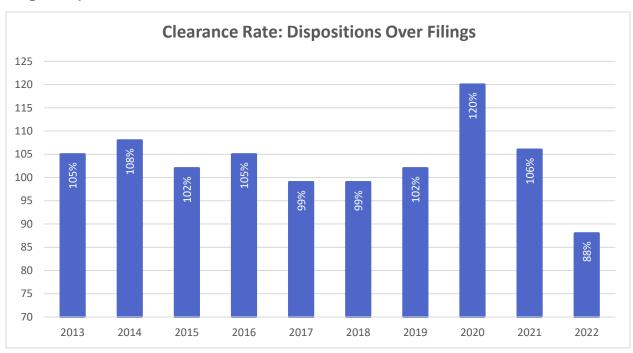
In 2001, the average time for the Court to dispose of a case by opinion was 653 days (21.5 months). Recognizing that such a delay was unacceptable, the Court voluntarily undertook an ambitious plan in 2002 to reduce the time on appeal. Under that plan, the average time to disposition by opinion has dropped dramatically, and in 2022 the average time to opinion disposition was 415 days (13.6 months). The accompanying chart shows the average days to opinion disposition over the past 10 years.



The Court also separately tracks the average disposition times of various matters expedited by statute, court rule, or court order. Expedited cases are primarily child custody and termination of parental rights cases. In 2022, the average disposition time on appeal for expedited cases was 251 days (8.3 months). To put this in context, the pre-delay reduction average for expedited cases was 351 days (11.5 months).

Clearance Rate

The clearance rate reflects the number of cases disposed by the Court during the year compared to the number of new cases filed. In 2022, the Court's clearance rate was 88%, disposing of 4,190 cases while receiving 4,770 new filings. The following chart shows the Court's clearance rate for the past 10 years.

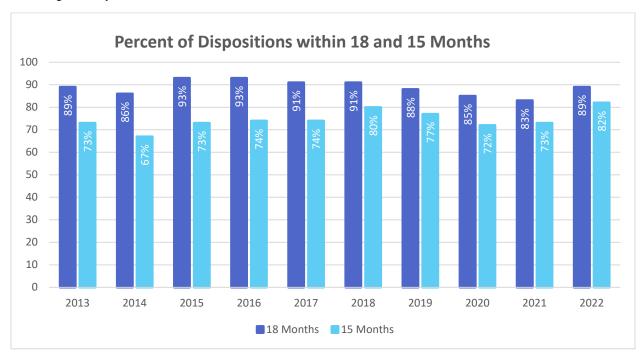


Percentage of Dispositions Within 18 and 15 Months

For the delay reduction effort that began in 2002, the Court set a goal of disposing of 95% of all cases within 18 months of filing. In the first year of delay reduction, 66% of all cases were within 18 months of filing. By comparison, in 2022, the Court disposed of 89% of cases within 18 months.

In 2012, the Court began to track the percentage of cases resolved within 15 months of filing. In 2022, 82% of cases were decided within that 15-month time frame.

The chart below shows the percentage of all cases disposed of within 18 months and 15 months for the past 10 years.



JUDICIAL CHAMBERS

Court of Appeals Judges

A number of changes occurred to the Court of Appeals' bench this year. Early in 2022, Governor Gretchen Whitmer appointed Judge Sima G. Patel to the second district, Judge Noah P. Hood and Judge Kristina Robinson Garrett to the first district, and Judge Christopher P. Yates to the third district. These appopintments filled vacancies on the Court, including the vacancy created by Judge Cynthia Diane Stephens' retirement on March 31. In the November 2022 general election, Judge Kathleen A. Feeney was elected to the Court's third district for a term beginning January 1, 2023. She filled an open seat created by the retirement of Judge David H. Sawyer at the end of 2022. In December 2022, Judge Amy Ronayne Krause resigned from the Court, leaving a vacancy in the fourth district, which was filled by the Governor's appointment of Judge Allie Greenleaf Maldonado effective in January 2023.

For election purposes, the judgeships are divided into four districts. However, for hearing and deciding cases, the judges sit in statewide panels of three. Each judge rotates with other judges with equal frequency and among the three courtroom locations (Detroit, Lansing, and Grand Rapids). Published opinions of the Court are controlling across all four districts unless and until overruled by a special conflict panel of the Court or reversed by the Michigan Supreme Court.



First row: Stephen L. Borrello, Jane E. Markey, David H. Sawyer (retired January 1, 2023), Chief Judge Elizabeth L. Gleicher, Chief Judge Pro Tem Michael F. Gadola, Christopher M. Murray, Douglas B. Shapiro.

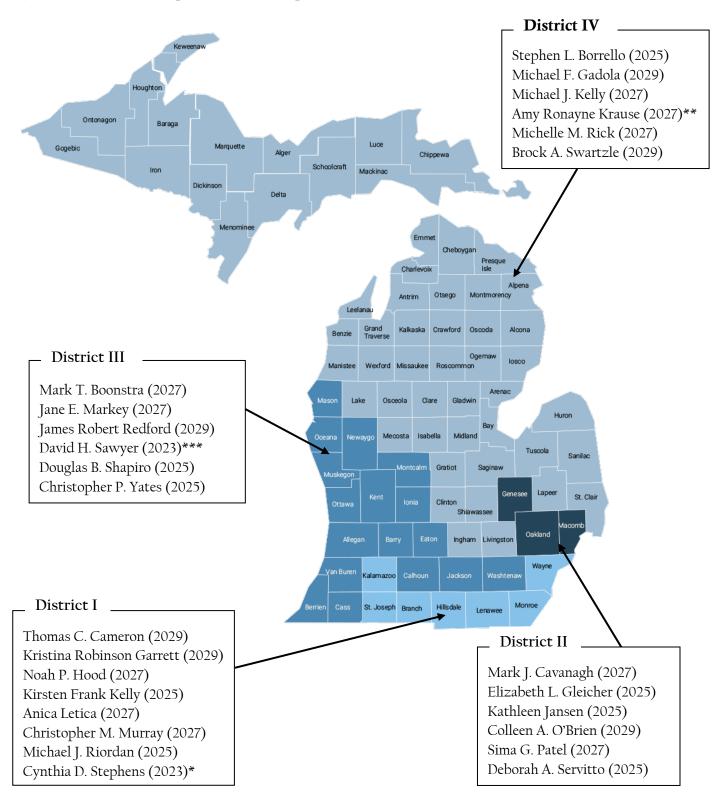
Second row: Amy Ronayne Krause (resigned December 13, 2022), Mark T. Boonstra, Colleen A. O'Brien, Thomas C. Cameron, Michael J. Riordan, Anica Letica.

Third row: Kristina Robinson Garrett, Michelle M. Rick, James Robert Redford, Christopher P. Yates, Noah P. Hood, Sima G. Patel.

Not pictured: Mark J. Cavanagh, Kathleen Jansen, Kirsten Frank Kelly, Deborah A. Servitto, Cynthia D. Stephens (retired March 31, 2022), Michael J. Kelly, Brock A. Swartzle.

Judges by District in 2022

(Year that current term expires is indicated in parentheses)



^{*} Retired March 31, 2022

^{**} Resigned December 13, 2022

^{***} Retired January 1, 2023

CLERK'S OFFICE

Overview

The Court of Appeals Clerk's Office comprises four office locations: District I in Detroit, District II in Troy, District III in Grand Rapids, and District IV in Lansing. Generally, each office is tasked with handling the Court files that arise from the trial courts located in the counties that compose that election district and with supporting the work of the judges elected to that district.

As of the end of 2022, the Clerk's Office had 27 full-time employees. Managers and staff in the four locations handle a variety of tasks, including opening new case files, docketing incoming filings, reviewing new cases for jurisdiction and compliance with the court rules, and issuing orders. The Lansing district office also schedules case call matters and releases the opinions resolving those appeals. Importantly, the Clerk's Office is the public face of the Court, communicating with counsel and the parties, as well as prospective litigants, trial courts, and media representatives.

Technology Improvements

Capitalizing on the experience gained holding remote arguments during the pandemic, in late 2021, the Court installed state-of-the-art video equipment in each courtroom that allows parties to present argument remotely via Zoom to the judges seated in the courtrooms. The Court has been using that system for all case call sessions since early 2022 to great effect. It is one of the few appellate courts in the country that is able to conduct "hybrid" arguments, where some parties appear in person and others remote, before a panel of judges in the courtroom.

The need to facilitate remote work in response to the pandemic accelerated steps the Court had been making toward a paperless environment. The Court now electronically delivers virtually all opinions, orders and correspondence and maintains all of its files in electronic, "paperless" format. Not only do these changes provide better service to litigants, they have saved tens of thousands of dollars previously spent on postage, paper, and employee time.

Electronic Filing

In January 2015, the Court of Appeals and Michigan Supreme Court went live with ImageSoft's statewide e-filing solution, known as MiFILE. This replaced the prior e-filing system that the Court of Appeals used since 2006. E-filing through MiFILE became mandatory for all attorneys on February 1, 2020. While self-represented litigants are not required to e-file, most choose to use the system to take advantage of the convenience of filing their documents electronically. As such, more than 95% of filings made with the Court are received electronically through MiFILE. Those few documents filed in paper format are immediately scanned in the Clerk's Office to convert them to electronic format.

All e-filed and scanned documents are linked to the case in the Court's case management system. This allows the judges and staff to access all file documents from any location connected to the Court's network. In addition to providing the benefits of ease-of-use and accessibility, this saves resources previously devoted to processing paper filings and shipping documents between offices.

Electronic Records

In 2011, the Court set up a File Transfer Protocol (FTP) server to receive lower court case files and transcripts in electronic format from courts capable of providing them. Today, the Court regularly receives records in electronic format directly from the Public Service Commission, Alpena Circuit Court, Grand Traverse Circuit Court, Macomb Circuit Court, Oakland Circuit Court, Oakland Juvenile Court, Wayne Circuit Court, and the Court of Claims. As such, the Court of Appeals is now receiving electronic records in more than half of its cases. In addition, the Court is scanning most paper records it receives, creating an informal electronic record to be used internally. Having records accessible electronically through the Court's case management system provides the judges, law clerks, and staff attorneys immediate, simultaneous access to the records, and greatly reduces costs associated with the physical transfer of printed records.

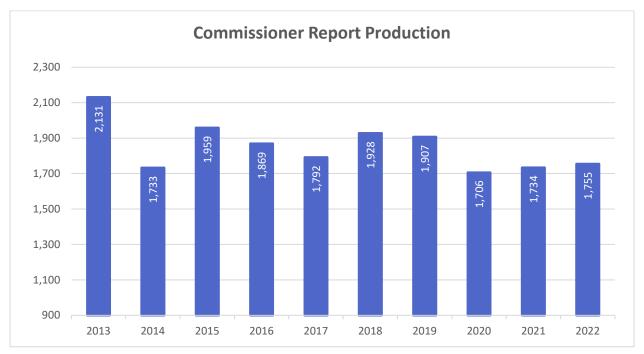
RESEARCH DIVISION

The year began with the majority of the research staff working remotely due to the emergence of the COVID-19 Omicron variant near the end of 2021; however, staff returned to their hybrid schedules in April 2022. The staff continued to maintain their focus on timely completing their work, processing leave applications, original actions, and appeals, and meeting case call demands. This speaks highly of the dedication of the staff in the Research Division.

Commissioners

The commissioners are experienced staff attorneys whose primary functions are to prepare written reports and proposed orders for (1) applications for leave to appeal (which are discretionary appeals) and any accompanying motions, (2) original actions, such as complaints for writs of habeas corpus, superintending control, and mandamus, and (3) motions to withdraw as counsel in termination of parental rights appeals and criminal appeals. The commissioners also review incoming emergency applications and work closely with the judges to resolve priority matters on an expedited basis. They are also responsible for the jurisdictional review of applications and original actions and for ensuring the pleadings comply with the Michigan Court Rules.

In 2022, the commissioners prepared reports in 1,755 leave applications and miscellaneous matters. Included in this number are several election emergencies that the commissioners went above and beyond their normal work schedules to prepare timely reports and proposed opinions and orders for the judicial panels. The chart below shows the production of commissioner reports for the past 10 years.



Research, Senior Research, and Contract Attorneys

Research attorneys are typically recent law school graduates who are hired for a period of one to three years. In 2022, the research staff represented the in-state law schools of Michigan State University, Western Michigan University Cooley Law School, University of Michigan, University of Detroit Mercy, and Wayne State University, and the out-of-state law schools of Indiana Maurer School of Law (Bloomington, IN), Notre Dame Law School (South Bend, IN), The Pennsylvania State University, Penn State Law (University Park, PA), and Regent University School of Law (Virginia Beach, VA). Most research attorneys ranked in the top five percent of their graduating classes.

Research attorneys generally prepare research reports in cases that are determined to be easy to moderately difficult.¹ A research report is a confidential internal Court document that contains a comprehensive and neutral presentation of the material facts with citation to the lower court record, a recitation of the issues raised by the parties, a summary of the parties' arguments, a thorough analysis of the law and facts on each issue, and a recommendation as to the appropriate disposition. In cases involving non-jurisprudentially significant issues, which do not require a published opinion, the research attorneys also prepare rough drafts of opinions to accompany the reports. The judges and their law clerks are responsible for preparing opinions when publication is recommended, as well as editing, refining, or rewriting the rough draft opinions provided by the research attorneys.

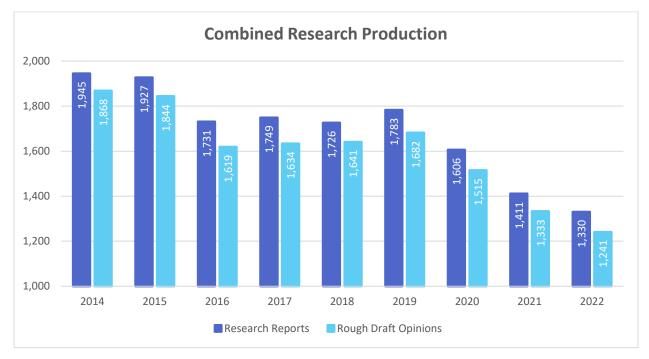
Senior Research comprises experienced attorneys, and, generally, each attorney has worked as a research attorney and as a law clerk to one of the Court's judges, in private practice, or at other courts. Unlike the research attorneys, the tenure of the senior research attorneys is not for a limited duration. The primary function of senior research attorneys is to prepare research reports. These research reports have the same content as those prepared by the research attorneys, but the cases are typically more difficult in nature.²

Contract attorneys work for the Court on a contractual basis and primarily prepare reports and rough draft opinions for a significant number of routine criminal and civil appeals, as well as for termination of parental rights appeals that are not jurisprudentially significant. Most of the current contract attorneys previously worked for the Court in research. The contract attorneys work from their homes and are not otherwise engaged in the practice of law.

When cases are ready for reports from the Research Division, an experienced staff attorney reviews the lower court records and appellate briefs and, on the basis of established criteria, assigns a day evaluation to them. The day evaluations represent how long it should take an average research attorney to complete reports in the cases. The day evaluations are calculated in whole numbers only (i.e., no fractions of a day). Research attorneys generally work on cases that are evaluated at six days or lower, and are expected to complete the reports within the day evaluations of the cases, as measured on a monthly basis.

² Senior research attorneys generally work on cases that are evaluated at seven days or more (see footnote 1, supra). They have higher production requirements than the research attorneys and are expected to complete the reports in approximately 25% less time than the day evaluations.

Combined, the research attorneys, senior research attorneys, and contract attorneys prepared 1,330 research reports and 1,241 rough draft opinions in cases that were submitted on case call. The chart below compares the combined production numbers for the past 10 years.



The reduction in reports and draft opinions during this year is attributable to a decrease in the number of research attorneys employed by the Court. The staff has signficantly declined over the past two years, from an average of 25 research attorneys in 2020 to an average of 15 research attorneys in 2022. Along with the private and public legal sector, the Court is facing challenges with recruiting and retaining these term-limited attorneys. In addition, the number of contract attorneys declined during the same period of time, which contributed to the production decrease.

COURT OF CLAIMS

Operations

After the Court of Claims became a function of the Court of Appeals on November 12, 2013, a separate Clerk's Office for the Court of Claims was established within the Lansing district office of the Court of Appeals. With two full-time employees dedicated to Court of Claims work and a separate case management system, the Clerk's Office dockets the filings for the Court, supports the work of the four judges, responds to inquiries from parties and practitioners, coordinates court sessions, and issues opinions and orders. The Court of Claims also employs a full-time senior research attorney to provide support for the judges.

In 2021, the Court of Claims implemented e-filing through the statewide MiFILE system and all attorneys are now required to e-file all documents. Self-represented filers are not required to e-file, but most opt to use the system for the added convenience and cost savings. Any documents filed in paper format are immediately scanned in the Clerk's Office to create an electronic original. This allows the Court to maintain a fully electronic record of each of its case files. This use of technology allows the judges and their staff to access the case filings from any location, and allows the Clerk's Office to file its records electronically with the Court of Appeals.

Judges

The current Court of Claims judges are Chief Judge Elizabeth L. Gleicher, Judge Douglas B. Shapiro, Judge Thomas C. Cameron, and Judge Brock A. Swartzle. Their terms will expire on May 1, 2023. While handling the demands of the Court of Claims caseload, these four judges continue to manage their full caseload with the Court of Appeals. As demonstrated by the Court's caseload statistics, the judges are providing a high level of service to the public in their dual roles

Court Performance

As 2022 began, 142 cases were pending in the Court of Claims. Through the year, the Court received 218 new case filings, and 55 cases were reopened. As a result, the total caseload for the Court in 2022 was 415 cases, down from 468 in 2021. The caseload consists of civil actions, such as medical malpractice, prisoner litigation, tax-related matters, highway defects, and other damage claims, that are filed against state entities.

During the year, the Court disposed of 264 cases. Dividing the 264 dispositions by the 273 new filings and reopened cases, the Court of Claims achieved a clearance rate of 97% for the year. At the close of 2022, the Court's pending caseload was 151 cases. The table below details the Court's reported caseload statistics for 2022.

2022 Court Of Claims Caseload Statistics										
2022 Caseload Statistics	Habeas Corpus	Mandamus	Highway Defect	Medical Malpractice	Contracts	Constitutional Claims	Prisoner Litigation	Tax Related Matters	Other Damage Claims	Totals
Beginning Pending	0	6	2	9	11	15	4	19	76	142
New Filings	2	25	2	6	15	21	14	23	110	218
Reopened	0	2	0	1	2	29	1	0	20	55
Total Caseload	2	33	4	16	28	65	19	42	206	415
Disposed by Court	0	23	0	1	5	22	6	11	64	132
Transferred by Joinder	0	0	0	10	0	0	0	0	0	10
Dismissed by Party	0	0	2	2	4	1	0	8	48	65
Dismissed by Court	0	3	0	0	1	6	4	1	8	23
Placed on Inactive Status	0	0	0	1	0	22	0	0	11	34
Totals	0	26	2	14	10	51	10	20	131	264

COURT SECURITY

The Security team consists of the Security Director and three Lead Security Officers. This team has over 100 combined years of law enforcement experience that includes working with the Special Weapons and Tactics (SWAT) and tactical teams, as well as police administration experience. Security team members act as bailiffs in court proceedings and also perform attorney check-in duties. The Security team also conducts background investigations and Law Enforcement Information Network (LEIN) checks, investigates parking complaints, conducts voluntary firearm training for Court staff, and presents information about emergency preparedness to new employees as part of their orientation.

Contract security offcers from DuHadway, Kendall & Associates, Inc. (DK), provide additional protection and support to the Court, especially for courtroom proceedings. All DK employees hired for the Court are former law enforcement officers.

Security Provided at Events

In 2022, the Security team provided protection to judges and staff at various on- and off-site events throughout Michigan including the Michigan Appellate Bench Bar Conference in May, a judicial investiture at the Detroit Institute of Arts in June, the case call in Petoskey in October, and 21 swearing-in ceremonies for new lawyers during November.

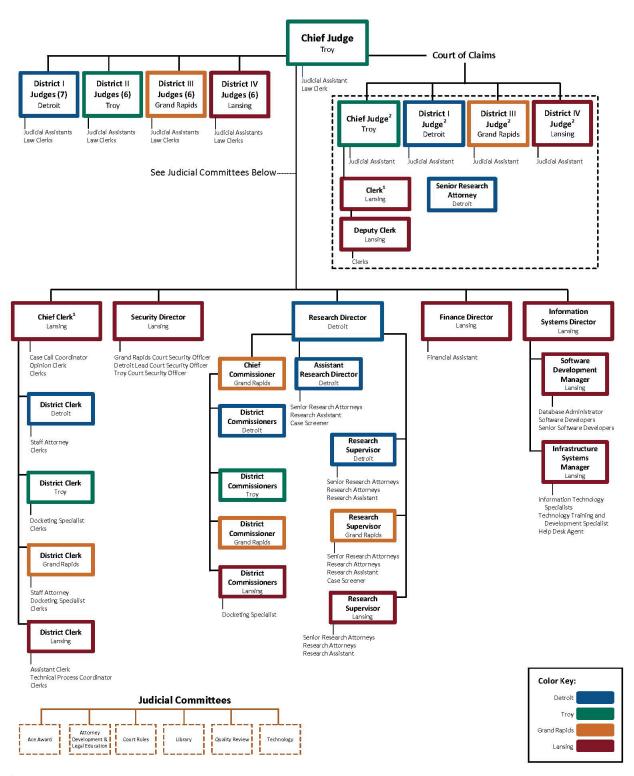
Complaint Investigation

Several high-profile cases before the Court of Appeals and Court of Claims resulted in a significant uptick in inappropriate communications directed toward the judges and the courts. The Security team investigated each instance, and, as necessary, forwarded information to appropriate law enforcement agencies for follow up and prosecution.

First Aid Training

In April and May 2022, the Security team coordinated with Heartbeat, LLC, to hold in-house training sessions for Court of Appeals and Court of Claims employees in all four locations to learn cardiopulmonary resuscitation (CPR), automated external defibrillator (AED), and first aid skills. Participants were trained to identify and perform lifesaving skills for medical emergencies ranging from breathing problems, choking, allergic reactions, chest pain and heart attack, fainting, diabetes, stroke, seizures, and shock. Participants were able to renew their American Heart Association Heartsaver certifications or to become certified for the first time.

ORGANIZATIONAL CHART



¹ The Court of Appeals Chief Clerk is also the Clerk for the Court of Claims.

² These Judges are also Judges for the Court of Appeals.

January 2023

DIRECTORY

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