



Hon. Matthew J. Fader, Chair
Chief Justice, Supreme Court of Maryland

Hon. Donine Carrington Martin
Circuit Court for Charles County

Hon. Audrey J. S. Carrión
Chair, Conference of Circuit Judges

Hon. Karen Christy Holt Chesser
District Court in St. Mary's County

Hon. Heather S. DeWees
Vice-Chair, Conference of Circuit Court Clerks

Nancy Faulkner
Secretary, Deputy State Court Administrator

Hon. Jeffrey S. Getty
Circuit Court for Allegany County

Hon. Fred S. Hecker
Vice-Chair, Conference of Circuit Judges

Kathy Hefner
*Administrative Clerk
District Court in Montgomery County*

Hon. Geoffrey G. Hengerer
District Court in Baltimore City

Hon. James A. Kenney, III
Chair, Senior Judges Committee

Hon. Stacy A. Mayer
Circuit Court for Baltimore County

Stephanie Medina
Chair, Conference of Circuit Court Administrators

Hon. John P. Morrissey
Chief Judge, District Court of Maryland

Amanda Purnell
Vice-Chair, Conference of Circuit Court Administrators

Judy Rupp
State Court Administrator

Rebecca Sloane
*Administrative Clerk
District Court in Cecil County*

Hon. Shaèm C. P. Spencer
District Court in Anne Arundel County

Hon. Kevin Tucker
Chair, Conference of Circuit Court Clerks

Roberta Warnken
Chief Clerk, District Court of Maryland

Hon. E. Greg Wells
Chief Judge, Appellate Court of Maryland

Hon. Alan M. Wilner
Chair, Standing Committee on Rules of Practice and Procedure

MARYLAND JUDICIAL COUNCIL

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Meeting Minutes
September 25, 2024

Judicial Council Members Present:

Hon. Matthew J. Fader, Chair
Hon. Audrey J.S. Carrión
Hon. John P. Morrissey
Hon. Karen Christy Holt Chesser
Hon. Heather S. DeWees
Nancy Faulkner
Hon. Jeffrey S. Getty
Hon. Fred S. Hecker
Kathy Hefner

Hon. James A. Kenney, III
Hon. Stacy A. Mayer
Stephanie Medina
Amanda Purnell
Judy Rupp
Rebecca Sloane
Hon. Kevin Tucker
Roberta L. Warnken
Hon. E. Greg Wells

Others Present:

Rich Abbott
Sebastian Baez-Pagan
Hon. Brynja M. Booth
Robert Bruchalski
Melissa Canada
Maureen Denihan
Lou Gieszl
Hon. James H. Green

Cynthia Jurrius
Amanda Miller
Hon. Douglas R.M. Nazarian
Hon. John S. Nugent
Sharon Reed
Chris Sharpes
Gillian Tonkin
Annamaria Walsh

A meeting of the Judicial Council was held on Wednesday, September 25, 2024, at the Maryland Judicial Center, beginning at 9:33 a.m. Chief Justice Matthew J. Fader welcomed attendees and announced that the meeting was being livestreamed on mdcourts.gov. Justice Fader then asked for approval of the minutes from the previous meeting. Judge James A. Kenney, III made a motion with a second from Judge Audrey J.S. Carrión. After hearing no objections, the minutes were approved.

1. Committee/Strategic Initiative Updates

a. Alternative Dispute Resolution Committee

Judge John S. Nugent is chair of the Alternative Dispute Resolution (ADR) Committee, which oversees two subcommittees. Presenting with him were committee staff members Cynthia

Jurrius, Director of the Mediation and Conflict Resolution Office (MACRO); Annamaria Walsh, Director of the Appellate Court of Maryland (ACM) ADR Programs; and Maureen Denihan, Director of the District Court ADR Programs.

Last year, the committee presented to the Judicial Council statistics on ADR sessions held remotely in 2022 versus in person. The committee continued to collect and analyze data for comparison and recently released the *Alternative Dispute Resolution Data Summary Fiscal Year 2023*. The report shows a significant increase in both circuit court and District Court in person day-of-trial ADR use in 2023, which has proven to be a highly successful program. Judge Nugent explained that courts were still recovering from the effects of the pandemic in 2022 and that the increase in participation was likely based on the return to more normal court operations in 2023.

Survey results indicate a very high satisfaction rating among ADR session participants, including zero reports of technical issues among those surveyed. The outcome of over 2,500 ADR sessions remained almost identical for in person versus remote usage in circuit court civil, non-domestic cases, leading to the conclusion that remote ADR continues to be a very valuable court tool. Another noticeable trend occurred in family law cases where the number of in person sessions resulting in full agreements was significantly different from those when sessions were held remotely. While this is a trend worth monitoring, it is important to note that courts are able to reach a higher number of cases remotely, which may affect the data.

The ADR Committee is creating the Workgroup on Best Practices in Court-Connected ADR for civil, non-domestic cases, which will be chaired by senior judge Nathan Braverman. The workgroup will address topics such as best practices for recommending in person or remote mediation, fees, consistency in orders, and whether mediation statements should be required. A question was raised whether a list of family law mediation fees across the state is available, as some jurisdictions are considering an increase. Ms. Jurrius stated that a list is being compiled and will be shared once it is complete. In addition, the workgroup will be tasked with exploring this matter further.

Judge Nugent also chairs the ADR in the Maryland Rules Subcommittee, which continues to finalize the statewide ADR practitioner roster application process under Md. Rule 17-207. Currently, practitioners must apply to individual courts, and the court determines who is qualified and tracks the CEU requirements. The proposed application process would relieve the court of these burdens by allowing practitioners to apply online directly to MACRO. Courts would retain the discretion to decide who is appointed, but MACRO would qualify the individuals and track education requirements. Ms. Jurrius appeared before the Rules Committee in June, and the change to Title 17 was unanimously approved. The Supreme Court will review the proposed change in October.

Judge Wayne A. Brooks chairs the District Court ADR Subcommittee. Several documents were revised in 2024, including the Day of Trial Case Disposition Information Sheets and Practitioner Referral Instructions. In the coming year the subcommittee plans to modify the mediation bench card and the ADR volunteer application.

MACRO continues to focus on court ADR programs, grants, practitioner efficacy and quality, research and evaluation, and public awareness of ADR. Circuit court ADR program managers meet

on a regular basis, which has proven to be beneficial in keeping everyone informed and sharing ideas. JIS is assisting in a small pilot program to improve the ADR tab in MDEC/Odyssey for more efficient data collection. The Maryland Program for Mediator Excellence (MPME) provides extensive continuing education opportunities for ADR practitioners using an online platform. Membership is free and programs include ethics, artificial intelligence, and gender diversity training.

The District Court ADR program focused on informing the public of services available prior to filing a court case. For instance, the brochure explaining how to file a small claim refers to ADR options, allowing potential litigants the opportunity to make informed decisions. In FY24, the District Court ADR Office received almost 3,500 public inquiries. Of the 326 pre-trial cases that participated in ADR, 64% resulted in an agreement. Over half of the 633 day-of-trial cases that participated in ADR resulted in an agreement. Another important area of focus was the online dispute resolution (ODR) data collection. Forms used by practitioners and participants are now available electronically and help to quickly capture qualitative data that was formerly only available using paper.

Supporting the volunteer practitioners is also essential in delivering high quality services. Over 4,300 hours were donated in the day-of-trial program. Mediator training opportunities this year included agreement writing best practices, high conflict situations, and landlord and tenant cases. In the fall, a volunteer appreciation luncheon will be combined with a full day of continuing education training. Chief Judge John P. Morrissey added that the District Court administrative judges and clerks meetings are timed to occur the same day so that there is an opportunity to thank the mediators in person. The next volunteer appreciation and training day is scheduled for October 30, 2024.

The Appellate Court ADR division had 96 cases referred to mediation with a 50% agreement rate. Pre-hearing conferences resulted in a higher agreement rate of 56% because they allow judges to engage in more open discussions with parties and to be more evaluative than normal mediation. There were 14 pre-mediation facilitations. These facilitations occur when parties have already discussed a settlement, and the mediator is needed to help work through lingering issues or provide guidance regarding filing. The agreement rate for civil, non-domestic cases was higher when sessions were conducted remotely. Similar to other courts, results showed a significantly higher agreement rate for domestic cases when ADR was held in person versus remote, presumably because the parties can more easily build a rapport when they are in the same room together.

Participants provided very positive feedback to having the option of mediation at the appellate level. There is a large focus on assisting self-represented litigants. The ADR program not only offers help with defining agreements and additional resources, but parties expressed appreciation for the support and compassion shown by the practitioners.

A recent grant proposal was presented to MACRO and Access to Justice (ATJ) for a Collaborative Law & Justice Center. The program would provide representation in domestic mediations, drafting of agreements and consent orders, and assess for referrals to the Maryland Volunteer Lawyer Services for appeal cases that do not settle. Funding was not available in FY23, but the request will be made again in the coming years. In the meantime, ATJ is working on a video series to help explain the appellate court process for self-represented litigants. Civil Justice, Inc. is also providing an attorney roster for representation available for mediation sessions.

b. Major Projects Committee

The Major Projects Committee (MPC) is co-chaired by Judge Morrissey and State Court Administrator, Judy Rupp and oversees two subcommittees and five workgroups. The MPC meets bi-weekly and covers up to 30 agenda items in each meeting. The focus is typically on major IT projects, process changes, data requests, and MDEC. There is representation from many different stakeholders and subject matter experts, which provides a unique opportunity for robust discussions.

A key accomplishment of the MPC this year was the final implementation of MDEC in Baltimore City. Also, electronic filing of landlord and tenant cases was successfully deployed statewide. Governor Moore pardoned over 175,000 cannabis cases and the MPC provided support in processing the expungement of those cases. Looking ahead, the committee will assist in deploying Case Search 3.0 in tandem with migration of the attorney portal. The Odyssey system will be upgraded to Enterprise Justice (EJ), and the contract with Tyler Technologies will be renewed. The last Odyssey update occurred in 2018 and the implementation of EJ will include 12 enhancements involving security, functionality, and automation, as well as integration of the File & Serve capabilities into one system. The goal is to roll out the update by the end of 2025.

The Data Governance Subcommittee is chaired by Jamie Walter, Director of Research & Analysis (R&A). Additional staff were added to R&A to focus on supporting the transparency of data and access rules. An operations analyst is reviewing reports to better understand the data and how it flows with the goal of using technology to support data requests. The data would be translated into interactive dashboards and used to assist in court processing and efficiency. Data can be used internally for management purposes and also in determining trends for issues such as time standards. In addition, a data warehouse would assist in providing data to external stakeholders more easily and with more transparency. Requests from the last several years are being reviewed to identify trends and develop the most inclusive parameters based on what has already been asked. A soft launch of the data warehouse is planned for later this year. The hope is to reduce the extensive amount of review hours required for each data request.

The MDEC Advisory Subcommittee is chaired by Judge Morrissey. Following the final implementation of MDEC, the subcommittee shifted its focus to improving court operations. Leadership from all courts have been invited to join quarterly meetings, which began in mid-September. Meetings will provide a continuous opportunity for courts to work more closely together and to learn from each other. Discussion topics include future enhancements, legislative impacts, and open dialogue. Chief Justice Fader inquired whether another body may be more appropriate to address the changes that arise from recommendations in the meetings and Judge Morrissey agreed.

The Alternative Work Arrangements Feasibility Workgroup reviewed feedback on the success of the new telework (TW) and alternative work arrangements (AWA) policies. Currently, only 26.5% of employees have a TW agreement in place and only 2.4% have alternative work schedules. Members explored more flexible options, nationwide trends, and conducted outreach to determine the most effective ways to support implementation in local courts. The workgroup will submit its final recommendations to Justice Fader by the end of the year.

This year, the Appeals Workgroup updated the appeals manual, QRG's, and several forms in Odyssey. Greg Hilton led a training to assist circuit court appeals clerks to gain a better understanding of the appellate court process.

Electronic filing for landlord and tenant failure to pay rent cases began in November 2023 and completed statewide implementation in May 2024. The workgroup is working through several financial issues with Tyler but anticipates a mandatory e-filing announcement in the near future. Courts will be able to run reports to monitor landlord and tenant filings and will be shared with the Department of Housing where the eviction rate is high to increase resources in that area. Once mandatory e-filing is implemented, the workgroup will sunset.

The Online Dispute Resolution (ODR) Workgroup is chaired by Lou Gieszl. The initial focus will be for minor traffic cases, then small claims followed by child access cases. The ODR tool is designed to support these cases at all stages, including services prior to case initiation and payment of fines and fees. For traffic cases, the system will allow users to upload a video or document providing an explanation, with future opportunities to conduct video trials. The workgroup completed case flow mapping and is working to integrate the system with Odyssey. Training recently began and the plan is to implement pilots in 2025.

Nancy Faulkner chairs the Redaction/AI Workgroup, which is tasked to oversee the implementation of artificial intelligence (AI) and redaction technologies within case management practices. CSI Intellidact was installed and integrated with Odyssey to support the cannabis redaction pilot program in Dorchester County. A redaction software dictionary was configured and will learn from the interaction with courts to help familiarize with court needs. The workgroup developed tip sheets, QRG's, and videos to train staff on the proper use of the redaction tool, which will also be used to redact minor victim information and other personally identifiable information.

c. Special Projects Committee

Last year, the Judicial Council approved the creation of the Special Projects Committee (SPC) to oversee the efforts of various bodies that are created to make recommendations concerning issues that either do not fall within the scope of other committees or that span multiple groups. Committee work is executed through six workgroups.

The Artificial Intelligence (AI) Workgroup is chaired by Justice Jonathan Biran and provides recommendations concerning the Judiciary's response to the initiation of generative AI, such as ChatGPT. The use of generative AI offers tremendous opportunities and challenges with respect to legal work and court operations. Technology can assist in summarizing voluminous documents, transcribing, and drafting orders but also raises concern over accuracy, security, and bias. Users have the ability to alter images or documents, potentially calling into question the authenticity of evidence. The workgroup issued guidelines for the appropriate use of generative AI earlier this year and worked with the Judicial College in developing mandatory security training. Although the rules already state one cannot file a document without knowing that it is accurate, the workgroup will continue to reassess whether rule changes are necessary.

The Business & Technology (B&T) Workgroup is chaired by Justice Brynja M. Booth and works alongside the Complex Litigation Committee of the Conference of Circuit Judges. The workgroup was tasked with reviewing the *2017 Final Report and Recommendations of the BTCMP Symposium* (Business and Technology Case Management Program) to determine whether the recommendations should be implemented.

The report identified key factors that limited the effectiveness of the B&T program such as non-uniformity across courts, inconsistent forms and case management, as well as a lack of opinions, and recommended a centralized structure. In 2022, the rule was changed to identify which cases would presumptively be included in the B&T program, but courts continued to operate individually. The B&T Workgroup examined current BTCMP data and conducted listening sessions with various stakeholders and discovered a precipitous decline in the use of the program. Courts were supportive of implementing a central structure but expressed concern over proper time and resources, including the impact of removing an active judge from regular dockets. Justice Booth acknowledged the concerns and stated the workgroup was tasked with determining whether the previous recommendations had merit to move forward.

Following its review, in July 2024 the workgroup submitted a report recommending the adoption of a central B&T program structure. The Chief Justice would work in conjunction with administrative judges to designate no fewer than three judges statewide to be in the program and work solely on B&T cases, including writing opinions. To qualify, judges must meet the education requirements but are not required to have experience. Judges would also be cross designated to enable their use in other jurisdictions. A program judge would be assigned to oversee and be responsible for case assignment, procedures, website updates, etc. Cases would be specially assigned to the B&T program by the administrative judge, and parties would be asked to waive venue to travel to the program judge's home circuit. The report also recommends a rule change that would allow litigants to cite opinions of B&T judges with persuasive authority. A recommendation was made to consider using senior judges for the program as they are knowledgeable and experienced. There was discussion amongst members regarding whether courts with designated B&T judges should receive additional judicial support if some of their judges were only assigned to the B&T docket. The Judiciary would secure funding to support the program. It may require legislative buy in, but the logistics of implementing the program are outside the scope of the workgroup.

The Transparency Workgroup is chaired by Judge Robert N. McDonald and provides recommendations for improving public access to court records. The workgroup is responsible for reviewing the governance of data and ensuring access complies with Title 16 rules. In addition, the implementation of CAPTCHA affected the ability of some agencies to legitimately access court records, and members are addressing ways to minimize those barriers.

The Judicial Security Task Force (JSTF) is chaired by Judge Brett R. Wilson to make recommendations concerning issues implicating the security of judicial officers, staff, and anyone who enters a judicial facility. There are three workgroups under the JSTF. The Threat Assessment/Legislative Initiatives Workgroup examined threats against judicial officers and explored legislative measures to enhance judicial safety. This workgroup developed a threat assessment survey that was shared with the courts earlier this year.

The Courthouse Security Review Workgroup conducted site visits and assessed the physical security of courthouses and other judicial facilities statewide and developed a detailed assessment protocol. The Best Practices Workgroup focused on researching and recommending optimal security practices based on national standards and local needs. The work product of these two workgroups will be used in a report to inform the legislative Task Force to Ensure the Safety of Judicial Facilities, which is due by December 31, 2024. Key recommendations will include the establishment of a committee in each jurisdiction to address local security challenges, annual security audits, centralized and uniform threat protocols, and improved security training.

The Judicial Council approved strategic initiatives and core values presented by the Strategic Plan Workgroup in May. Significant outreach has been conducted since that time, including listening sessions and stakeholder discussions. Members are assembling court project lists to develop an operational plan for future implementation.

The Transcript Task Force is chaired by Judge Douglas R. M. Nazarian and is charged with preparing a proposal to eliminate the requirement for individuals who are unable to pay for transcripts of trial court proceedings to pay for them on appeal. The court recognizes some appeals are dismissed based on failure to obtain a transcript when a party cannot afford one. In addition, the task force will conduct research to determine if there is a viable approach that reduces or eliminates the cost and burden that transcripts impose. A 3-year pilot program was approved to fund the Appellate Court appeals in domestic relations cases that involve child access where a party meets income requirements. The workgroup will also prepare a Request for Information for potential transcript solutions and explore programs using AI for transcripts.

2. For the Good of the Order

Justice Fader thanked everyone for attending. There being no further business, the meeting adjourned at 11:40 a.m. The next meeting is scheduled for November 13, 2024, beginning 9:30 a.m.