



THIRD JUDICIAL CIRCUIT  
OF MICHIGAN

ROBERT J. COLOMBO, JR.  
CHIEF JUDGE

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**LOCAL ADMINISTRATIVE ORDER 2017- 03**

**STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT**

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**SUBJECT: PLAN FOR ASSIGNMENT OF COUNSEL IN THE THIRD CIRCUIT  
COURT – FAMILY DIVISION**

This Administrative Order rescinds and replaces Administrative Order 2014-06.

Pursuant to MCR 8.112(B) and 8.123(C), the Third Judicial Circuit (the Court) adopts the following as its Plan for the Assignment of Counsel:

**I. Introduction**

- A. Organization of the Plan for Assignment of Counsel. The Court presently maintains a Criminal Division to adjudicate criminal cases within its jurisdiction and a Domestic Relations Section and Juvenile Section to adjudicate cases within the jurisdiction of its Family Division.
- B. Taking into account how domestic relations and juvenile cases are processed and the traditional methods of assigning counsel in these different areas of the Court, the Court's Plan for Assignment of Counsel (the Plan) is organized into two parts, each of which details how assignments of counsel are made.

**II. Assignment of Counsel, Family Division – Domestic Relations Section**

- A. Types of Assigned Counsel in the Domestic Relations Section. Assigned counsel in the Domestic Relations Section may be of one of the following three types:
1. House counsel: Attorneys may be assigned as house counsel to represent parties appearing before the Domestic Relations Section on the PPO Docket and Show Cause Docket.

2. **Assigned Counsel:** Attorneys may be assigned to represent individual parties who lack representation that is required by law, including cases involving military defendants.
  3. **Appointed Counsel:** Attorneys may be appointed as required by due process by the judge presiding over the case or by the Case Processing Department.
- B. Scope. Where assignment of counsel for a military defendant or an indigent party is required involving personal protection matters (PPO), paternity, contempt of court show cause proceedings, or other matters and/or cases within the jurisdiction of the Third Circuit Court – Family Division – Domestic Relations Section, appointment of counsel shall be made pursuant to the following provisions.
- C. Attorney Eligibility.
1. Requirements. Attorneys seeking assignments for domestic relations matters must be in good standing with the State Bar of Michigan and are required to submit, no later than October 31 of each year, the following to the Case Processing Department, 770 Coleman A. Young Municipal Center, Two Woodward Avenue, Detroit, Michigan 48226:
    - a. A completed Attorney Profile Sheet. Attorney Profile Sheets are available at the Case Processing Department.
    - b. Proof of certification from the mandatory annual continuing legal education seminar administered by the Detroit-Wayne County Criminal Advocacy Program (CAP).
    - c. All certified attorneys shall notify the Case Processing Department of any change in business address, email address, office telephone number, cell phone number, FAX number, pager number, or any other changes in the information on the Attorney Profile Sheet.
  2. The Domestic Relations Attorney Review Committee. The Domestic Relations Attorney Review Committee (Committee) includes the Presiding Judge of the Domestic Relations Section, the Executive Court Administrator (or designated representative), and two judges serving in the Domestic Relations Section. The Presiding Judge shall select these judges on a rotational basis.
    - a. The Committee shall meet periodically to review attorney profiles and determine in its sole discretion whether an attorney is qualified under the foregoing provisions for placement on the Assigned Counsel Eligibility List and whether the attorney is qualified to provide any specialized representation, such as for military defendants or with regard to Personal Protection Orders. The Committee shall also designate those attorneys eligible to receive assignments as appellate counsel.

- b. In accord with subsection 4 and subject to its sole discretion, the Committee shall remove attorneys from the Assigned Counsel Eligibility List who violate court policy, who have been suspended or disbarred, and/or do not demonstrate the ability to provide adequate representation to clients.
3. The Assigned Counsel Eligibility List. The names of all attorneys approved by the Committee shall be maintained in an automated rolling list in the assigned counsel program database. The database of approved attorneys shall constitute the Domestic Relations Assigned Counsel Eligibility List (Eligibility List). The Eligibility List will include no more than 100 attorneys. Should the list drop below this number, the Committee shall meet and add eligible attorneys as needed. Additionally, in an effort to promote new attorney participation, the Committee will choose at least 10 attorneys per year with under 10 years' experience for placement on the Eligibility List.
  - a. Printed copies of the Eligibility List shall be provided to the Domestic Relations Section Bench.
  - b. Payment to attorneys who are not on the Eligibility List for services rendered pursuant to a judicial appointment will be at the rates established for the compensation of attorneys receiving assignments pursuant to the Eligibility List.
4. Removal from the Eligibility List. The Committee may remove an attorney from the Eligibility List due to complaints made about the attorney, policy violations committed by the attorney, the attorney's suspension or disbarment, or for other good cause.
  - a. Complaints Regarding Assigned Attorneys. Complaints about attorneys who are assigned cases under the provisions of this Division shall be forwarded to the Committee using the Assigned Counsel Complaint/Request for Discipline form. The Committee shall review the Complaint to determine whether removal from the Eligibility List or other discipline is necessary.
  - b. Policy Violations.
    - (1) The Committee and the attorney shall be notified of instances of unexcused or unreasonable tardiness or absence of house counsel or other policy violations by the Case Processing Department. The Committee and the attorney shall be notified by the appointing judge of instances of unexcused or unreasonable tardiness or absence of assigned or appointed counsel.
    - (2) Upon being notified of an unexcused or unreasonable tardiness or absence of house counsel, the Presiding Judge shall, via first class mail,

notify the attorney that another instance of unexcused or unreasonable tardiness or absence within the next six month period shall, without further notice to the attorney, result in the attorney's name being deleted from the Eligibility List. The Case Processing Department shall remove the names of attorneys who have failed to comply after being sent a warning letter from the Eligibility List.

- c. Suspension or Disbarment. If an attorney has been suspended or disbarred from the practice of law, the attorney shall be removed from the Eligibility List without further notice until the attorney demonstrates membership in good standing with the State Bar of Michigan.
  - d. Other Good Cause. For other good cause, upon being notified of other complaints against assigned counsel, the Committee shall review the circumstances of the complaint and in its sole discretion take such action as deemed appropriate, including removal from the Eligibility List.
5. Reinstatement to the Eligibility List. If an attorney is removed from the Eligibility List, the attorney may apply for reinstatement if the attorney can otherwise satisfy the requirements of Section II(B)(1). Under no circumstances may an attorney be reinstated on the Eligibility List before 90 days have passed following the date of removal.

C. Assignment of Counsel.

1. In order to ensure equitable distribution of assignments, House Counsel assignments shall be made on a rotational basis from the Assigned Counsel Eligibility List; when specialized skills are required, the next available attorney on the Eligibility List with those skills shall be selected.
2. Notification of Assignments. Attorneys shall be notified of assignment (type, date, time, and place of hearing) via email.
3. Scope of Appointment.
  - a. House Counsel assignments to the PPO and Show Cause dockets shall be for the purposes of that hearing day only, unless otherwise ordered by the Court for purpose of judicial economy or other good cause.
  - b. Assigned Counsel assignments to a paternity case in which no order of filiation has been entered shall be through case closure or the entry of an order of filiation. Assigned Counsel shall not be removed from the case, once appointed, before an order of filiation has been entered unless upon order of the Court for good cause.

D. Removal/Replacement of Counsel on an Assigned Case.

A judge may remove an attorney who fails to appear at a scheduled hearing or for other good cause. Policy regarding attorneys serving as designated stand-ins is as follows:

1. House counsel: House counsel assigned by the Case Processing Department may not designate a stand-in attorney. If an attorney cannot appear for a scheduled house counsel assignment, the attorney shall inform the Case Processing Department, which shall then assign the next available attorney on the Eligibility List.
2. Assigned counsel: Accepting an assigned attorney's designated stand-in shall be at the discretion of the judge. An attorney designated as a stand-in for an assigned attorney must be on the Eligibility List.
3. Appointed counsel: Accepting an appointed attorney's designated stand-in shall be at the discretion of the judge.

E. Compensation.

1. Attorneys serving as house counsel for the PPO or Show Cause dockets shall submit vouchers for payment as directed by the Case Processing Department on the day of the assignment. Compensation for service as house counsel for the PPO or Show Cause Dockets is based upon the Court's current fee schedule, which is available at the Case Processing Department..
2. Attorneys serving as any type of assigned counsel shall submit vouchers under the provisions of the applicable fee schedule to the Case Processing Department.
3. The Case Processing Department shall submit vouchers it receives to the Office of Budget and Finance for review and processing.
4. Disputes. Attorneys may appeal alleged payment discrepancies by completing an Attorney Payment Inquiry Form, which is available at the Office of Budget and Finance, 707 Coleman A. Young Municipal Center, Two Woodward Avenue, Detroit, Michigan 48226. Completed Attorney Payment Inquiry Forms shall be submitted to the Office of Budget and Finance within one year of the date of the attorney's entitlement to payment, or the claimed fees will be deemed waived. Upon receipt of a timely attorney inquiry concerning an alleged payment discrepancy, personnel from the Office of Budget and Finance shall review and investigate the alleged discrepancy and make any necessary fee adjustments.
5. Reduction of Attorney Compensation. If an attorney fails to timely check in for an assignment or otherwise fails to fulfill the duties of an assignment, the attorney's

compensation may be reduced in addition to any other actions that might be taken under Section II(B)(4).

### III. Assignment of Counsel, Family Division - Juvenile Section

A. Scope. Assignment of counsel for an indigent party is required for children in delinquency cases and for respondents and children in child protection proceedings or other cases within the jurisdiction of the Third Circuit Court Family Division-Juvenile Section. For purposes of this Order, the assignment of a lawyer guardian ad litem shall constitute the assignment of counsel. The Court will enter into contracts with providers of legal services such as the Juvenile Law Group (JLG), the Michigan Children's Law Center (MCLC) and other groups of practicing attorneys to provide exclusive representation for juveniles in both delinquency and child protection proceedings, including any appeals that arise out of these proceedings. These individual contracts shall govern the provisions of assigned counsel services by these vendors. These vendors will be responsible for ongoing legal education of all attorneys within their respective groups, including ensuring that their attorneys have complied with the requirements of Section III(B)(1).

Assignment of counsel for all matters not including representation of juveniles in delinquency and child protection proceedings shall be made pursuant to the following provision.

#### B. Attorney Eligibility.

1. Requirements: Attorneys seeking house counsel assignments in the Juvenile Section are required to submit an application online during the open application period. A link will be posted on the Third Circuit Court website ([www.3rdcc.org](http://www.3rdcc.org)) during the open application period, which will occur once per year. Notice of the open application period will be posted at the Lincoln Hall of Justice, as well as in the Detroit Legal News. Further requirements are set forth in the online application.
2. Appeals. In addition to the foregoing eligibility requirements, attorneys seeking appellate assignments must submit a sample brief for review by the Juvenile Attorney Review Committee. All attorneys seeking appellate assignments must have a minimum of 5 years' experience in child protection cases to be considered for appellate work.
3. Designated Cases. In addition to the foregoing eligibility requirements, attorneys who provide representation for juveniles on designated cases must provide proof of current Detroit-Wayne County Criminal Advocacy Program (CAP) yearly certification for capital offenses.

4. Custody Proceedings. All attorneys seeking house counsel assignments that may involve custody determinations must provide proof of completion of the annual domestic relations continuing legal education certification from the Detroit-Wayne County Criminal Advocacy Program (CAP).
5. The Juvenile Attorney Review Committee. The Juvenile Attorney Review Committee (Committee) includes the Presiding Judge of the Juvenile Section, the Deputy Court Administrator (or designated representative), and two judges serving in the Juvenile Section. The Presiding Judge shall select these judges.
  - a. Once per year, each Judge assigned to the Juvenile Section will be provided with all applications submitted by attorneys seeking assignments. Each judge will select 20 applications of those who meet the minimum qualifications set forth in this part, and submit a list of their selections to the Committee.
  - b. The Committee shall review the application lists submitted by the Judges of the Juvenile Section. The Committee will then choose the attorneys from those lists or choose other qualified attorneys to be placed on the Eligibility List. The Committee shall also designate those attorneys eligible to receive appointments as appellate counsel to represent parents or guardians.
6. The Assigned Counsel Eligibility List. The names of all attorneys approved by the Committee shall be maintained in an automated rolling list in the assigned counsel program database. The database of approved attorneys shall constitute the Juvenile Assigned Counsel Eligibility List (Eligibility List). The Eligibility List will include no fewer than 100 attorneys. Should the list drop below this number, the Committee shall meet and add eligible attorneys as needed. Additionally, in an effort to promote new attorney participation, the Committee will choose at least 10 attorneys per year with under 10 years' experience for placement on the Eligibility List.
  - b. All attorneys on the Eligibility List must be willing to mentor less experienced attorneys seeking assignments. Failure or refusal to participate in this program will result in removal from the Eligibility List. There will be no compensation for mentoring.
  - b. Printed copies of the Eligibility List shall be provided to the Bench.
7. Removal from the Eligibility List.
  - a. Complaints about attorneys who are assigned cases under the provisions of this Part shall be forwarded to the Committee using the Assigned Counsel Complaint/Request for Discipline form.

b. Policy Violations.

- (1) The Committee and the attorney shall be notified of instances of unexcused or unreasonable tardiness or absence of assigned counsel or other policy violations.
- (2) Upon being notified of an unexcused or unreasonable tardiness or absence of assigned counsel, the Presiding Judge shall, via first class mail, notify the attorney that another instance of unexcused or unreasonable tardiness or absence within the next six month period shall, without further notice to the attorney, result in the attorney's name being deleted from the Eligibility List. Assigned Counsel Services shall remove from the Eligibility List the names of attorneys who have failed to comply after being sent a warning letter.
- (3) Upon being notified of other complaints against assigned counsel, the Committee shall review the circumstances of the complaint and in its sole discretion take such action as deemed appropriate, including, but without limitation, removal from the Eligibility List.
  - i. Unless the need for immediate action is present, the existence of which shall be in the sole discretion of the Committee, before taking action on a complaint against an attorney on the assigned counsel list, the Committee shall notify the attorney of the substance of the complaint via e-mail or fax or first class mail. The attorney against whom a complaint is made may respond in writing to a complaint, but, must do so within 10 business days of the notification. Notification shall be deemed to have occurred on the day the e-mail or fax or letter is sent. The Committee need not consider responses made after the time specified herein for response.
- (4) If an attorney is removed from the Eligibility List, the attorney may apply for reinstatement for the next year's Eligibility List if the attorney can otherwise satisfy the requirements of Section III(B)(1).
- (5) Upon being informed that an attorney has been suspended or disbarred from the practice of law or has not completed the required training, the attorney shall be removed from the Eligibility List without further notice and until such time that compliance of the previous mentioned requirements are obtained.

C. Assignment of Counsel.

1. For those cases that are not already assigned based on contracts as indicated in Section III(A), house counsel assignments are made on a rotational basis from the Eligibility List to ensure an equitable distribution of assignments. This rotation



is drawn randomly by a computer program, so as to ensure equitable distribution. A sufficient number of attorneys shall be assigned to represent all indigent parties except juveniles for each daily docket. Assignments shall be made only to attorneys who are on the Eligibility List.

- a. Under the one judge-one family rule, attorneys shall be assigned to cover the same party if there is a pending or open case as defined in the Family Division – Juvenile Section Case Assignment Rule.
- b. Scope of Assignment. The assignment of an attorney serving as house counsel shall be scheduled in half-day intervals unless assigned to represent a party in an ongoing case as previously defined. Such assignment continues until case closure.

D. Removal/Replacement of Counsel on an Assigned Case.

1. A judge may remove an attorney for failure to appear at a scheduled hearing or other good cause. Accepting the assigned attorney's designated stand-in shall be at the discretion of the judge.
2. The Chief Judge may reassign counsel during the post-dispositional stage of a case in order to expeditiously implement this Plan as indicated in Section III(A) and to ensure that the interests of the children and the public are properly served.
3. Upon receiving notice of reassignment, an attorney may bring a motion before the Chief Judge to remain as the assigned counsel in one or more cases. Upon a demonstration of special circumstances, the Chief Judge retains the discretion to allow the moving attorney to remain the assigned counsel.

E. Compensation.

1. MCLC, JLG, and any other contracted attorney groups shall be compensated according to the terms of the existing contract between the Court and the attorney group. Any disputes regarding compensation shall be handled in accord with the terms of the contract.
2. Individual Assigned Counsel
  - a. Compensation for private attorneys shall be pursuant to the Court Appointed Attorney Fee Schedule that is in effect at the time that compensation is sought. Copies of the current Court Appointed Attorney Fee Schedule are available at the Office of Budget and Finance, 707 Coleman A. Young Municipal Center, and the Office of Assigned Counsel Services, Room 104, Building B, Lincoln Hall of Justice.

- b. Verification of Services and Request for Payment Forms (MJC-910) shall be provided to court appointed counsel for completion and submission for payment for the following types of services: Stand-by counsel; appeals; show-ups; adoption hearings; guardian ad litem; extraordinary fees (subject to obtaining approval of the Chief Judge); representation of non-parent adults; AWOLP docket representation; and custody hearings.
- c. Disputes. Attorneys may appeal alleged payment discrepancies by completing an Attorney Payment Inquiry Form, which is available at the Office of Budget and Finance, 707 Coleman A. Young Municipal Center, and the Office of Assigned Counsel Services, Room 104, Building B, Lincoln Hall of Justice. Completed Attorney Payment Inquiry Forms shall be submitted to the Office of Budget and Finance within one year of the date of the attorney's entitlement to payment, or the claimed fees will be deemed waived. Upon receipt of a timely attorney inquiry concerning an alleged payment discrepancy, personnel from the Office of Budget and Finance shall review and investigate the alleged discrepancy and make any necessary fee adjustments.

#### **V. Judicial Appointments**

In the event an appointment is required, Judge shall not appoint an attorney with whom:

- A. The judge was a partner of the attorney or a member of the same law firm as the assigned attorney within the preceding two years, or
- B. The judge is the attorney's spouse, parent or child, a person within third degree of relationship to the attorney, or has a relationship with an attorney that creates an appearance of impropriety or partiality, or which would otherwise lead to the disqualification of a judge under MCR 2.003.

#### **VI. Reports/Records**

- A. The Court shall annually report Assigned Counsel information to the State Court Administrator's Office pursuant to MCR 8.123.
- B. The Court shall maintain all Assigned Counsel records as required by MCR 8.123 and provide those records to the State Court Administrator's Office when requested.

#### **VII. Administration of the Plan**

The Executive Court Administrator shall have overall responsibility for the administration of this Plan.

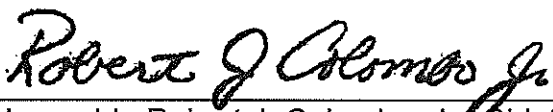
**VIII. Reports to the State Court Administrator**

Upon request from the State Court Administrator, the Executive Court Administrator shall provide a copy of the most recent annual report pertaining to appointments made under any or all sections of this Administrative Order or data on an individual attorney or judge for a period specified in the request.

**IX. Effective Date**

This Local Administrative Order shall be effective upon approval of the State Court Administrative Office.

**Dated: March 29, 2017**

  
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Honorable Robert J. Colombo, Jr., Chief Judge  
Third Judicial Circuit of Michigan

**Date Approved by SCAO: April 19, 2017**