

STATE OF MICHIGAN

IN THE 16<sup>TH</sup> JUDICIAL CIRCUIT FOR THE COUNTY OF MACOMB

In re: Selection of Case Evaluators  
and Case Evaluation Panels

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Local Administrative Order #2014-16

(Rescinds Local Administrative Order 2004-7)

**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 the ADR Clerk – Senior as his/her designee.

B. Case Evaluation Plan

This plan covers the evaluation of cases in the Macomb County Circuit Court under MCR 2.403. Macomb County 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 the ADR Clerk, on the Court's webpage and at the Macomb County Bar Association Office. The 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 sub-rule MCR 2.404(B)(2). To qualify as a case evaluator on a specialized list, a person must meet the qualifications in sub-rule 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 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 Macomb County 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.
  - iii. Medical malpractice law.
  - iv. Labor and employment law.
  - v. Product liability law.
  - vi. Complex commercial 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 no greater than five (5) years. The terms of case evaluators may be staggered so that a manageable number of case evaluators will be considered for reappointment each year.

6. Removal from Lists; Appeal

Case evaluators who demonstrate incompetency, bias, made themselves consistently unavailable to serve as a case evaluator or show other just cause may be removed from the list. A case evaluator who is removed from 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 case evaluator. There will be no oral argument. The Chief Judge will inform the case evaluator of the decision in writing.

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 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.

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

Dated: \_\_\_\_\_

7/3/14

  
\_\_\_\_\_  
John C. Foster

Chief Judge

16<sup>th</sup> Circuit, 42<sup>nd</sup> 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.

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.

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Full Name \_\_\_\_\_ P# \_\_\_\_\_

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: \_\_\_\_\_

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## 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 one):
  - 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, 5<sup>th</sup> Floor  
Mt. Clemens, MI 48043