

Order

Michigan Supreme Court
Lansing, Michigan

August 17, 2011

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2010-08

Michael F. Cavanagh
Marilyn Kelly

Administrative Order No. 2011-3

Stephen J. Markman
Diane M. Hathaway

Rescission of Administrative Order No. 2003-7
and Adoption of Administrative Order No. 2011-3
(Caseflow Management Guidelines)

Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, Administrative Order No. 2003-7 is rescinded and the following administrative order is adopted, effective September 1, 2011.

The management of the flow of cases in the trial court is the responsibility of the judiciary. In carrying out that responsibility, the judiciary must balance the rights and interests of individual litigants, the limited resources of the judicial branch and other participants in the justice system, and the interests of the citizens of this state in having an effective, fair, and efficient system of justice.

Accordingly, on order of the Court,

- A. The State Court Administrator is directed, within available resources, to:
1. assist trial courts in implementing caseflow management plans that incorporate case processing time guidelines established pursuant to this order;
 2. gather information from trial courts on compliance with caseflow management guidelines; and
 3. assess the effectiveness of caseflow management plans in achieving the guidelines established by this order.
- B. Trial courts are directed to:

1. maintain current caseload management plans consistent with case processing time guidelines established in this order, and in cooperation with the State Court Administrative Office;
2. report to the State Court Administrative Office caseload management statistics and other caseload management data required by that office; and
3. cooperate with the State Court Administrative Office in assessing caseload management plans implemented pursuant to this order.

On further order of the Court, the following time guidelines for case processing are provided as goals for the administration of court caseloads. These are only guidelines and are not intended to supersede procedural requirements in court rules or statutes for specific cases, or to supersede reporting requirements in court rules or statutes. The trial courts shall not dismiss cases for the sole reason that the case is likely to exceed the guideline. In addition, these guidelines do not supplant judicial discretion if, for good cause, a specific case of any type requires a time line that extends beyond the maximum permitted under these guidelines.

Note: The phrase "adjudicated" refers to the date a case is reported in Part 2 of the caseload report forms and instructions. Aging of a case is suspended for the time a case is inactive as defined in Parts 2 and 4 of the caseload report forms and instructions. Refer to these specific definitions for details.

Matters Submitted to the Judge. Matters under submission to a judge or judicial officer should be promptly determined. Short deadlines should be set for presentation of briefs and affidavits and or production of transcripts. Decisions, when possible, should be made from the bench or within a few days of submission; otherwise a decision should be rendered no later than 35 days after submission.

Probate Court Guidelines.

1. *Estate, Trust, Guardianship, and Conservatorship Proceedings.* 75% of all contested matters should be adjudicated within 182 days from the date of the filing of objection and 100% within 364 days.
2. *Mental Illness Proceedings; Judicial Admission Proceedings.* 90% of all petitions should be adjudicated within 14 days from the date of filing and 100% within 28 days.

3. *Civil Proceedings.* 75% of all cases should be adjudicated within 364 days from the date of case filing and 100% within 728 days.

District Court Guidelines.

1. *Civil Proceedings.*
 - a. General Civil. 90% of all general civil and miscellaneous civil cases should be adjudicated within 273 days from the date of case filing and 100% within 455 days.
 - b. Summary Civil. 100% of all small claims, landlord/tenant, and land contract actions should be adjudicated within 126 days from the date of case filing except, in those cases where a jury is demanded, actions should be adjudicated within 154 days from the date of case filing.
2. *Felony, Misdemeanor, and Extradition Detainer Proceedings.*
 - a. Misdemeanor. 90% of all statute and ordinance misdemeanor cases, including misdemeanor drunk driving and misdemeanor traffic, should be adjudicated within 63 days from the date of first appearance and 100% within 126 days.
 - b. Felony and Extradition/Detainer. 80% of all preliminary examinations in felony, felony drunk driving, felony traffic, and extradition/detainer cases should be concluded within 14 days of arraignment and 100% within 28 days.
3. *Civil Infraction Proceedings.* 90% of all civil infraction cases, including traffic, nontraffic, and parking cases, should be adjudicated within 35 days from the date of filing and 100% within 84 days.

Circuit Court Guidelines.

1. *Civil Proceedings.* 75% of all cases should be adjudicated within 364 days from the date of case filing and 100% within 728 days.
2. *Domestic Relations Proceedings.*

- a. Divorce Without Children. 90% of all divorce cases without children should be adjudicated within 182 days from the date of case filing and 100% within 364 days.
 - b. Divorce With Children. 90% of all divorce cases with children should be adjudicated within 301 days from the date of case filing and 100% within 364 days.
 - c. Paternity. 90% of all paternity cases should be adjudicated within 147 days from the date of case filing and 100% within 238 days.
 - d. Responding Interstate Establishment. 90% of all incoming interstate actions to establish support should be adjudicated within 147 days from the date of case filing and 100% within 238 days.
 - e. Child Custody Issues, Other Support, and Other Domestic Relations Matters. 90% of all child custody, other support, and other domestic relations issues not listed above should be adjudicated within 147 days from the date of case filing and 100% within 238 days.
3. *Delinquency Proceedings*. Where a minor is being detained or is held in court custody, 90% of all original petitions or complaints should have adjudication and disposition completed within 84 days from the authorization of the petition and 100% within 98 days. Where a minor is not being detained or held in court custody, 75% of all original petitions or complaints should have adjudication and disposition completed within 119 days from the authorization of the petition and 100% within 210 days.
 4. *Child Protective Proceedings*. Where a child is in out-of-home placement (foster care), 90% of all original petitions should have adjudication and disposition completed within 84 days from the authorization of the petition and 100% within 98 days. Where a child is not in out-of-home placement (foster care), 75% of all original petitions should have adjudication and disposition within 119 days from the authorization of the petition and 100% within 210 days.
 5. *Designated Proceedings*. 90% of all original petitions should be adjudicated within 154 days from the designation date and 100% within 301 days. Minors held in custody should be afforded priority for trial.

6. *Juvenile Traffic and Ordinance Proceedings.* 90% of all citations should have adjudication and disposition completed within 63 days from the date of first appearance and 100% within 126 days.
7. *Adoption Proceedings.*
 - a. Petitions for Adoption. 90% of all petitions for adoption should be finalized or otherwise concluded within 287 days from the date of filing and 100% within 364 days.
 - b. Petitions to Rescind Adoption. 100% of all petitions to rescind adoption should be adjudicated within 91 days from the date of filing.
8. *Miscellaneous Family Proceedings.*
 - a. Name Change. 100% of all petitions should be adjudicated within 126 days from the date of filing.
 - b. Safe Delivery. 100% of all petitions should be adjudicated within 273 days from the date of filing.
 - c. Personal Protection. 100% of all petitions filed ex parte should be adjudicated within 24 hours of filing. 90% of all petitions not filed ex parte should be adjudicated within 14 days from the date of filing and 100% within 21 days.
 - d. Emancipation of Minors. 100% of all petitions should be adjudicated within 91 days from the date of filing.
 - e. Infectious Diseases. 100% of all petitions should be adjudicated within 91 days from the date of filing.
 - f. Parental Waiver. 100% of all petitions should be adjudicated within 5 days from the date of filing.
9. *Ancillary Proceedings.*
 - a. Guardianship and Conservatorship Proceedings. 75% of all contested matters should be adjudicated within 182 days from the date of filing and 100% within 364 days.

- b. Mental Illness Proceedings; Judicial Admission. 90% of all petitions should be adjudicated within 14 days from the date of filing and 100% within 28 days.
10. *Criminal Proceedings.* 90% of all felony cases should be adjudicated within 91 days from the date of entry of the order binding the defendant over to the circuit court; 98% within 154 days; and 100% within 301 days. Incarcerated persons should be afforded priority for trial.

With SCAO approval, circuit courts may establish by local administrative order an alternative guideline for criminal proceedings that would provide that 90% of all felony cases should be adjudicated within 154 days from the date of entry of the order binding the defendant over to the circuit court and 100% within 301 days. Incarcerated persons should be afforded priority for trial. Courts requesting the alternative guideline must give the sheriff the opportunity to comment on the proposed order.

11. *Appellate, Administrative Review, and Extraordinary Writ Proceedings.*
- a. Appeals from Courts of Limited Jurisdiction. 100% of all appeals to circuit court from courts of limited jurisdiction should be adjudicated within 182 days from the filing of the claim of appeal.
 - b. Appeals from Administrative Agencies. 100% of all appeals to the circuit court from administrative agencies should be adjudicated within 182 days from the filing of the claim of appeal.
 - c. Extraordinary Writs. 98% of all extraordinary writ requests should be adjudicated within 35 days from the date of filing and 100% within 91 days.

Staff Comment: The Court has adopted this administrative order to update the guidelines that were contained in Administrative Order No. 2003-7, which is rescinded by this order.

The staff comment is not an authoritative construction of the Court.

MARY BETH KELLY, J. (*concurring*). I write separately to explain that I voted to adopt the modification to the criminal caseflow management guidelines in light of my belief that the modification will continue to prevent pretrial jail overcrowding. The order

permits circuit courts to request local guidelines that allow for the adjudication of 90 percent of all felony cases within 154 days, as opposed to 91 days, contingent on approval by the State Court Administrative Office (SCAO). The order provides local sheriffs an opportunity to object to a circuit court's request to adopt the alternative extended guidelines. I believe that objections by sheriffs, based on verifiable jail overcrowding concerns, will function to preclude the SCAO from approving a request for alternative guidelines in large urban counties, like Wayne County, in which jail overcrowding has historically been a problem. Thus, the order furthers the purpose of effectively managing the jail population and maintaining public safety, while also giving courts in less populous regions more freedom to efficiently manage their criminal dockets.

MARILYN KELLY, J. (*dissenting*). Although I embrace the guidelines' underlying concept that the judiciary is responsible for managing the efficient flow of cases, I did not vote for the updated Caseflow Management Guidelines. It is my belief that they contain several deficiencies that should be and have not been corrected.

First, the Court's order makes clear that these are "only guidelines." They are not standards. But judges who are unable to meet them are subject to referral to the Judicial Tenure Commission. Some have been referred. That considered, I question whether the guidelines have not in fact become standards. If so, the Court should recognize them as such and no longer refer to them as guidelines. If not, failure to meet the guidelines' time lines should not be grounds for punitive action against judges.

Second, the Court has been made aware that some family law judges have put some divorce matters not resolvable within the guidelines' time lines into alternate dispute resolution and administratively closed the files. Such cases may actually remain unresolved long beyond the guidelines' time lines. However, they appear on statistical reports as completed as of the date the judge refers them. Hence, they escape the guidelines. Considering this, two things should occur: (1) the guidelines should be adjusted so that domestic relations cases can reasonably be resolved within the guidelines time lines, and (2) the Court should require that such cases not be shown as completed in caseflow management statistics until any alternate dispute resolution involving them has been completed and the court has actually finalized them.

HATHAWAY, J. (*dissenting*). Like Justice MARILYN KELLY, I embrace the guidelines' underlying concept that the judiciary is responsible for managing the efficient flow of cases. However, I also cannot support the updated Caseflow Management Guidelines because they contain deficiencies. I agree with the Michigan Judges

Association that these are merely guidelines and that trial court compliance data gathered by the State Court Administrator should not be used as the basis for disciplinary action against a judge.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

August 17, 2011

Corbin R. Davis

Clerk