

The background of the cover is a photograph of the Michigan Court of Appeals building at dusk. The building is a large, multi-story structure with a prominent glass dome on the left side. The sky is a deep blue, and the building's windows are illuminated from within. In the foreground, there is a paved plaza with a green lawn and a dark green wall with the words "FREEDOM" and "EQUALITY" in white capital letters. Several street lamps with multiple globes are visible, casting a warm glow.

Michigan Court of Appeals

ANNUAL REPORT

— 2023 —

FREEDOM

EQUALITY

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INTRODUCTION

Since its inception in 1965 the judges and staff of the Michigan Court of Appeals have dedicated themselves to delivering justice to the citizens of Michigan through the careful and prompt consideration of thousands of cases each year. The year 2023 marked another successful year in the Court’s storied history.

The Court consists of 25 judges divided into four geographic districts for election purposes, with office locations in each of those districts: Detroit (District I), Troy (District II), Grand Rapids (District III), and Lansing (District IV). In addition to the judges, approximately 165 employees work in the Court’s Judicial Chambers, Clerk’s Office, Research Division, Information Systems Department, Finance Office, and Security Department. The judges and staff of the Court of Appeals take seriously our mandate “to secure the just, speedy, and economical determination of every action.” MCR 1.105. To achieve that goal, the Court continually focuses on improving the way in which cases move through the Court—providing accessible, transparent operations, and delivering high quality judicial decisions.

Since 2013 the Court of Appeals has also been home to the Michigan Court of Claims, which has jurisdiction over claims made against the State of Michigan. Four of the Court of Appeals’ judges are assigned every two years to handle a variety of trial court matters as Court of Claims judges. The judges and staff of the Court of Claims worked diligently in 2023 to deliver sound decisions in a wide array of high-profile matters involving state government and our citizens.

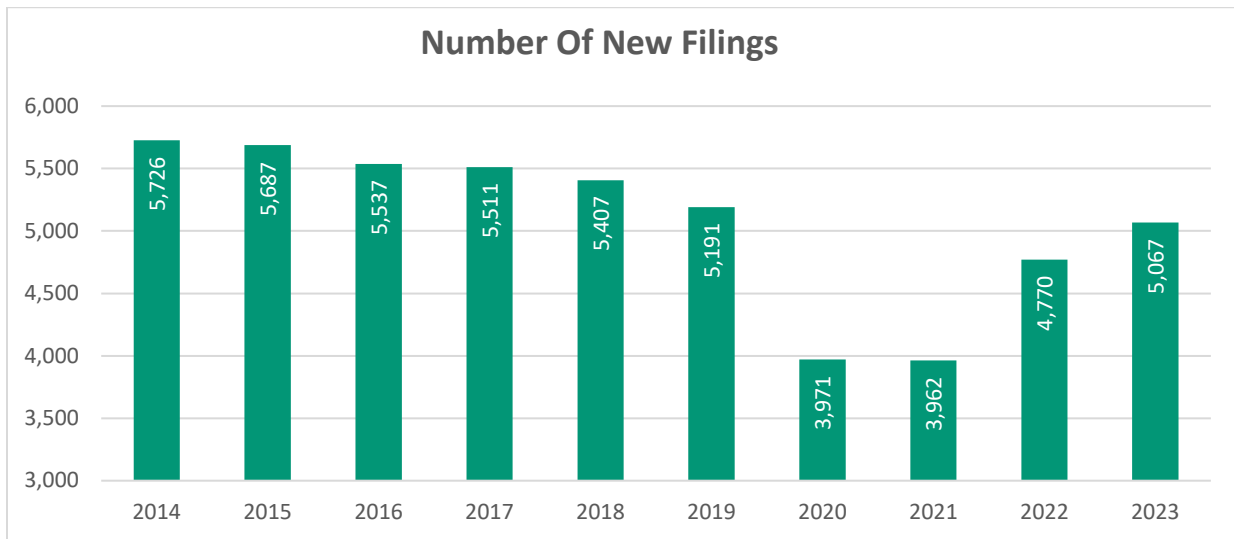
I wish to recognize the hard work and dedication of the judges and staff of the Court over the past year in making progress toward our common goals. I look forward to the future, confident that the Court of Appeals will continue to set high standards in both the quality of its work and the efficiency of its operations. We dedicate ourselves to continuous improvement and innovation in the years to come as we strive to deliver justice to the citizens of this great State of Michigan.

—Chief Judge Michael F. Gadola

COURT PERFORMANCE

New Filings

The Court of Appeals received 5,067 new case filings in 2023. 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.



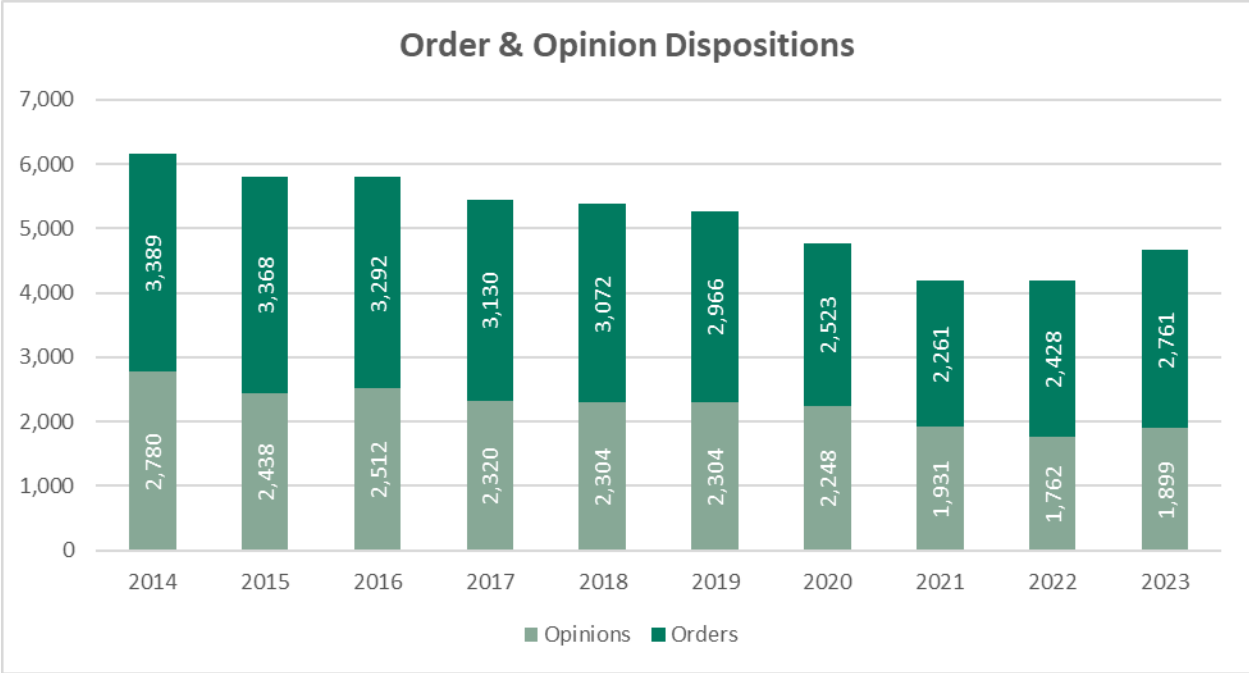
Appeals by right made up 51% of new filings in 2023; appeals by leave accounted for 47% of cases, and 2% of the new filings were original actions. Appeals from civil matters made up 55% of the filings, and 45% were appeals in criminal cases. Discretionary appeals from guilty-plea convictions accounted for 16% 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 generally make up the highest percentage of civil filings(all other case types each account for less than 1%).

Type of Civil Appeal	% of Total Civil Appeals
AA - Agency General	1.0%
AV - Appeal from Circuit Court Appeal	1.4%
CB - Business Claims	3.7%
CD - Employment Discrimination	1.2%
CH - Housing and Real Estate	2.9%
CK - Contracts	1.7%
CZ - General Civil	5.8%
DM - Divorce, Minor Children	2.9%
NA - Child Protective	7.1%
NF - No-Fault Automobile Insurance	4.0%
NH - Medical Malpractice	2.3%
NI - Personal Injury, Auto Negligence	4.2%
NO - Other Personal Injury	4.0%

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 2023, the Court issued 1,899 opinions and 2,761 dispositive orders, for a total of 4,660 dispositions. The accompanying chart shows the number of opinion and order dispositions over the past 10 years.



Appellate outcomes expressed in an opinion are 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 2023 in those broad terms.

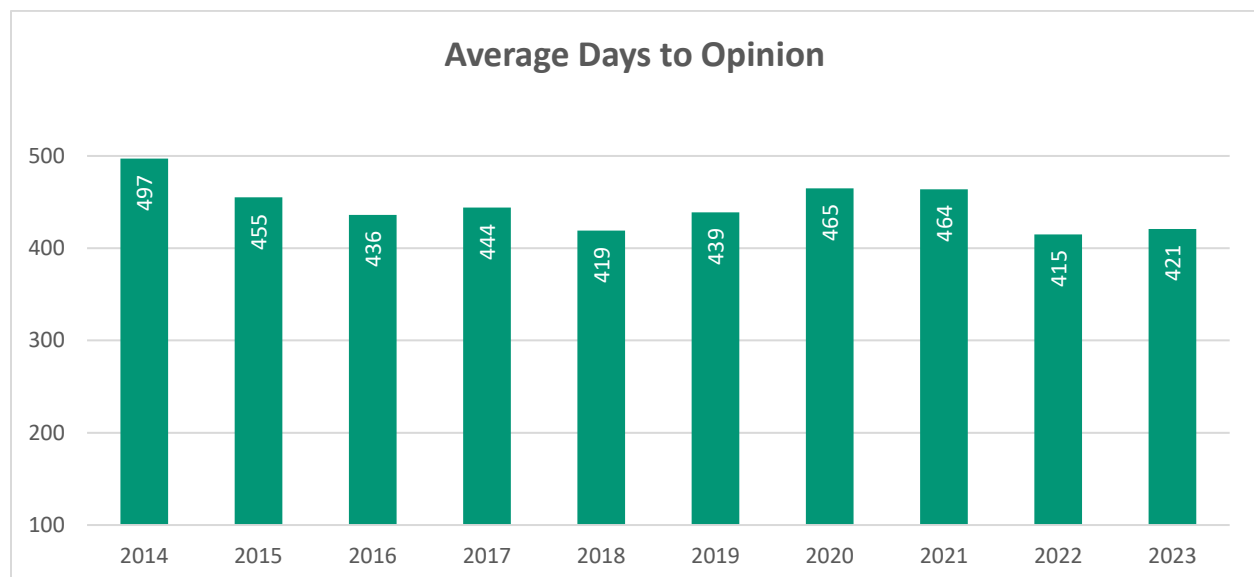
Opinion Outcomes				
Case Category	Affirm (Relief Denied in Full)	Reverse (Relief Granted in Full)	Partial Relief Granted	Dismissed
Criminal	77%	14%	8%	0.4%
Civil	61%	24%	14%	1%
Agency	85%	5%	9%	1%
All Cases	67%	21%	11%	1%
Case Type	Affirm (Relief Denied in Full)	Reverse (Relief Granted in Full)	Partial Relief Granted	Dismissed
AA - Agency General	46%	38%	15%	0%
CB - Business Claims	59%	15%	26%	0%
CD - Employment Discrimination	94%	0%	6%	0%
CH - Housing & Real Estate	63%	21%	16%	0%
CK - Contracts	72%	20%	8%	0%
CZ - General Civil	64%	24%	12%	0%
DC - Custody	74%	26%	0%	0%
DE - Decedents Estates	67%	0%	33%	0%
DM - Divorce, Minor Children	43%	34%	21%	2%
DO - Divorce, No Children	41%	14%	45%	0%
FC - Criminal, Capital Felonies	79%	13%	9%	0%
FH - Criminal, Noncapital Felonies	78%	15%	7%	0%
All Court of Claims Case Types	91%	6%	0%	3%
NA - Child Protective Proceedings	84%	9%	6%	1%
NF - No-Fault Auto Insurance	46%	44%	10%	0%
NH - Medical Malpractice	43%	38%	19%	0%
NI - Personal Injury, Auto Negligence	47%	42%	11%	0%
NO - Other Personal Injury	47%	32%	19%	2%
NZ - Other Damage Suits	54%	31%	15%	0%
TV - Trust Inter Vivos	77%	9%	14%	0%

Order dispositions are overwhelmingly orders that decide applications for leave to appeal. If the Court grants the application, the appeal moves on to formal hearing and, likely, disposition by opinion. Where the application is not granted, the order disposing of the application concludes the appeal. These orders generally fall into three categories: orders denying the application, orders dismissing the application, or orders granting some form of preemptory relief. The table below provides the percentage of orders in each of those categories that were entered in 2023 deciding applications for leave to appeal.

Case Category	Application Granted	Application Denied	Application Dismissed	Preemptory Relief Granted
Criminal (Non-Plea)	10%	74%	7%	9%
Criminal (Plea)	9%	87%	1%	4%
Civil	34%	56%	5%	5%
All Cases	19%	71%	4%	6%

Time on Appeal

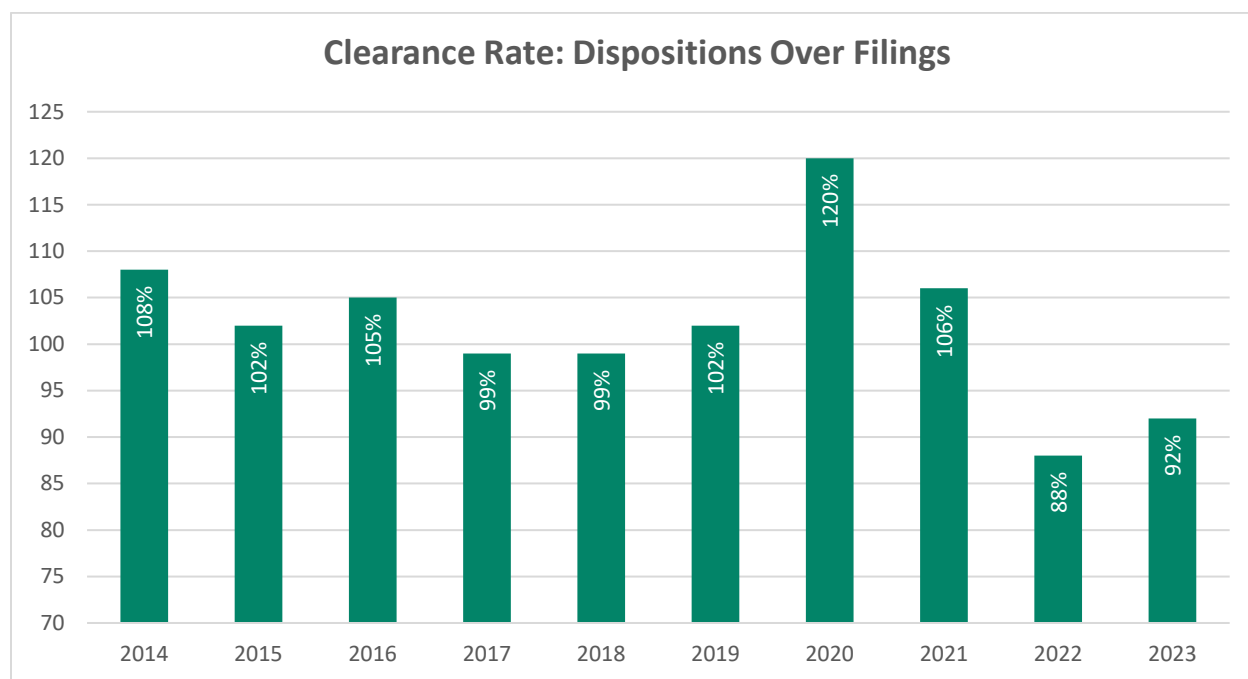
In 2001, the average time for the Court to dispose of a case by opinion was 653 days (21.5 months). Recognizing that such a delay was unacceptable, the Court voluntarily undertook an ambitious plan in 2002 to reduce the time on appeal. Under that plan, the average time to disposition by opinion has dropped dramatically, and in 2023 the average time to opinion disposition was 421 days (13.8 months). Note, however, nearly half that time (203 days on average) is attributable to transcript preparation, parties filing briefs, and the trial court providing the record to the Court of Appeals. The remaining time (218 days on average), is attributable to the Court in hearing the matter and issuing an opinion. 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 2023, the average disposition time on appeal for expedited cases was 274 days (9 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 2023, the Court's clearance rate was 92%, disposing of 4,660 cases while receiving 5,067 new filings. The following chart shows the Court's clearance rate for the past 10 years.



JUDICIAL CHAMBERS

Court of Appeals Judges

In 2023, the Court of Appeals bench consisted of 25 judges, with two judges joining the Court at the start of the year. Judge Kathleen A. Feeney was elected to the third district in the November 2022 general election for a term beginning January 1, 2023. Also, in early December 2022, Governor Whitmer appointed Judge Allie Greenleaf Maldonado to a judicial vacancy in the fourth district, and she joined the bench on January 9, 2023.

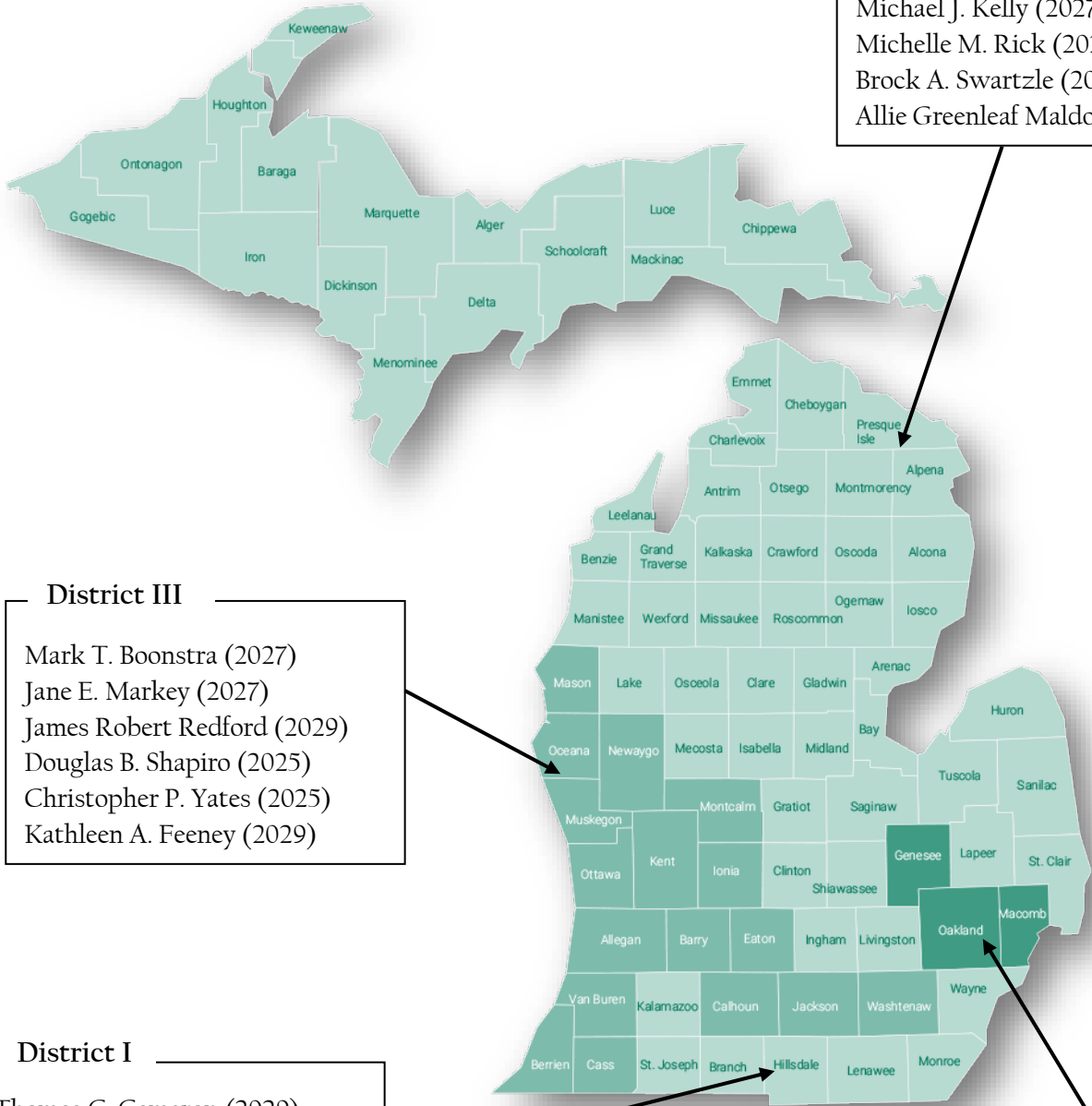
For election purposes, the judgeships are divided into four districts. However, for hearing and deciding cases, the judges sit in statewide panels of three. Each judge rotates with other judges with equal frequency and among the three courtroom locations (Detroit, Lansing, and Grand Rapids). Published 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:** Mark T. Boonstra, Stephen L. Borrello, Jane E. Markey, Chief Judge Elizabeth L. Gleicher, Chief Judge Pro Tem Michael F. Gadola, Christopher M. Murray, Douglas B. Shapiro.
- Second row:** Anica Letica, Brock A. Swartzle, Thomas C. Cameron, Michael J. Riordan, Colleen A. O'Brien.
- Third row:** Kristina Robinson Garrett, James Robert Redford, Kathleen A. Feeney, Christopher P. Yates, Noah P. Hood, Allie Greenleaf Maldonado.
- Not pictured:** Mark J. Cavanagh, Kathleen Jansen, Kirsten Frank Kelly, Deborah A. Servitto, Michael J. Kelly, Michelle M. Rick, Sima G. Patel.

Judges by Election District in 2023

(Year that current term expires is indicated in parentheses)



District III

- Mark T. Boonstra (2027)
- Jane E. Markey (2027)
- James Robert Redford (2029)
- Douglas B. Shapiro (2025)
- Christopher P. Yates (2025)
- Kathleen A. Feeney (2029)

District I

- Thomas C. Cameron (2029)
- Kristina Robinson Garrett (2029)
- Noah P. Hood (2027)
- Kirsten Frank Kelly (2025)
- Anica Letica (2027)
- Christopher M. Murray (2027)
- Michael J. Riordan (2025)

District IV

- Stephen L. Borrello (2025)
- Michael F. Gadola (2029)
- Michael J. Kelly (2027)
- Michelle M. Rick (2027)
- Brock A. Swartzle (2029)
- Allie Greenleaf Maldonado (2025)

District II

- Mark J. Cavanagh (2027)
- Elizabeth L. Gleicher (2025)
- Kathleen Jansen (2025)
- Colleen A. O'Brien (2029)
- Sima G. Patel (2027)
- Deborah A. Servitto (2025)

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 2023, 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 the 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, Bay Circuit Court, Cass Circuit Court, Gogebic Circuit Court, Grand Traverse Circuit Court, Ingham Circuit Court, Lenawee Circuit Court, Macomb Circuit Court, Muskegon Circuit Court, Oakland Circuit Court, Tuscola Circuit Court, Van Buren Circuit Court, Washtenaw Circuit Court, Wayne Circuit Court, and the Court of Claims. As such, the Court of Appeals is now receiving electronic records in roughly two-thirds 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.

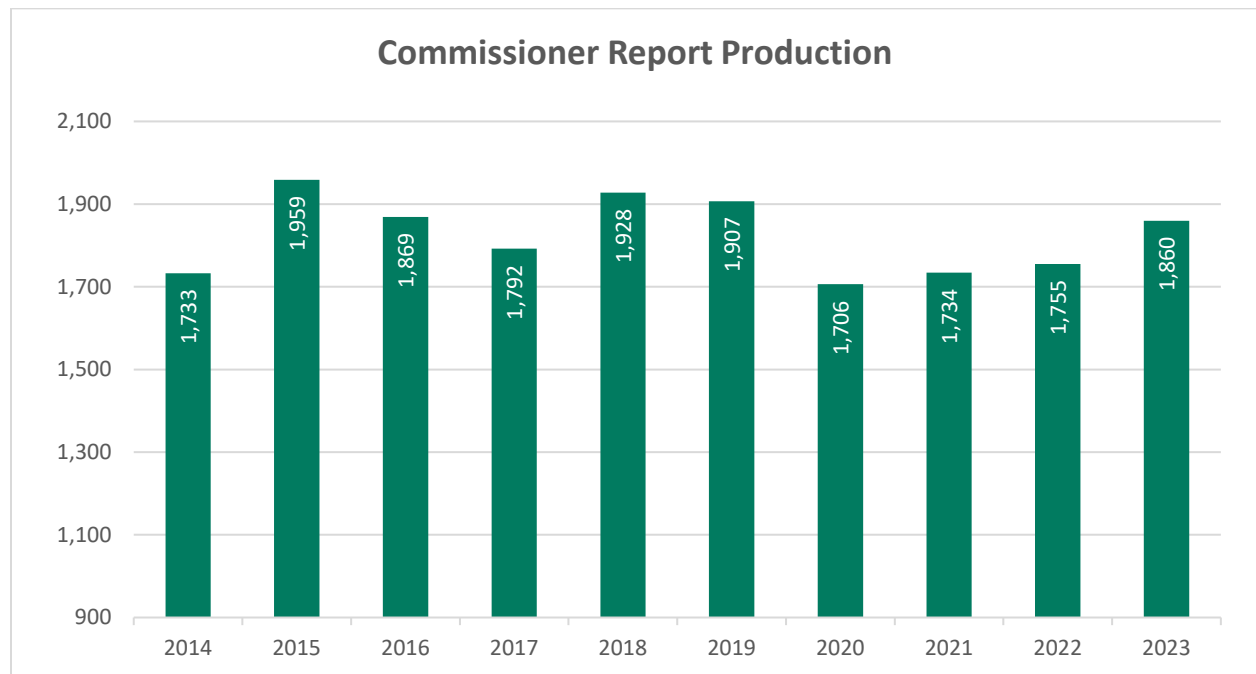
RESEARCH DIVISION

The year began with moderate turnover of staff attorneys, primarily the research attorneys who moved along for employment opportunities. However, the staff stabilized during the second half of the year with new research attorneys joining the Court in July, August, September, and November. The research 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 2023, the commissioners prepared reports in 1,860 leave applications and miscellaneous matters. 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 2023, 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 the University of Illinois College of Law (Champaign, IL), 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

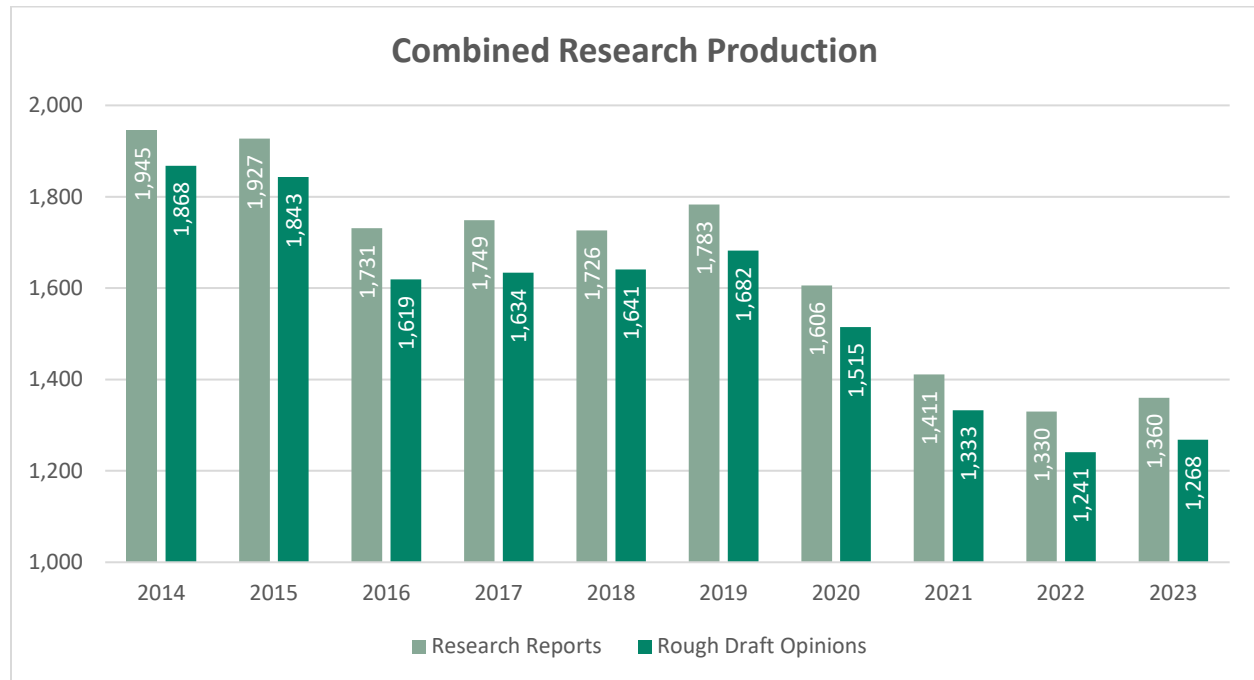
Contract attorneys work for the Court on a contractual basis and primarily prepare reports and rough draft opinions for a significant number of routine criminal and civil appeals, as well as for termination of parental rights appeals that are not jurisprudentially significant. Most of the current contract 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.

¹ 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 five 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).

Combined, the research attorneys, senior research attorneys, and contract attorneys prepared 1,360 research reports and 1,268 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 slight increase in reports and draft opinions during the year is attributable to a moderate stabilization in the number of research attorneys employed by the Court during the second half of 2023. The research attorney staff has significantly declined over the past three years, from an average of 25 attorneys in 2020 to an average of 19 attorneys this year. Along with the private and public legal sector, the Court continues to face challenges with recruiting and retaining these term-limited attorneys.

In addition, a higher number of remands from the Michigan Supreme Court led to a decrease in the production of reports by the senior research attorneys, who prepare supplemental remand reports for the judges. These supplemental reports are not counted in the number of reports shown above.

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 docket 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 three full-time senior research attorneys 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

At the end of 2023, the Court of Claims judges were Chief Judge Elizabeth L. Gleicher, Judge Douglas B. Shapiro, Judge Brock A. Swartzle, and Judge James Robert Redford. 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.

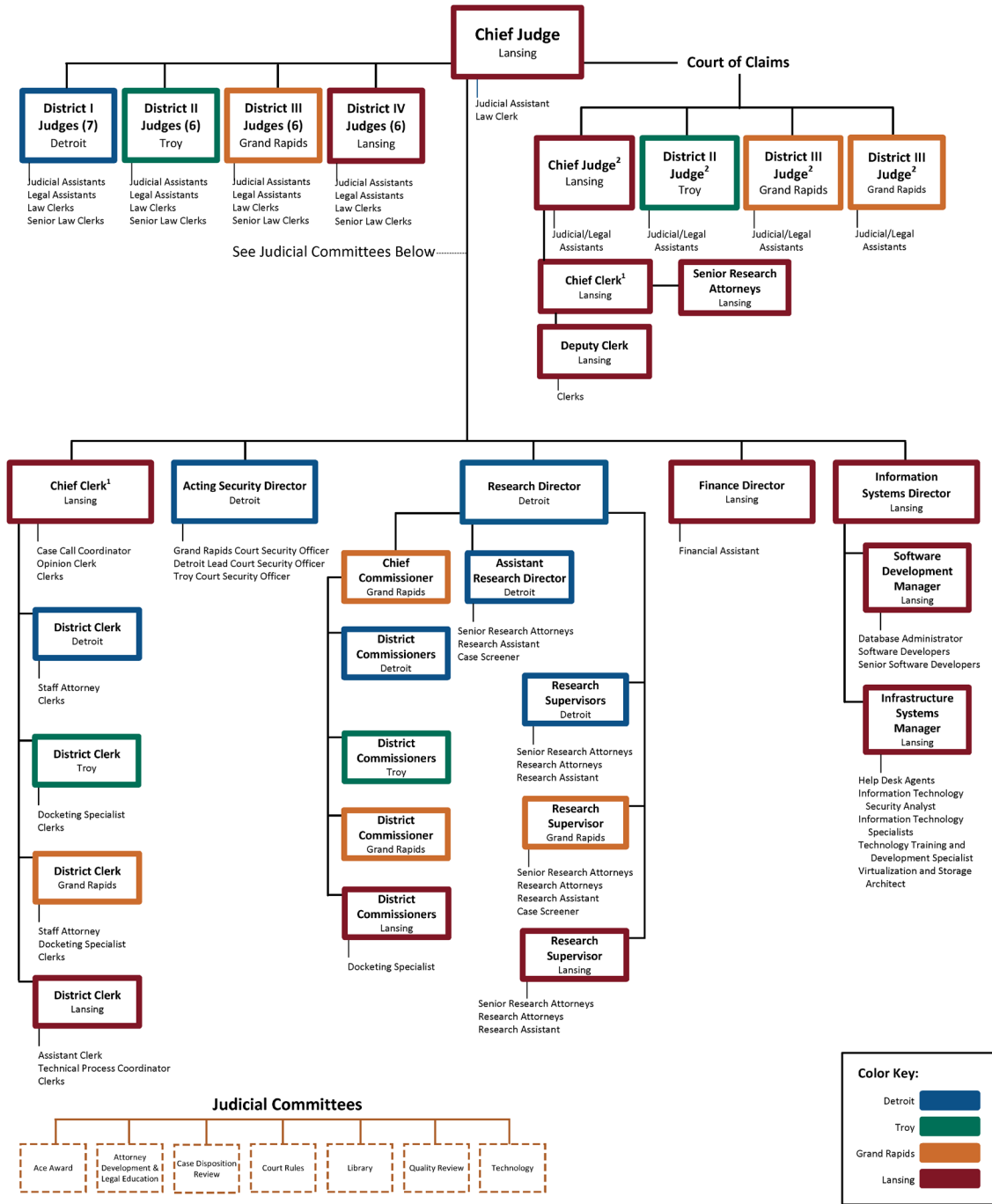
Court Performance

As 2023 began, 144 cases were pending in the Court of Claims. Through the year, the Court received 188 new case filings, and 51 cases were reopened. As a result, the total caseload for the Court in 2023 was 383 cases, down from 415 in 2022. 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 217 cases. Dividing the 217 dispositions by the 239 new filings and reopened cases, the Court of Claims achieved a clearance rate of 91% for the year. At the close of 2023, the Court’s pending caseload was 166 cases. The table below details the Court’s reported caseload statistics for 2023.

2023 Court Of Claims Caseload Statistics										
2023 Caseload Statistics	Habeas Corpus	Mandamus	Highway Defect	Medical Malpractice	Contracts	Constitutional Claims	Prisoner Litigation	Tax Related Matters	Other Damage Claims	Totals
Beginning Pending	2	7	2	2	17	12	9	22	71	144
New Filings	1	17	2	5	6	25	14	22	96	188
Reopened	0	0	0	1	1	30	3	2	14	51
Total Caseload	3	24	4	8	24	67	26	46	181	383
Disposed by Court	0	15	0	0	5	8	11	10	48	97
Transferred by Joinder	0	0	0	0	0	0	0	0	0	0
Dismissed by Party	0	0	0	4	7	5	2	6	56	80
Dismissed by Court	3	3	1	0	0	3	5	1	7	23
Placed on Inactive Status	0	0	0	0	2	10	0	0	5	17
Totals	3	18	1	4	14	26	18	17	116	217

ORGANIZATIONAL CHART



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

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

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