

STATE OF MICHIGAN

IN THE 16TH JUDICIAL CIRCUIT FOR THE COUNTY OF MACOMB

In re: Selection of Case Evaluators and Case Evaluation Panels

Circuit Court Local Administrative Order #2020-07
Rescinds Circuit Court Local Administrative Order 2014-16

IT IS ORDERED:

This Administrative Order is issued in accordance with MCR 2.404. This Order provides a method to maintain a list of persons available to serve as case evaluators and to assign case evaluators from the list to case evaluation panels.

A. ADR Clerk

The Circuit Court Administrator may designate a staff person or persons to serve as ADR Clerk(s) as his/her designee.

B. Case Evaluation Plan

This plan covers the evaluation of cases in the 16th Judicial Circuit Court under MCR 2.403. 16th Judicial Circuit Court case evaluators also evaluate cases selected and referred by the Macomb County Probate and District Courts desiring to participate.

C. Lists of Case Evaluators

1. Case Evaluator Application

An application form will be made available to those who wish to apply at the office of Case Evaluation or on the Court's webpage. The current application form is attached as Exhibit 1.

2. Case Evaluator Eligibility

To qualify as a general case evaluator, a person must meet the qualifications in subrule MCR 2.404(B)(2). To qualify as a case evaluator on a specialized list, a person must meet the qualifications in subrule MCR 2.404(B)(2) and have experience and expertise in the subject matter as required by MCR 2.404(B)(2)(d).

3. Review of Applications; Appeal

- a. Applications will be reviewed at least annually by an individual or committee appointed by the Chief Judge. An individual must be an employee of the Court. If a committee is created, it will consist of at least three (3) members. The membership of the committee will include practicing lawyers, representatives of the Macomb County Bar Association, court staff (acting *ex officio*), and members of the Circuit Court Bench. The selection of committee members will be designed to assure that the goals of MCR 2.404(D)(2) are met. Members will be appointed to three (3) year terms. A person will not be allowed to serve on the committee more than three (3) years in any nine (9) year period.
- b. An applicant who is not placed on a case evaluation list may appeal, in writing, to the Chief Judge within thirty (30) days after notice of the decision is mailed to the applicant. There will be no oral argument. The Chief Judge will inform the applicant of the decision in writing.

4. Specialized Lists

- a. The 16th Judicial Circuit Court shall maintain separate lists of case evaluators divided into the following concentrations of legal practice:
 - i. Personal injury/negligence law
 - ii. Commercial law and business disputes
 - iii. Medical malpractice law
 - iv. Labor and employment law
 - v. Product liability law
- b. There will be a specialized list for each of the concentrations above, which will consist of panels of three (3) attorneys with experience and expertise in the specific area of law.
- c. Case evaluators on a specialized list will be divided into plaintiff case evaluators, neutral case evaluators and defense case evaluators, depending on whether they primarily represent plaintiffs, defendants or are not identifiable with either.
- d. Additional specialized lists may be created at the discretion of the Chief Judge.

5. Term of Placement on Lists

Case evaluators will be appointed to a fixed term of three (3) years. Evaluators will be notified by letter or email prior to the expiration of their term.

6. Removal from Lists; Appeal

Case evaluators who demonstrate incompetency, bias, make themselves consistently unavailable to serve as a case evaluator, or for other just cause may be removed from the list. Removal may be directed by the committee or by Court Administration in situations where waiting until the next committee meeting is impracticable. A case evaluator who is removed from a case evaluation list may appeal, in writing, to the Chief Judge within thirty (30) days after a notice of the decision is mailed to the case evaluator. There will be no oral argument. The Chief Judge will inform the case evaluator of the decision in writing.

The Court expressly disclaims creating any employment contract or property interest in favor of the case evaluators, and nothing in this Local Administrative Order should be construed as creating any rights or remedies in addition to those mandated by Court Rule.

7. Orientation and Training

Case evaluators will be provided with orientation materials explaining the case evaluation process and the operation of the Court's case evaluation program.

D. Assignment to Panels

The ADR Clerk(s) will assign case evaluators to panels. The assignment must be in a random or rotating manner that assures as nearly as possible that each case evaluator on a list is assigned approximately the same number of cases over a period of time. If a substitute case evaluator must be assigned, a similar assignment procedure will be used to select the substitute.


E. Payment

The case evaluators' fees, including any applicable late fees, shall be paid in the manner set forth in the case evaluation notice.

If an attorney or party fails to pay in accordance with these rules, the matter may be referred to the assigned judge for further action.

This Order shall be effective immediately upon approval of the State Court Administrator's Office.

Dated: July 30, 2020


James M. Biernat, Jr. – Chief Judge
16th Judicial Circuit Court, 42nd District
and Macomb County Probate Courts

MACOMB CIRCUIT COURT CASE EVALUATOR APPLICATION

(Not to be used by ADR Mediator Applicants)

Applicants may submit applications in teams of three for approval.

If this is a team request, please list the last names of the other two applicants:

To serve as a case evaluator in Macomb County Circuit Court, an applicant must meet the following minimum qualifications:

- An applicant must have been a practicing lawyer for at least five years.
- An applicant must be a member in good standing of the State Bar of Michigan.
- An applicant must reside, maintain an office, or have an active practice (litigation and/or mediation) in Macomb County.
- An applicant must demonstrate that a substantial portion of his/her practice for the last 5 years has been devoted to civil litigation matters including investigation, discovery, motion practice, case evaluation, settlement, trial preparation, and/or trial.
- An applicant must demonstrate an active practice for the last three years in the area of personal injury/negligence, medical malpractice, product liability, commercial, labor and employment, or complex commercial to qualify for those specialized sublists.

This form must be filled out completely and attachments included to be considered by the Case Evaluation Committee.

_____	P# _____
Full Name	
_____	_____
Residence address	Home Telephone No.
_____	_____
Business address (if different from residence address)	Business Telephone No.
_____	_____
Current Employer's Name	Number of years with employer
_____	_____
Previous Employer's Name	Number of years with employer
Fax: _____	E-mail address: _____

PART A: General Information

New Application Renewal Application

1. When were you admitted to the practice of law (month/day/year)? _____
2. Are you a member in good standing of the State Bar of Michigan? Yes No
3. Have you ever been disciplined by the Michigan Attorney Discipline Board or any other

state or federal agency or court? If yes, explain on an attachment. Yes No

4. Have you served as a case evaluator? Yes No. If yes, please describe on an attachment.
5. Do you qualify for service in this jurisdiction by (a) residing in Macomb County (b) maintaining an office in Macomb County, or (c) an active practice in Macomb County?
6. Please provide factual support for your qualification(s) under question 5 by providing a description of your "active practice" on an attachment.
7. Please demonstrate that a substantial portion of your practice for the last 5 years has been devoted to civil litigation matters, including investigation, discovery, motion practice, case evaluation, settlement, trial preparation, and/or trial, as required by MCR 2.404(B)(2)(c) on an attachment.
8. Panel sought (select no more than two):

- General Civil
- Personal Injury/Negligence (Plaintiff Neutral Defense)
- Medical Malpractice (Plaintiff Neutral Defense)
- Product Liability (Plaintiff Neutral Defense)
- Commercial (Plaintiff Neutral Defense)
- Labor and Employment (Plaintiff Neutral Defense)
- Complex Commercial (Plaintiff Neutral Defense)

PART B: For Specialized Lists

Complete Part B if you are applying for service on a Specialized List (i.e. personal injury/negligence, medical malpractice, product liability, commercial, labor and employment, and complex commercial) pursuant to MCR 2.404(B)(4).

1. In your practice, do you primarily represent:
- Plaintiffs Defendants Not identifiable
2. Indicate the percent of your current practice in the following areas:
- Personal Injury/Negligence _____% Plaintiff _____% Defendant

Medical Malpractice _____% Plaintiff _____% Defendant
 Product Liability _____% Plaintiff _____% Defendant
 Commercial _____% Plaintiff _____% Defendant
 Labor and Employment _____% Plaintiff _____% Defendant
 Complex Commercial _____% Plaintiff _____% Defendant

3. Please demonstrate that you have had an active practice for the past 3 years in the area of law for the Specialized List you are applying as required by MCR 2.404(B)(2)(d) **on an attachment.**

4. How many cases on average have you participated in **case evaluation, facilitation, or mediation** as counsel for a party over the last three years? _____.

5. Have you previously served as a case evaluator, mediator, facilitator, or arbitrator in the past three years? _____.

6. If so, please identify the forum, location and nature of case(s) heard, frequency of service, and whether you served as plaintiff, defendant, or neutral position.

7. How many cases did you resolve by way of settlement over the past three years on an annual basis? _____ Please specify the type of case.

8. Indicate the percent of your current practice:

Mediation _____% Litigation _____%

CASE EVALUATOR ELIGIBILITY CERTIFICATION

I certify, pursuant to MCR 2.404(B)(1), that I meet the requirements for service under the Macomb County Circuit Court's selection plan and that I will not discriminate against parties, attorneys, or other case evaluators on the basis of race, ethnic origin, gender, or other protected personal characteristic.

 Date

 Signature

GENDER/RACE/ETHNICITY INFORMATION - OPTIONAL

In order to evaluate our efforts to provide bias free case evaluators and diversity, we ask you to voluntarily identify your gender/race/ethnicity. This information will be maintained separately from the other pages of the application.

Name (first, middle initial, last) (print or type)

P
Bar No.

Please check the appropriate box:

Gender

Male

Female

Race/Ethnicity

American Indian or Alaskan Native

Asian or Pacific Islander

Black/African American (non-Hispanic)

Caucasian (non-Hispanic)

Hispanic

Other _____
Please specify

Return this application to:

Macomb County Circuit Court
ADR Clerk
40 N. Main, 6th Floor
Mt. Clemens, MI 48043

case.evaluation@macombgov.org