

FORTY-NINTH JUDICIAL CIRCUIT OF MICHIGAN

COUNTIES OF MECOSTA AND OSCEOLA

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Circuit Judge**ADMINISTRATIVE ORDER 2004-1****APPOINTMENT OF INDIGENT COUNSEL****It is ordered:**

This Administrative order is issued in accordance with Michigan Court Rule 8.123, effective January 1, 2004. The purpose of this Order is to set forth the procedures for the selection, appointment and compensation of counsel who, by law, must be appointed to represent indigent parties in the 49th Judicial Circuit Court.

A: Selection Procedure

Attorneys licensed to practice law in the State of Michigan may apply to the Chief Circuit Judge of the 49th Judicial Circuit to be placed on the roster of counsel eligible for appointments within the Circuit. The Court may maintain separate rosters for each of the Counties in the Circuit. It shall be the sole decision of the Chief Circuit Judge of whether or not to add an attorney applicant to the roster and what categories of cases said attorney may be eligible to receive appointments for.

Considerations in the selection process include the applicant's experience with the types of cases for which appointments are sought, the Court's prior experience with the applicant, input from counsel on the roster, input from counsel not on the roster but who are personally familiar with the applicant and input from judges before whom the applicant has appeared. The number of attorneys on the roster, or the area of the roster for which the applicant is being considered, may be considered as a matter of fairness to the attorneys on the roster who have built their practices with the receipt of appointments being a matter of import to their practices. Geographic considerations may be taken into account to assure that attorneys receiving appointments will be those maintaining practices near the county seats of the counties comprising the Circuit to assure their availability to their clients and the court, with first preference being given to attorneys who maintain offices for their practice within the circuit.

The format of the roster may change from year-to-year. For example, the Court may use an open rotating roster system with separate, or overlapping, lists by case type. The court may negotiate contracts with attorneys, individually or in groups, with the selection process being part of the negotiated contract on terms not inconsistent with those stated

herein. Decisions regarding the roster type include providing competent counsel to indigent parties legally entitled to appointed counsel, considerations of fiscal responsibility to the Court's funding units and striking an appropriate balance between Court control of the process with considerations of administrative burden on the staff of the court.

B: Appointment Process

(1) Determinations of indigency:

(a) Criminal Cases

In criminal cases which are within the jurisdiction of the Circuit Court the Determination of indigency shall be made by the first District Court judge or Magistrate before whom the defendant appears for arraignment on request by said defendant. If a request for appointment of counsel is first made after the first arraignment in the District Court the request shall be made on State Court Administrator-approved forms for requesting appointment of counsel and decided by the presiding judge or magistrate in whichever court such request is first made

Appointments made by a District Court Judge or Magistrate are effective when made, the appointment may be modified or vacated by the Chief Circuit Court Judge.

In post-conviction proceedings, such as probation violations, requests for appointment of counsel shall be directed to the Chief Judge of the Circuit Court or the judge presiding over the proceeding.

(b) Family Division Cases

Parties claiming to be legally entitled to appointment of counsel in cases within the jurisdiction of the Family Division of the Circuit Court shall complete the appropriate form approved by the State Court Administrator's Office and submit such to the office of the Chief Judge of the Circuit Court or the office of the Judge presiding over the case regarding which the appointment of counsel is sought for ruling on the request.

C. Selection of Counsel for Appointment

(1) Absent contractual obligations to the contrary, appointments shall be made on a rotation basis from the appropriate roster of eligible attorneys for the case type regarding which the appointment is being made, subject to the following:

(a) When variation from the rotation is necessitated due to the complexity of the case, conflicts of interest, current or former representation of the indigent party by other counsel such that continuity of representation is appropriate, unavailability of or inability to timely contact the next attorney on the roster or on request of the next attorney on the roster.

- (b) Except where passed due to unavailability or on the attorney's request, an attorney's name shall remain at the top of the relevant roster list pending the next available appointment that attorney is eligible to receive.
- (c) On request from an attorney, the Chief Judge may increase or decrease the frequency in the rotation of the roster(s) that attorney is listed in.
- (d) The Chief Judge of the Circuit Court may reduce the frequency of an attorney's appearance in a roster when such is deemed appropriate based on the Chief Judge's determination that said attorney's level of practice should be reduced, but not terminated.
- (e) The Chief Judge of the Circuit Court may remove an attorney from a or the roster if he/she determines that said attorney is not fulfilling his/her obligation to adequately represent the clients to which he/she is being appointed, persistently engages in inappropriate billings for services rendered to clients or other cause(s) determined appropriate by said Chief Judge.

D. Compensation of Appointed Counsel


Attorneys appointed pursuant to this Order shall be compensated according to a pay scale adopted by the Court and applied uniformly to counsel on roster(s) according to which said attorney has been appointed. If the Court enters into a contract with an attorney or group of attorneys that contract will control their compensation, but no such contract may vary, in terms of compensation, from the Court-established pay scale if said contract does include all attorneys appearing on the roster covered by the contract.

Attorneys shall submit billings explaining the charges pursuant to the terms of the relevant pay scale or contract in sufficient detail to allow for an analysis of the appropriateness of the billing. Such determinations shall be in the sole discretion of the Chief Circuit Judge.

E. Miscellaneous

The requirements of MCR 8.123 shall be fully complied with regarding records maintenance, retention and public access as well as responding to requests from the State Court Administrator for records. The required records shall be maintained in the offices of the Chief Judge.

Feb 13, 2004
Date:


Hon. Lawrence C. Root, Chief Judge
49th Judicial Circuit Court