

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

In re Appointment of Counsel for
Indigent Parties

Administrative Order 2003-7

_____ /
This Administrative Order governs the selection, appointment, and compensation of counsel who represent indigent parties in the Macomb County Circuit Court pursuant to MCR 8.123.

I. The following Indigent Assignment Lists will be maintained:

A. Civil/Criminal Division Assignment List, with the following subdivisions:

1. Those who represent persons charged with capital offenses (potential sentences of imprisonment for life); 'A' level offenses.
2. Those who represent persons charged with major felony offenses (potential sentences of imprisonment in excess of five years to less than life); 'B' level offenses.
3. Those who represent persons charged with all other offenses for which counsel is to be appointed by law within the jurisdiction of the Circuit Court (potential sentences up to and including five years imprisonment); 'C' level offenses.

B. Family Division Assignment List

C. Juvenile Division Assignment List

II. Administration of the Appointed Counsel Program

The Chief Judge shall administer the appointed counsel program. The Civil/Criminal and Family Division Assignment Lists shall be maintained by a person or persons designated by the Circuit Court Administrator. The Juvenile Division Assignment List shall be maintained by a person or persons designated by the Juvenile Division Administrator.

III. Method of Selecting Attorneys for the Assignment Lists

A. An Indigent Assignment List Selection Committee ('Committee') shall be appointed by the Chief Judge for each of the assignment lists.

1. The Civil/Criminal Division Committee shall be made up of two judges of the

Macomb County Circuit Court and three members of the Macomb County Bar Association, nominated by the President of the Macomb County Bar Association.

2. Family Division Committee shall be made up of two judges of the Macomb County Circuit Court, two Friend of the Court representatives and three members of the Macomb County Bar Association, nominated by the President of the Macomb County Bar Association.

3. The Juvenile Division Committee shall be made up of one judge, two Juvenile Division representatives, and three members of the Macomb County Bar Association, nominated by the President of the Macomb County Bar Association.

- B. Each Committee shall meet, as needed, to review the applications of attorneys applying to be appointed to an Indigent Assignment List or subdivision of a list and to determine their qualifications to be appointed.
- C. Attorneys wishing to be appointed to an Indigent Assignment List or subdivision of a list shall apply to the appropriate Committee on an application form provided by the person or persons maintaining the list. Applications shall be filed with the person or persons maintaining the list.
- D. Attorneys shall be notified in writing of the action taken by a Committee.
- E. An attorney who is not appointed, following proper application, may appeal in writing to the Chief Judge within 30 days of mailing of the notice of the action of the Committee. There will be no oral argument. The Chief Judge shall inform the applicant of the decision in writing.

IV. Minimum Standards/Qualifications of Attorneys

- A. All attorneys applying to be appointed to an Indigent Assignment List must be members in good standing of the State Bar of Michigan and the Macomb County Bar Association.
- B. All applicants to the Civil/Criminal and Family Division Lists must have their principal office located in Macomb County. 'Principal office' shall be defined as the attorney's official address as currently maintained by the State Bar of Michigan.
- C. In order to be placed on an Indigent Assignment List, all attorneys must have attended a basic skills seminar on practicing law in Macomb County in the area of law relevant to the list to which the attorney seeks appointment.
- D. In order to remain on an Indigent Assignment List, attorneys must attend

in their representation of parties in these prior cases.

3. Attorneys applying to be counsel in 'C' level cases with a potential sentence less than five years must have sufficient knowledge and ability to represent indigent parties in these cases with competence and diligence.

J. Qualifications for the Family Division List

Attorneys applying to be counsel in domestic relations cases within the Family Division must have substantial and relevant experience in representing individuals in domestic relations proceedings for which counsel must be appointed by law, including experience in the Macomb County Circuit Court. They must have shown competence and diligence in the cases in which they have appeared.

K. Qualifications for the Juvenile Division List

Attorneys applying to be counsel in Juvenile Division cases must have substantial and relevant experience representing individuals in juvenile matters, including experience in the Macomb County Circuit Court. They must have shown competence and diligence in the cases in which they have appeared.

Attorneys appointed to represent children in protective proceedings must interview children, consult with case workers and foster parents, and comply with all provisions of MCL 712A(c)(7); MCL 712A.17(c)(7) and MCR 3.915.

V. Process for Appointment of Counsel to Cases

- A. When practical, counsel for indigent parties in the Macomb County Circuit Court shall be appointed in rotation from the appropriate Indigent Assignment List.
- B. In exigent circumstances, a judge may appoint counsel to represent an indigent party immediately. To the extent feasible, a judge shall appoint counsel from the appropriate Indigent Assignment List.
- C. In criminal cases, persons seeking appointment of counsel on their behalf shall make application on a form provided by the person or persons maintaining the lists and shall provide adequate information to demonstrate their indigence. Judicial Aide shall appoint counsel after receiving an application and determining indigence.
- D. In domestic relations cases, parties shall make application on a form provided by the person or persons maintaining the list and provide adequate information to demonstrate their indigence. The judge assigned to the case shall appoint counsel after receiving an application and determining indigence.

- E. In Juvenile Division matters, counsel shall be appointed when required by law. Otherwise, parties seeking appointment of counsel shall make application on a form provided by the Juvenile Division to the person designated to receive applications by the Juvenile Division Administrator. Counsel shall be promptly appointed after receiving the application and determining indigence.

VI. Repayment of Appointed Counsel Costs

Parties for whom counsel has been appointed must reimburse Macomb County for the costs incurred on their behalf. Collection action will take into account ability to pay.

VII. Compensation of Counsel

- A. Indigent Fee Schedules shall be adopted for the compensation of attorneys appointed to represent indigent parties in the Macomb County Circuit Court and approved by the Chief Judge. The Indigent Fee Schedules shall compensate counsel on a case segment or hourly basis. The Indigent Fee Schedules shall be reviewed by the Chief Judge periodically.
- B. In Civil Criminal and Family Division matters, counsel shall submit a billing to the person or office maintaining the list from which they were appointed within 6 months of the conclusion of the case. An interim billing may be submitted for payment when allowed by the applicable Fee Schedule.
- C. In Juvenile Division matters, counsel shall submit billings after each appearance on a matter.

VIII. Reviewing Performance, Sanctioning and Removing Counsel from Lists

- A. The performance of counsel will be reviewed by each Committee. In addition, each Committee may require any or all members of the list it reviews to reapply and demonstrate continued qualification to serve on the list.
- B. Complaints about appointed counsel shall be made to the appropriate Committee. The Committee shall evaluate the complaint and take the action it deems appropriate.
- C. An attorney may be sanctioned, suspended, or removed from a list or lists for violation of the terms of this Order, incompetency, lack of diligence, consistent unavailability to serve, violation of Court policies, or other good cause.
- D. When immediate action is necessary, the office or person maintaining the list may

suspend an attorney from further appointments pending a review of the circumstances by the appropriate Committee.

- E. This Order does not limit the authority of the judge or judicial officer assigned to the case to sanction, remove, or replace an attorney.

IX. Appeal

- A. An attorney who is denied an appointment or upgrade, or who is sanctioned, suspended or removed from a list by a Committee may seek review of the decision by the Chief Judge in writing within 30 days of the decision. There will be no hearing allowed. The Chief Judge shall make a decision in writing.
- B. An attorney who is sanctioned by a judge or judicial officer may seek relief allowed by law. He or she may not seek review by the Chief Judge under this section.

X. Maintenance of Records

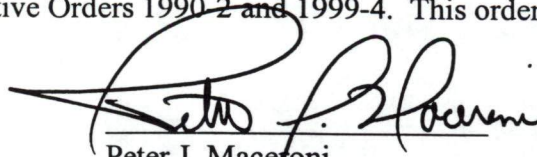
- A. The Court shall compile an annual report of the information required by MCR 8.123(D) at the end of each calendar year.
- B. The annual report or reports will be available for inspection by the public, without charge, at the office of the Circuit Court Administrator within normal business hours. A person seeking access to the reports must provide identification and may only review the reports in the lobby of the Circuit Court Administrator's Office under the reasonable supervision of staff to safeguard the contents of the reports.
- C. A person may receive a copy of an annual report or reports upon the payment of a reasonable fee in accordance with the Court's Local Administrative Order pursuant to MCR 8.119(E).

XI. Transition to the Lists Created by this Local Administrative Order

Attorneys eligible to be appointed under the Court's current systems may continue to be appointed until applications under this Order can be received, reviewed and appointments made to the new lists.

- XII. This order repeals Local Administrative Orders 1990-2 and 1999-4. This order shall take effect on January 1, 2004

Dec. 1, 03
Dated


Peter J. Macefoni
Chief Judge