

District Judges Partner with Circuit to Hear Cases

by Kevin M. Oeffner
Circuit Court Administrator



One would have to be living on a deserted island to not know about Michigan's dismal economic climate and the resulting budget challenges faced by local units of government. Oakland County is not immune

from those challenges but has been able to weather the fiscal storm, thanks in part to a partnership of elected officials who work cooperatively and collaboratively to get the job done despite dwindling financial resources.

Last month in this column Chief Judge Nanci Grant presented examples of things we've been doing to enhance access to the court and ensure that work is done timely. One example was the creation of a partnership with several Oakland County district court judges to assist in handling certain circuit court cases.

Several district court judges, recognizing that there is a shortage of circuit court judges as opined by the State Court Administrative Office in its recent report, responded to Judge Grant's call to establish a partnership to assist the circuit court with its caseload.

This example of cooperation reflects the judiciary's commitment to carry out its responsibilities in an environment of fiscal contraction that may continue for several years. And it dovetails nicely with the Supreme Court's vision that resources within the judiciary be shared to address the needs of our residents.

Before I go further, some may question whether a judge elected to serve a particular district may hear a circuit court matter. In Article VI, § 4 of the Michigan Constitution, general superintending control over all courts within the state is given to the Michigan Supreme Court. And so it follows that the Supreme Court possesses the authority to assign judges of a district court to perform the duties of a circuit court, and vice versa. That's all the authority needed, but for good measure, Public Act 678 of 2002 (MCL 600.401 *et seq.*) permits trial courts within a county to enter into concurrent jurisdiction plans. Inherent in such plans is the distribution of caseloads among judges of circuit, probate and/or district courts.

Two months ago the State Court Administrative Office issued its biennial report on judicial resource needs in

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Michigan's trial courts. In the report is the Supreme Court's recommendation to reduce the state's judiciary by 45 judgeships, to be accomplished through attrition. Despite recommending a reduction of judgeships, the report also found that there is an unmet need for additional judgeships in the circuit courts in Oakland and Macomb counties.

Judicial officials in these circuit courts are aware of the current economic climate and so they voluntarily decided not to pursue new judgeships despite the unmet need. And this is precisely where shared judicial resources, such as the partnership fostered between circuit and district judges in Oakland County, can mitigate that need.

Perhaps no one expressed this better than Michigan Supreme Court Chief Justice Robert P. Young Jr. in his interview with WJR Radio in Detroit on August 17, 2011. Chief Justice Young was questioned about whether a reduction in judgeships would lead to a backlog of cases, particularly in the Oakland and Macomb circuit courts. He talked about the methodology used to calculate the number of needed judicial resources and the fact that every judicial association in Michigan endorsed the findings.

He mentioned that the judiciary in Michigan needs to be "right-sized" and that there is a misdistribution of judges throughout our state. Just as there is an unmet need in two circuits, there is an overage of judicial resources in many other courts. Chief Justice Young talked about the historical practice of Michigan's trial courts operating in "silos" and that a more practical approach is to share judicial resources and apportion caseload among those available resources.

The chief justice's interview is worthwhile listening for those who are interested in the future of Michigan's judiciary. The interview may be heard at <http://www.wjr.com/FlashPlayer/default.asp?SPID=34613&ID=2264008>.

In regard to the instant partnership with district court judges, here are a few case referral criteria the Circuit Court will follow when determining what cases to refer to the participating district judges. The types of cases that may be referred include 1) civil jury trials, 2) civil non-jury trials, 3) non-FC criminal trials and 4) divorce cases without children. Cases must be trial-ready with all pre-trials, preliminary motions and hearings, and dispositive motions having been heard by the assigned judge.

Expected trial length, including voir dire, will not exceed two days in recognition that participating district judges will have limited availability of time since they have their own dockets to manage. Jury trials will be conducted at the Oakland County Circuit Court unless the parties agree – and the chief judge and applicable district judge concur – to hold the trial at the courthouse of the district judge to whom the trial was referred.

We would like to thank the participating district judges for their assistance. We appreciate the collegial relationship between our respective courts and look forward to building upon the Supreme Court's call for shared judicial resources and collaboration.

Until next time...



At the 12th Annual Signature Event – April 15, 2011

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