



Third Circuit Court's Response to the COVID-19 Pandemic: The Legal Community Meetings Summary Report

Chief Judge Timothy M. Kenny
Judge Patricia Perez Fresard, Presiding – Civil Division
Judge Prentis Edwards, Jr., Presiding – Criminal Division
Judge Melissa A. Cox, Presiding – Family Division – Domestic
Judge Edward J. Joseph, Presiding – Family Division – Juvenile
Zenell B. Brown, Executive Court Administrator
Alisa Shannon, Deputy Court Administrator – Criminal Division
Erin Lincoln, Deputy Court Administrator – Family Division – Domestic
Richard Smart, Deputy Court Administrator – Family Division – Juvenile

Summary

The Chief Judge held multiple meetings with justice stakeholders of the Third Circuit Court (the Court) pursuant to MCR 8.110 to gather their feedback on the Court's response to the COVID-19 pandemic.

The following pages summarize the feedback by division. There was overwhelming support for Zoom hearings, there was concern about case processing backlogs, and there was a need for continued communications.

The Presiding Judges and the Deputy Court Administrators attended the meetings on divisional operations. The stakeholder feedback from each of the divisions is incorporated in those sections of the report. Each Deputy Court Administrator prepared their respective sections. The attendance for meetings is also attached.

All written correspondence from stakeholders are also attached.

In addition to forwarding the report to the Region I SCAO Director Paul Paruk, Chief Judge Timothy M. Kenny will publish and distribute the report, work with judges and administrators to develop the best processes going forward, and communicate updates to the judicial stakeholders and partners.

Civil Division

On behalf of the Third Circuit Court, the Detroit Bar Association invited its member and all other members of the legal community to attend and provide feedback on the operations of the Civil Division of the Court during the pandemic. The original meeting date conflicted with the Rosh Hashanah holiday; therefore the meeting was rescheduled and held September 13, 2021.

More than 500 attorneys registered for the event, and over 260 attorneys from the metropolitan Detroit area attended and provided feedback and suggestions to Chief Judge Timothy M. Kenny on the operations of the Third Circuit Court's Civil Division during the pandemic.

The common theme was the appreciation for the ability to appear via Zoom and the desire that Zoom appearances continue. "There are some glitches but clients love it. It also reduces the billing," one attorney remarked. Time effectiveness increased with Zoom. Eliminates drive times.

Attorneys offered some of the pain points of the Zoom experience as an insight to improve the Zoom hearing process. Comments in the Chatbox included:

- Maybe staggered times for court hearing dockets to avoid long wait times. Scheduling not using cattle calls can provide more efficiency.
- The need for better communication. What ways can attorneys reach courtroom staff to confirm dates or ask other questions? In one stance, counsel's attempt to hand deliver a judge's copy of a response was not allowed. Counsel did not receive notice about the judge's decision to not hold oral arguments.
- Attorneys would like to have the auditory of the hearings after the court sessions. On-line filings are truly online: Delays with filings have been weeks at a time. Therefore, auditory access to the proceedings would be helpful.
- Experienced attorneys want to monitor cases being handled by their associate attorneys who are still learning the practice of litigation. The City of Detroit stressed this was needed.
- Judges do not necessarily get all of the pleadings. Clerk may have them but the judge has not received all of them and this causes delays.
- The division does not have a consistent protocol so it is not clear when counsel needs to be present on a matter.
- Judges should post reminders on screens for parties to unmute.
- Summary disposition motions are heard at the discretion of the judges. Parties are not given an opportunity to opt in. In some cases, orders say that there was not a response but the response was filed.

The attorneys realized that all hearings were not appropriate for Zoom, and inquired about plans to open up courtrooms for some in-person proceedings.

The attorneys were concerned about the case backlog. One attorney reported that he was told that there is 9,000 cases awaiting processing. With the delays in filings, the attorney noted:

- The experience issues contacting the proper party and need a uniform protocol to contact courtrooms to ensure responses are received.
- The Court should adopt a practice in which pleadings filed by self-represented litigants are automatically sent to the other side.
- The links in the eFiling emails expire too soon. Counsel may need to download documents after the current expiration date.

The Civil Division began jury trials in July and one attorney who had conducted trials offered his feedback.

- Jury Trial (8/30/21). The Court did a great job keeping everyone safe. The courtroom was hot and the temperature needs to be addressed. The plexiglass and masks made it difficult to convey and hear messages. Also the masks prevented counsel from seeing the jurors' expressions. There was late notice regarding advising whether the case would go forward. It would be helpful to have a posted list of the cases in the line-up so attorneys can timely prepare. "The ability to share screen with Zoom was awesome." The Court's technological support was good.

The Attorneys offered suggestions on the alternative dispute resolution processes. One attorney noted case evaluation recommendations for medical malpractice cases are routinely being rejected. "Nothing is settling. Perhaps there should be more penalties available." Another attorney proposed that the Court play a leading role in handling mediation differently. He has drafted a proposed administrative order to provide teeth in mediation: For example, in eviction matters, the Court could order the State come to mediation and direct the parties to provide substantive support for their positions.

Throughout the meeting attendees were advised they could send written remarks to Executive Court Administration Office: ExecutiveCourtAdministrationOffice@3rdcc.org.

Chief Judge thanked the Civil Legal Community for their patience throughout the pandemic and their attendance at the meeting. Chief Judge Kenny and Presiding Judge Patricia Fresard will meet the judges in the Civil Division to discuss the feedback as they begin to chart the course for the division going forward. The course of action will be shared and published on the website and social media. The Detroit Bar Association will also host a future Zoom meeting for Chief Judge Kenny to speak with the Civil Legal Community about the plans for the future.

Criminal Division

The Chief Judge, Criminal Presiding Judge, and I met with the Prosecutors Office, Sheriff's Office, Office of Public Defense Services, Wayne County Clerk's Office, and Michigan Department of Corrections on August 26, 2021. The question asked of all partners, "During this pandemic time, what process has worked and what has not?"

Wayne County Prosecutor responded:

- Continue streaming hearing in court. However, they do have a problem with streaming domestic violence, elderly clients, or rape cases.
- Does not like streaming on YouTube because we cannot control recording of the stream or the chat function.
- Does not like the “cattle call” approach for video hearings.
- Because of the backlog of cases, there is no incentive to plea.
- Concerned about the safety of witnesses waiting in cars until time to testify.

Office of Public Defense Services responded:

- Virtual visits with the jail have worked very well.
- Vertical representation as it is being explored during virtual proceeds has allowed attorneys to be in multiple court sites easier.

Michigan Department of Corrections responded:

- MDOC is very happy with the virtual PSI ability.
- They appreciate the ability to utilize e-Filing.
- MDOC was challenged because Odyssey was not immediately updated for their use.
- Found a delay in the time it take Judges to sign orders

County Clerk’s Office responded:

- WCC was disappointed that the courtroom clerks were not allowed to work remotely.
- Biggest problem was that the County Clerk’s Office must follow the protocols of the funding unit, which sometimes conflicted with what the Court implemented.

There was a second meeting held because defense counsel was unable to attend the first meeting. On September 3, 2021 we met with National Defense Services and Wayne County Defense Bar. The question asked of our partners, “During this pandemic time, what process has worked and what has not?”

National Defense Services (NDS) responded:

- Felt the Court did an excellent job rising to the challenge and protection of citizens and staff.
- Having the “cattle call” schedule is difficult. Think about posting a schedule of timed appearances.
- Likes the idea of In-Custody dockets being separated from Not-in-Custody dockets.
- Not getting good offers from Prosecutors.

Wayne County Defense Bar responded:

- Feels Zoom should continue for any proceeding other than jury trials
- Likes the separation of In Custody dockets verses Not-in-Custody dockets

- Applauded the courts efforts and ability to make quick changes and do everything possible to protect staff, attorneys, and public.
- Believed many changes made at 3rd Circuit were good and happened long before any other jurisdiction.

Suggestions for improvements from all parties are as follows:

- Allow more e-Filing for MDOC (i.e. PV warrants)
- Continue virtual hearings for non-trials
- No more cattle-call dockets
- Maintain video visits for attorneys and clients
- Create a way for original warrants to get in file
- Have staggered appearance times for cases
- Create way for defendants to use tablets in jail for visits with attorneys, instead of sending to breakout rooms
- Allow AOI waiver by mail
- Allow attorneys to Zoom in to courtroom to request change in date
- Allow defendants to acknowledge on the record their signature on the plea forms
- Defense Counsel needs the plea offer from the Prosecutor at least 48 hours before hearing so they have time to review/meet with defendant and review any documents
- Would like stations set up to allow access to Zoom for defendants

Family Division – Domestic

The Chief Judge held two meetings with stakeholders of the Family Division/Friend of the Court pursuant to MCR 8.110 to gather feedback on the Court's response to the COVID-19 pandemic. Community partners and local agencies were invited to the 11:00 a.m. meeting and members of the private bar were invited to the 2:00 p.m. meeting. A summary of both meetings is below, including a list of participants in each meeting. I tried not to cut out a lot of what participants said as to fully and accurately capture their feedback. Participants were also told that if they have further feedback, they can email it to ExecutiveCourtAdministrationOffice@3rdcc.org.

11:00 a.m. Meeting with Community Partners

Attendees:

Court Representatives:

1. Chief Judge Timothy M. Kenny
2. Paul Paruk
3. Presiding Judge Melissa Cox
4. Erin Lincoln
5. Jillian Fitzgerald

Community Partner Participants

1. Anita Miko, MDHHS
2. Amy Roemer, William Booth Legal Aid Clinic
3. Bridie Johnson
4. Commander Lynnette Cain
5. Ellen Wood, Office of Child Support
6. Erin Frisch, Office of Child Support
7. Farah Ayoub, Lakeshore Legal Aid
8. Holly Rann, MDHHS, Foster Care Section Manager
9. Jessica Bauer, William Booth Legal Aid Clinic
10. John Miles, Wayne County Fatherhood Initiative Coordinator, The Children's Center
11. Joi Miller, MDHHS
12. Kawame Curry, The Guidance Center
13. Laura LeFever, Children's Center
14. Lisa Timmons, Mediation Tribunal Association
15. Lynda Dandridge, The Children's Center
16. Marie Reimers, Lakeshore Legal Aid
17. Mary Munoz, La Sed
18. Monica Bowman, Office of Child Support
19. Nura Lutfi, Lakeshore Legal Aid
20. Sean Bodell, Office of Child Support
21. Sharron Sanders, Lakeshore Legal Aid
22. Suzanne Jabbar, Third Circuit
23. Traci Lee-Brown, MDHHS
24. Zeina Baydoun, Wayne County Dispute Resolution Center

Notes/Feedback:

Laura Lefevre, Children's Center:

- Noted that the Children's Center worked with FOC to have virtual sessions during the pandemic to let public know what's going on at the FOC. Laura thought those session went well and would like to continue them in the future. She indicated that they would not be a replacement of future in person events but in conjunction with.
- She also offered that if the Court can think of ways in which The Children's Center can help with anything, they would be willing.

Farah Ayoub, Attorney with Lakeshore Legal Aid:

- Settlement conferences via zoom easier in general. Saves times for attorneys. Would like to see that continue in the future.
- One area of improvement in clerk's office with filings: filings are taking too long. It is taking about a month or so to get filings back. She understands there is a

shortage in the clerks' office. She filed a motion in June, wasn't until July that said fee waiver is expired and needs new fee waiver. Again now been a month, motion is still not on register of action. New cases are taking a month to get assigned to Judges, in a sense, mischarge of Justice.

- Suggestion: file with the clerk's office and then just have the Judge set it. That might inundate the Judge's too because they have a lot going on. Maybe have a separate email that is urgency that is between regular filings and emergency.
- There are some issues that are not "emergency" but it's important and needs to be filed before next hearing date.

Mary Munoz, La Sed in SW Detroit:

- Nilda Reinoso has done an excellent job at serving community during COVID, they have been able to email her with cases and needing assistance and Nilda has been responsive.
- Would like to see virtual forums on FOC issues in late afternoons or Saturdays for those who work

Marie Reimers, attorney at Lakeshore:

- Zoom has been great for low income families, parties don't need to take time off work.
- Some judges have long wait times in waiting rooms. For clients, their phone might be dying, data running out-judges don't seem to be empathetic.
 - Proposed solution: if there was some way to communicate to people in waiting room, tell them time to come back for the hearing. That would be helpful in bridging tech gap.
- Issue with fee waivers at clerks' office. Process takes a month for fee waiver-clerks office says won't process fee waiver without driver's license and proof of income. They should not be requiring that per statute. She's been sending them to Matt directly right away to get them done. She's worried about in pro per litigants not having that option. She's going to send Erin the email that Clerks office sends to people who are filing fee waivers so Erin can review what the Clerks' office is requiring.

Erin Frisch, Office of Child Support:

- OCS and Wayne FOC were able to work together to figure out things to help each other, ie helping staff the call center, OCS helping with administrative functions.
- Would encourage us to continue to find ways to continue to work on the backlogs. She is hearing from across the country about Wayne county backlogs.
- Would encourage us to think about how to allow staff work remote long term from home and how much virtual we can offer. She's been hearing from other jurisdictions about how they have been able to retain staff with Remote work.

- She'd be happy to put together team from OCS, she has heard from other counties they are willing to help so would encourage us to take that help.
- (Note: Erin F. and I have a meeting scheduled for Friday, September 10, 2021 to discuss some of her ideas.)

Nura Lufti, Lakeshore Legal Aid:

- Zoom hearings have been going well.
- Email filings are obviously an issue. Wondered why we can't move to efilings. Lakeshore would love to see zoom hearings continue.

Jessica Bauer, staff attorney at William Booth Legal Aid Clinic:

- virtual hearings have been going well for low income clients. Many courtrooms have a long wait time, clients will try to connect to the hearing but with long wait times it can be difficult. Wait time in some waiting rooms is sort of unreal.
- Proposed solution: Maybe have it standard that each courtroom have specific timeframe. Some courtrooms are treating it like motion call day-everything scheduled at 8am. Maybe something the court can implement-cattle call motion call not working.
- Also asked a question about case establishment cases and how to move those along faster, if attorneys could file a subsequent case to get an order faster

Holly Rann, foster care section manager MDHHS:

- Concern was the length of time it is taking for trials to be scheduled, she knew of some that weren't scheduled until October and some not until 2022. This leads to confusion for parents who are trying to gain custody and they are entangled in abuse/neglect system and have to navigate Friend of the Court.
- CPLR program has launched. Still seeing confusion on who is assigned to parents. If they are non-respondents, don't have an attorney. If they don't have existing FOC order, can be confusing. FOC have been having informational sessions-they are trying to have parents go to those or FOC. They have an FOC packet that CPS gives to people. Some parents are dads who have kids for a long time, trying to get permanency for children. Possible solution might be a liaison at FOC or someone that could help.
- (Side note: I will share this feedback with Richard Smart as well as it concerns Juvenile as well as Family Domestic.)

Ellen Wood, OCS:

- Asked in the chat for an update on genetic testing. Erin let everyone know that Wayne is currently using Phlebotomy 2 Go in Highland Park, MI for genetic testing at this time

Traci Lee-Brown, CPS:

- DHHS concern - a lot of cases with little or no movement. Some court dates are set mid 2022, with no reason given as to delays.
- (Side note: I will share this feedback with Richard Smart as well as it concerns Juvenile as well as Family Domestic.)

Lynda Dandridge, The Children's Center:

- adoption still using checks for payment-will there ever be pay pal or some type of electronic fee process?
- (Side note: I will share this feedback with Richard Smart as well as it concerns Juvenile as well as Family Domestic.)

Zeina Baydoun, Wayne County Dispute Resolution:

- Zoom is a fantastic tool and platform, finding participants for mediation are liking it a lot.
- Mediation referrals-sometimes parties reach out immediately and want to get a jump start on scheduling mediation-sometime later they get the referral from the court as well, they get it twice. There may be ways to improve on that and make that more efficient. Maybe sometime in the future-really good opportunity to direct families to resources and additional support beyond mediation and support –maybe in the future have a way to

2:00 p.m. Meeting with Community Partners

Attendees:

Court Representatives:

1. Chief Judge Timothy M. Kenny
2. Paul Paruk
3. Zenell Brown
4. Presiding Judge Melissa Cox
5. Erin Lincoln
6. Jillian Fitzgerald

Attorneys:

1. Alana Boffa
2. Alex Daar

3. Alicia Bianchi
4. Alisa Peskin-Shepherd
5. Andrea Enright
6. Andrea Fanning
7. Angella Molvig
8. Ayanna Alcendor
9. Bernadine Trout
10. Carlo Martina
11. Cody Brooks
12. Cody Corbin
13. Daphne Bradfield
14. David Zalewski
15. Delia Miller
16. Dolores Preston-Cooper
17. Dominique Peacock
18. Don Wheaton
19. Donna Marie Medina
20. Dynah Duncan-White
21. Eileen Scheff
22. Esse Tuke
23. Gary Gardner
24. Jennifer Pernas
25. Jennifer Peterson-Ramsey
26. Joelynn Stokes
27. Judge Carla Testani
28. Judith Grady
29. Julie Gilfix
30. Kari Schlaff
31. Kathleen Allen
32. Kathleen Cole
33. Katie Cushman
34. Kelly Leimback
35. Kelsey Sill
36. Kenneth Burger
37. Kristin Smith
38. Liane Kufchock
39. Madeline Jennings
40. Magistrate Sheldon Larky
41. Mathew Kobliska
42. Matt Catchick
43. Meredith Dahlen
44. Monica Brinkman
45. Pauline Saroki
46. Ralph Mayers

47. Rita White
48. Rita Young
49. Robert Stelmock
50. Rosanne Hostnik
51. Sandra Glazier
52. Sarah Creem
53. Sean Blume
54. Shalini Nangia
55. Shawndrica Simmons
56. Suzanne Jabbar (judicial law clerk)
57. Theresa Klaasen
58. Victoria McClain
59. Wallace Winters
60. William Montgomery

Notes/Feedback:

Kenneth Burger:

- zoom hearings are working, trials may need to get back to in person.
- Waiting time for filings are draconian; Court should expedite requests, change emergencies to things that need to be expedited.

Don Wheaton:

- appreciate ability to participate via zoom, have conducted evidentiary hearing over zoom, everything was virtual, didn't kill trees with need for less paper, hearings can be done successfully on zoom. Takes more prep on part of attorney.
- Knows Clerks' office is separate from court. In Macomb county, they can process things overnight at circuit court but probate court takes month and a half. Here in Wayne it is the opposite. Mind boggling that it is flipped in two counties.
- He hopes the hearings and events will continue on zoom because time saver for attorney and client.

Donna Medina:

- echoes thoughts before, has a specific case question re probate/circuit filing. Zenell offered her email to assist with the case.

Cody Corbin:

- parenting time enforcement and show causes, timing is difficult with filing delays. Show cause motions have to go to the Referee first and Referees are unable to recommend sanctions. Having to schedule FOC

hearing 1.5 months out and if there is not a continuance, then a judicial hearing a month and a half out from that.

- Has one client, enforcement show cause back in April, still haven't gotten a decision on that. Client has lost out on parenting time. Attorney had filed it back to April. Proposed solution: give referees more leniency with what they can do at enforcement hearings

Delores Preston-Cooper:

- tried to file motion for payment plan, filed and heard nothing back. Filed once in Jan/Feb, filed it again in May. First time filed it was Jan, She had surgery in August, wanted to give herself some time.
- Zenell offered assistance with any pending filing over 30 days. Zenell directed attorneys to email her and she'd follow up with the Clerks' office.
- Also had an issue on a divorce case that her daughter assisted with filing. Zenell offered to have her email about that one as well

Sandra Glazier:

- thinks the court has done a good job in responding to COVID, ability to have status conferences, motion calls, evidentiary hearing etc on remote basis would be highly beneficial.
- Suggests continuing remote access while covid is still active in the community, would hope we would make it remote accessible until covid is under control.
- Would hope plans to e-filing to move to family court would address some issues with delays and timing, etc.
- delays in mail, there has been some confusion. We have a new administrative order that permits e-service of all filings. If we could address that globally given delays in the mail-this may be more directed at SCAO for court rule modifications. Time frame in court rules might not really give people opportunity to respond might not be enough.

Cody Brooks:

- echo great benefits of Zoom: not have to take whole day, has been positive.
- Problems with the Clerks' Office-also with fee waivers. He works for legal services corporation grantee. Really depends on which clerk opens the fee waiver email as to whether or not they will get fee waiver or not. Sometimes they will a request for the clients ID, proof of the clients income and a few other things that aren't required with the court rule. Then they have to start all over with that fee waiver.
- Would be nice if we could get the police to enforce AOPs/Custody Orders, but that's another issue entirely

Jennifer Peterson-Ramsey:

- frustration is with the Clerks' records room, waiting over 8 weeks for copies of records, certified copies. On one occasion, charged \$147 for record room to email the motion. It took so long for that to happen. That has been the frustration-wishes she could go to the records room, make an appointment. Might seem like a small thing, mostly getting certified copies of JODs and copies of motions. Waits 8 weeks but then has to email after 8 weeks to see if request has been filled.

Gary Gardner:

- Zoom has allowed him to expand his practice.
- The filing situation is crazy. Had a case last Tuesday in Oakland county-asked for certified copy and got it today. Doesn't know why we don't just flip over to efilng.
- Motion calls, many judges that are great, some judges that you are in waiting room limbo for an inordinate amount of time. If there are some ways that they would get update.
- Clients love Zoom-can take little break from work instead of the whole day at work.
- Please fix filing delays.

Andrea Fanning:

- Maybe have a separate docket to address parental kidnapping cases. Covid seemed to have more issues with parental kidnapping. Any way to streamline emergency situations?

Liane Kufshock:

- so much safer to have PPOs on Zoom and not in person
- PPO hearings should stay via Zoom no matter what

Rita Young:

- Questioned whether there were any discussions to allow in person filings. Zenell answered, no, not now.

Carlo Martino:

- administration with court has done a remarkable job. He feels that we are still in a pandemic and has concerns about returning to the courthouse. He hopes that to the extent hearings have to be heard in person, that safety is consideration for all involved. Hopes there is uniformity and that the Court gets input from public health people how to position things and handle flow of people in and out.
- Believes that default should be on Zoom for hearings unless the parties stipulate to in person

- Chief responded with protocols Court has in place currently and that Court is in constant talks with the Health Department.

Kelsey Sill:

- if filing get rejected by Clerks' office, is there a way to dispute that assessment, is there some way they can get more direct contact with the clerk.

Shalini Nangia:

- Feels like having trials and evidentiary hearings in person are more efficient. Trials and evidentiary hearings would be good in person.

William Montgomery:

- Admitted that he's pretty old school. During in person you can get a better read on people. Some of the custody battles and contested hearings, he is leery of doing that by zoom as you only see head and neck area and don't get read on that person.
- Agrees that Zoom has a lot of applications and appreciates ease of hearings, as long as not waiting in wait room for a few hours. Leery on evidentiary hearings being held via Zoom.

Meredith Dahlen:

- It might be safer to say all hearings are via Zoom unless BOTH parties agree to having it be in person - to avoid intimidation/domestic violence issues

Shawndrica Simmons:

- It appears that skill level in conducting a zoom evidentiary hearing is playing a part in those that prefer in-person versus those of us who do not.

Sean Blume:

- Zoom working well, he's done evidentiary hearings for last year and a half via Zoom. Feels like document management went smoother than it did in the courtroom. Some people have skill set to do hearings via Zoom. Last week, just had conflict with in person hearings in other courts. One could have been done via zoom, if it was, he could have balanced it.
- Zoom has brought cost down for clients, attorneys making up for it in volume. Clients not paying as much per hearing.

Alisa Peskin-Shepherd:

- With Zoom trials, there can be an issue with reception and the recording from which the court reporter transcribes the record.

Ralph Mayers:

- He is a mediator only. Zoom of mediation has been fabulous.
- Suggestion: at last bench bar meeting, someone questioned if domestic violence screening needs to be done, it's in the statute and still need to do it. He has been sending out questionnaire ahead of mediation, wouldn't come back, mail too late, etc. he has to do DV screening when they get there-put one party in breakout room and ask questions. And then switch out. Making suggestion that may help other mediators, oral record of them giving the answer as he's completed requirements under the statute. Suggestion to help mediators to do it orally. He's gotten a lot of pushback from attorneys, they have to be told that as well that it is required.

Rita Young:

- Court has done excellent job during the pandemic. Would like consideration given to attorneys to file in person. Would honor six feet, wearing masks, etc. that would reduce volume of filings that clerks are dealing with now, would help with getting filings completed sooner. Attorney line for in person filing. Possible suggestion of one day per week for in person filings.

Andrea Fanning:

- In person filing would help-allow her to have more control over her cases, to ensure divorce got filed. Some of her cases are running a backlog of 20-45 days for filings.

Family Division – Juvenile

On August 19, 2021, the Juvenile Section hosted a meeting with its stakeholders and the Chief Judge of the Third Circuit court to get their feedback of the emergency measures as a result of the COVID 19 Pandemic, taken by the Third Judicial Circuit Court (Court), as required by SCAO. The purpose of this memorandum is to summarize the information that was received.

Stakeholders that attended and participated include:

- Prosecutors Office
- Clerk's Office
- Private Bar
- LGALs
- Attorney Association
- Attorney General's Office
- DHHS

The stakeholders were asked to provide their feedback as to what worked well, what didn't, what needs to be modified and what needs to be discontinued.

Private Bar

- Remote hearings are going well and should be maintained
- For those cases where an in-person hearing is requested, a hybrid hearing should be considered, with some parties still participating remotely
- There are long waits before jurist lets them into the Zoom hearings
- Adoption hearings are not receiving the priority of other kinds of hearings
- It is difficult to communicate with client in a remote environment
- It is difficult to exercise client control to assist with maintaining proper decorum, if you are not physically with them in the same room
- The emergency policies and procedures have a spirit of togetherness to the Court and all that they serve
- Zoom technology should be maintained and continued into the future. It should be used liberally.

LGALs

- "It's amazing how effective (all the procedures) have been"
- LGALs are getting more input and participation from their clients
- There was one issue as to whether there was enough distance between parties during a proceeding
- Question has been raised as to whether good recording and records of the proceedings are being kept
- Zoom is working extremely well and should be maintained
- Zoom works particularly well for delinquency preliminary hearings
- Client accessibility is a challenge
- There is a question as to whether conducting a hearing on Zoom compromises the seriousness of the situation
- Some clients need more WiFi access
- Contact tracing is going well and communication has been amazing
- Clients do not have to find transportation to attend court hearing as long as the Court continues utilizing Zoom technology
- Doing remote Zoom hearings promotes more communication with clients prior to the hearings
- Breakout hearings on Zoom work well
- Referee hearing rooms are too small to conduct in-person hearings
- Utilizing two separate courtrooms in the same courthouse for in-person hearings maybe a good idea for client communication when conducting a hybrid case
- All review hearings should be remote
- Sequestration orders can be effectuated more effectively when doing hybrid zoom cases

- “I would like to commend the Court in the procedures that they put into effect”
- Zoom allows for a lot more client contact
- The Court was very responsive with its emergency procedures at the start of the Pandemic

Attorney Associations

- Zoom has promoted access to justice in all court
- Should there be greater access to WiFi by having it available in the parking lot?
- Filing electronically or by fax is going well
- May have trouble getting fee waivers signed

Attorney General

- Zoom is great and should be maintained
- The Court should make everyone put and keep their cameras on
- There needs to be a larger area in the courtroom for attorney to work
- Audio in the courtroom is challenging and microphones to amplify voices should be provided
- A hybrid hearing is good
- The Court should have two courtrooms available that can be used simultaneously for hybrid hearings

DHHS

- Electronic distribution of reports is going well and should be continued
- All participants, including parents, have done well in utilizing this technology
- The biggest problem has been the creation of a backlog of matters that need adjudication



Third Circuit Court's Response to the COVID-19 Pandemic: The Legal Community Meetings Summary Report

Following the Legal Community Meetings, Chief Judge Timothy M. Kenny met with the Presiding Judges and Deputy Court Administrators to discuss the issues and concerns raised by those who attended. The goals were to discuss how the individual division performed, the changes and adjustments that supported the delivery of justice, gaps in delivery of service to be addressed, and implemented changes that should continue beyond the pandemic. Each division was encouraged to capture ideas that best addressed the needs of the division and each division will be required to conduct a follow-up meeting with their attendees to report on actions taken and next actions.

Civil Division

Presiding Judge Patricia Perez Fresard

Deputy Court Administrator: Zenell B. Brown

Follow-up Community Meeting Date: January 26, 2022. Information will be provided by the Detroit Bar Association.

Attorneys offered some of the pain points of the Zoom experience as an insight to improve the Zoom hearing process. Comments in the Chatbox included:

- Maybe staggered times for court hearing dockets to avoid long wait times. Scheduling not using cattle calls can provide more efficiency.

Comment: Judge Fresard will request additional input on this issue at the next Bench-Bar Conference to determine if it is a widespread concern.

- The need for better communication. What ways can attorneys reach courtroom staff to confirm dates or ask other questions? In one stance, counsel's attempt to hand deliver a judge's copy of a response was not allowed. Counsel did not receive notice about the judge's decision to not hold oral arguments.

Comment: An updated Civil Division Protocol for posting on 3rdcc.org has been provided. It includes updated JA contact information, reminds attorneys to check the courtroom protocol of the assigned Judge, and specifies that an attorney can contact the Civil Division's presiding judge if s/he does not receive a response within a few days.

The e-praeceipe form has been updated to more clearly specify whether oral argument will be held on a motion.

- Attorneys would like to have the auditory of the hearings after the court sessions. On-line filings are truly online: Delays with filings have been weeks at a time. Therefore, auditory access to the proceedings would be helpful.

Comment: Attorneys can contact Court Reporting at 313-224-0409 to request a transcript of proceedings.

- Experienced attorneys want to monitor cases being handled by their associate attorneys who are still learning the practice of litigation. The City of Detroit stressed this was needed.

Comment: Attorneys should contact the assigned Judge for information regarding who may attend in-person proceedings and preferences regarding access to Zoom hearings.

- Judges do not necessarily get all of the pleadings. Clerk may have them but the judge has not received all of them and this causes delays.

Comment: Attorneys are encouraged to email a copy of eFiled motions/briefs to the Courtroom email address established for each court.

- The division does not have a consistent protocol so it is not clear when counsel needs to be present on a matter.

Comment: The updated e-praeceipe is designed to better inform attorneys of whether oral argument will be held, but attorneys should check the assigned Judge's courtroom protocol or contact the specific court to confirm.

- Judges should post reminders on screens for parties to unmute.
- Summary disposition motions are heard at the discretion of the judges. Parties are not given an opportunity to opt in. In some cases, orders say that there was not a response but the response was filed.

Comment: An attorney who wants oral argument on his/her motion for summary disposition should contact the courtroom of the assigned Judge to specifically request it.

The attorneys realized that all hearings were not appropriate for Zoom, and inquired about plans to open up courtrooms for some in-person proceedings.

The attorneys were concerned about the case backlog. One attorney reported that he was told that it was 9,000 cases waiting processing. With the delays in filings, the attorney noted:

- The experience issues contacting the proper party and need a uniform protocol to contact courtrooms to ensure responses are received.

Comment: The Civil Division’s updated protocol is intended to address this issue.

- The Court should adopt a practice in which pleadings filed by self-represented litigants are automatically sent to the other side.

Comment: Attorneys should receive pleadings that are e-served. Otherwise, attorneys on a case involving a pro se litigant are encouraged to contact the assigned court regularly to stay aware of filings.

- The links in the eFiling emails expire too soon. Counsel may need to download documents after the current expiration date.

The Civil Division began jury trials in July and one attorney who had conducted trials offered his feedback.

- Jury Trial (8/30/21). The Court did a great job keeping everyone safe. The courtroom was hot and the temperature needs to be addressed. The Plexiglas and masks made it difficult to convey and hear messages. Also the masks prevented counsel from seeing the jurors’ expressions. There was late notice regarding advising whether the case would go forward. It would be helpful to have a posted list of the cases in the line-up so attorneys can timely prepare. “The ability to share screen with Zoom was awesome.” The Court’s technological support was good.

The Attorneys offered suggestions on the alternative dispute resolution processes. One attorney noted case evaluation recommendations for medical malpractice cases are routinely being rejected. “Nothing is settling. Perhaps there should be more penalties available.” Another attorney proposed that the Court play a leading role in handling mediation differently. He has drafted a proposed administrative order to provide teeth in mediation: For example, in eviction matters, the Court could order the State come to mediation and direct the parties to provide substantive support for their positions.

Comment: The upcoming Bench-Bar Conference scheduled for November 30 will touch on ADR; attorneys can email Lisa Timmons at the MTA with any suggestions for improving case evaluation and/or ADR.

Criminal Division

Presiding Judge Prentis Edwards, Jr.

Deputy Court Administrator: Alisa Shannon

Follow-up Community Meeting Date: TBD

Suggestions for improvements from all parties following the stakeholders meeting are as follows:

- Allow more eFiling for MDOC (i.e. PV warrants)

- Continue virtual hearings for non-trials
- No more cattle-call dockets
- Maintain video visits for attorneys and clients
- Create a way for original warrants to get in file
- Have staggered appearance times for cases
- Create ways for defendants to use tablets in jail for visits with attorneys, instead of sending to breakout rooms
- Allow AOI waiver by mail
- Allow attorneys to Zoom in to courtroom to request change in date
- Allow defendants to acknowledge on the record their signature on the plea forms
- Defense counsel needs the plea offer from the Prosecutor at least 48 hours before hearing so they have time to review/meet with defendant and review any documents
- Would like stations set up to allow access to Zoom for defendants

To date, the Division has implemented the following:

- The ability for Michigan Department of Corrections to submit PSI and warrant request electronically
- Virtual hearings in all AOI courtrooms and in trial courtrooms where appropriate

2. Follow up – Criminal Stakeholder Meetings

- Criminal judges have reduced the number of cattle-call dockets and scheduled staggered dockets to address cases
- Video visits remain in place
- AOI waiver by mail served as a pilot project and was only for those matters where the defendant was waiving the AOI hearing
- We are operating 12 trial dockets which minimizes the number of courtroom attorneys are stretched between
- We provide a minimum of 35 days- notice regarding trial dates
- Email accounts were created for each courtroom to provide direct access to the Judge and his/her assistant regarding date changes

Family Division – Domestic

Presiding Judge Melissa Cox

Deputy Court Administrator: Erin Lincoln

Follow-up Community Meeting Date: TBD

Chief Judge Timothy M. Kenny held two meetings with stakeholders of the Family Division/Friend of the Court pursuant to MCR 8.110 to gather feedback on the Court's response to the COVID-19 pandemic. The meetings were held on September 1, 2021. Community partners and local agencies were invited to the 11:00 a.m. meeting and members of the private bar were invited to the 2:00 p.m. meeting. There were approximately seventy-five participants between the two meetings and community

partners such as William Booth Legal Aid Clinic, Lakeshore Legal Aid, The Children's Center, Michigan Office of Child Support were represented at the meetings.

Common themes emerged from the two meetings with community stakeholders. By and large, the use of Zoom for Court hearings received positive feedback. Community stakeholders appreciated the efficiency that comes with the use of Zoom and the safety involved in virtual hearings as well during the pandemic. It was noted that Zoom offers a convenience for litigants as they do not have to take a whole day off of work to come to Court and it saves them the cost of travel and parking as well. Attorneys also indicated it saves their clients' money as the attorneys do not have to take as much time attending hearings. Another benefit is safety for parties on the Personal Protection Order docket and also for parties who experience domestic violence. One of the downfalls mentioned about Zoom was that some Judges tend to have a "cattle-call" docket and schedule all hearings for the same time slot, instead of giving each hearing a designated date and time. The Family Domestic Division will take this feedback back to the Judges and Referees and ensure the Courtrooms are doing what they can to avoid this "cattle-call" type docket.

The other resounding piece of feedback discussed at the stakeholder meetings was the Family Domestic Division's filing system. When the pandemic started in March of 2020, the Family Domestic Division had to quickly transition from an in-person filing system to an electronic filing system. For a myriad of reasons, eFiling through the State Court Administrative Office's solution was not available to the Family Domestic Division at that time and is still not an option. The system currently put into place consists of filing by email. Both the community partners and members of the private bar expressed frustration with the backlog of the email filing system and the amount of time it takes to get any type of filing processed. Participants also expressed frustration with the fee waiver process and the delay in obtaining a fee waiver.

The Family Division has received the feedback about the email filing system presented at these meetings. One item that was quickly rectified is that fee waivers are pulled from the email filing boxes and handled immediately so that they can be returned to litigants and/or attorney in a timely manner. The Family Division is also working with the Information Technology Systems Bureau (ITSB) to develop a new electronic filing system that will reduce processing times and create efficiencies over the current filing system. Implementation of this new system is expected in approximately three months. In addition, the Family Domestic Division has been providing updates, via the Court's website and emails to various bar associations and community partners, regarding the backlog of Family Domestic filings in an effort to get information to litigants and attorneys about anticipated wait times for the processing of their filings.

The Family Domestic Division will schedule a follow-up meeting with both the community partners and members of the private bar to discuss the changes that have been made already and to gather any additional feedback about Court services. This follow-up meeting is anticipated to be held in January 2022.

Family Division – Juvenile
Presiding Judge Edward Joseph
Deputy Court Administrator: Toielynn Smith
Follow-up Community Meeting Date: TBD

There were areas identified by the legal community that presented opportunities for improvement. The Court has taken steps to make these improvements in the following areas:

- How Zoom hearings are scheduled
- Improving communications between the courtrooms and those waiting for their hearings to be called
- The process for requesting the waiver of filing fees
- Sharing detailed contact information of parties with their attorneys to facilitate better communication
- Taking steps to address the backlog of Child Welfare cases

Scheduling of Zoom hearings

It was brought to the Court's attention that there are occasions where jurists have scheduled several hearings on Zoom at or around the same time, causing long wait times for participants. The Court has addressed this issue by requesting that all jurists ensure that scheduled hearing times are staggered so as to ensure that there is not a long wait time before a scheduled hearing begins.

Communication between Courtrooms and Awaiting Parties and Attorneys

One of the issues raised with the Court was parties and their attorneys waiting on hold in Zoom for their cases to be called and not having the benefit of any updated information from the courtroom as to when their case would be called. The Court has responded by encouraging all of the Courtroom Court Clerks to call the parties and attorneys at various times to make sure that they are fully informed as to when to expect their case to be called.

Waiver of Fees

Attorney Associations that contract with the Court to provide Quality Legal Representation to parents in the Child Welfare System sought a way to request a waiver of filing fees when they file their Custody matters in the Domestic Relations Section. The Attorney Associations were directed to file a motion under MCR 2.002 requesting consideration for the waiver of filing fees on behalf of their clients. This was well received by the Attorney Associations and will be implemented.

Facilitating Communication between Attorneys and their Clients

Juvenile Attorneys expressed concern about their ability to effectively communicate with their clients prior to any hearing. They have been frustrated with not having accurate information to contact their clients. The Court has communicated with each courtroom and instructed them to ensure that the most recent updated contact information is shared with attorneys so that they can more easily contact and communicate with their clients

Backlog of Child Welfare Cases

The Wayne County Department of Health and Human Services expressed concern that there were a number of unresolved child welfare matters that need to be adjudicated and remain unresolved because of delays caused by the pandemic. The Court is taking steps to address this backlog of Child Welfare cases. The Court is exploring the opportunity of utilizing two additional Courtrooms at CAYMC in January/February of 2022. This additional resource will allow the Court to eradicate the backlog of cases.