

Caseflow Management Committee  
Meeting Minutes  
(Unofficial Until Approved)  
Supreme Court, Bismarck  
July 17, 2015

**Members Present**

Surrogate Judge Allan Schmalenberger, Chair  
Judge Dann Greenwood  
Judge David Nelson  
Judge Gary Lee, via phone  
John Grinsteiner, Judicial Referee  
Sara Cannon, Attorney, via phone  
Jean Delaney, Indigent Defense Attorney, via phone  
Jay Greenwood, Attorney, via phone  
Sally Holewa, State Court Administrator  
Carolyn Probst, Unit 4 Trial Court Administrator  
Donna Wunderlich, Unit 3 Trial Court Administrator  
Merylee Castellanos, Unit 1 Trial Court Administrator, via phone  
Kathy Ouren, ECJD Clerk of Court, via phone

**Not Present**

Judge Jon Jensen  
Judge Steven Marquart  
Judge John McClintock  
Judge Jay Schmitz  
Judge Thomas Schneider  
Darcie Einarson, Attorney  
Gabrielle Goter, Attorney  
Rodney Olson, Unit 2 Trial Court Administrator

**Guests**

Kelly Hutton, Unit 1 Assistant Trial Court Administrator

**Staff Present**

Scott Johnson, Assistant State Court Administrator for Trial Courts  
Lana Zimmerman, scribe

Judge Schmalenberger called the meeting to order. **A motion was made by Judge Greenwood to approve the May 15, 2015, minutes. The motion was seconded by Judge Nelson, motion carried.**

### **Northwest Judicial District (NWJD) Caseflow Management Plan -**

Please refer to the NWJD Caseflow Plan. This plan covers Divide, McKenzie, and Williams Counties. A change in scheduling will be implemented starting January 1, 2016. If there are any changes or suggestions from this committee, please refer them to Carolyn Probst or Judge David Nelson.

Currently, there are 3 judges in Williston with one additional judge added by the legislature. There is 1 judge in Watford City with one additional judge added by the legislature. The master calendar rotation in McKenzie county is in the process of changing since there will be 2 judges located there. Questions can be referred to Carolyn Probst or Judge Robin Schidt.

The items below are what the NWJD may do differently from other area's of the state.

- Clerks in the Courtroom - Clerks are in the courtroom at the beginning and ending of all jury trials. They are also present during criminal master calendar.

- IVN and Telephonic Hearings - These are conducted on a regular basis. Forms were created for misdemeanors and are working well. For dismissals on pre-trial conference days, the state will use carbonated fill-in-the-blank forms.

- Rescheduling - The calendar control clerk has the authority to reschedule as long as the new dates are in compliance with the original case scheduling order. For rescheduling, the clerks office can move something in master calendar from misdemeanor court and first appearances from one week to another without interference. However, if it is an individually assigned case to the judge, it will be rescheduled through the calendar control clerk.

- Case assignment - This is conducted through Odyssey. Judge Nelson is currently working on McKenzie county probate cases due to the heavy workload there.

- Judges Rotation Schedule - Starting on January 1, 2016, there will be an 8 week rotation for each judge. The rotation will consist of 2 weeks for criminal trials, 2 weeks of master calendar, 2 weeks of bench trials and motion scheduling, and 2 weeks of civil jury trials. During master calendar, blocks are booked with no time to prep for the next day. Beginning with the January 2016 schedule, judges will be alternating 2 weeks on master calendar followed by 2 weeks of criminal trials. The rationale is to move the master calendar criminal work and the criminal cases through the system faster. Master calendar in Divide county is held twice per month. The clerk of court is scheduling all master calendar cases.

There are many civil jury trials scheduled but not are actually tried. Civil cases are stacked (for trial) and limits need to be set on the number of civil cases scheduled as parties are not likely to negotiate a final settlement until the week of the trial.

Judge Lee noted that in the North Central Judicial District trial dates are not set on a civil cases until after a final pre-trial conference. A form letter is utilized to ensure facilitate

scheduling. A trial date will be provided in 6-9 months and parties will be notified that events must occur by a date certain. At that point, a pre-trial conference will be set and within 60-90 days a jury trial will be set. The outcome is that the calendar will remain free of events that will not take place.

•Dismissals and Pre-Sentence Investigations (PSI)- The NWJD does not order many dismissals or Pre-Sentence Investigations. However, the history behind the PSI's in the South Central Judicial District (SCJD) is that PSI writers weren't very busy as judges were not ordering them. Therefore, Parole and Probation attended a judges meeting and reviewed the PSI process. The judges find the information in decision making and continue to order them.

The time to look at the information is when the prosecutor and the defense attorney start negotiating. During the 2015 legislative session, all funding was removed for a pre-trial project that would have included an initial assessment before pre-trial release. The Department of Corrections and Rehabilitation (DOCR) has their own time standard for PSI completion. It is 50 days for convicted sex offenders and 40 days on any other PSI ordered. If that time frame isn't met the court will be notified. It is suggested to set a date for the completion of the PSI based upon DOCR standards and set the sentencing date to coincide closely with the completion of the PSI.

Judge Nelson will make sure that the date is set within 40-50 days. Routinely, his court is getting them in 60 days for sentencing.

•Civil Case Management - Civil Case Management is done in Odyssey. There is no set standard for scheduling orders.

•Emergency Guardian/Conservator - This has been added under the Rules that were changed under the guardianship statute. It is required to appoint an attorney immediately for the wards. They can't be extended and are only good for 60 days. A hearing must be completed within 5 days. An order is signed appointing a lawyer for the proposed ward, and an order is signed for a hearing, which is scheduled within 5 days.

### **Docket Currency - Caseflow Management Workgroup**

The purpose of the Docket Currency/Case Management Review Workgroup is to examine current practice, process and procedure relating to prompt disposition of cases within North Dakota's trial courts and make recommendations to the Caseflow Management Committee.

Please refer to the draft handout. There are six goals:

1. To review court rules, statutes and policy and draft recommended changes;
2. To identify best practices as well as technical assistance needs relating to caseflow management/docket currency;
3. To recommend modification/enhancement/development of case management reports and tools (such as "dashboards or judicial workbenches");
4. To review and recommend educational programs in caseflow management;
5. To review Administrative Rule 12 as it relates to timeliness and reporting procedures;

6. To review *Model Time Standards for State Trial Courts* (2011) for time to disposition standards as recommended by the American Bar Association.

The goals could be viewed as somewhat broad with some added specificity. The focus of the workgroup will be to review case processing, caseflow management and to update the docket currency processes.

The make up of the workgroup are the chairs of the Caseflow Management Committee and the Court Services Administration Committee, 2 trial court judges, 1 judicial referee, 1 state's attorney, 1 public defender, 1 attorney from SBAND, 1 unit administrator, and 1 clerk of court. The reason for the Court Services Administration Committee chair or designee is that previously docket currency was a focus of that committee. The committee has been inactive for approximately 3-4 years. **It was determined to have the chair of the committee working with this workgroup and once the workgroup has something formed, to ask the court to send on to the Court Services Administration Committee and/or the Administrative Council.**

The Caseflow Management Committee reports to the Administrative Council and if the efforts of the workgroup are within a specific administrative practice then the Administrative Council can adopt/enact final policies. If it is something beyond the technical "nuts and bolts" of administrative practice, then the Administrative Council can make a recommendation to the Chief Justice.

**A motion was made by Donna Wunderlich to start a Docket Currency/Case Management Review Workgroup Charter into a final project. The motion was seconded by Kathy Ouren, motion carried.**

In place of the standard meeting format, there will be a "kickoff meeting" for the combined Caseflow Management Committee and the Docket Currency/Case Management Workgroup on October 30, 2015, at the State Capitol. The agenda will be a formal review of various areas associated with caseflow management.

Meeting adjourned at 12:00 noon.