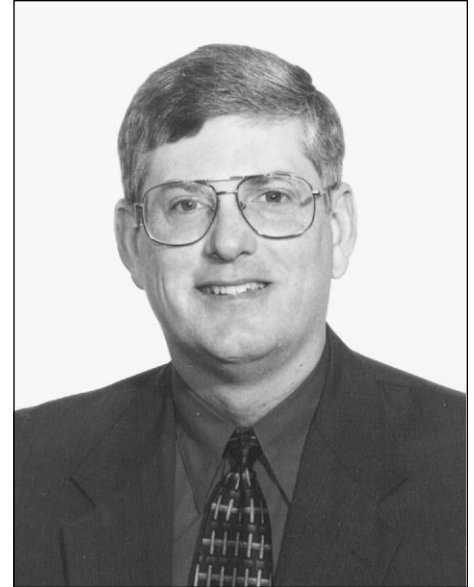


# Clock Watching

by **Kevin M. Oeffner**  
**Circuit Court Administrator**



**B**y the time you read this the judges and employees of the Circuit and Probate courts will be in the middle of a two-month clock-watching spree. No, we're not eagerly anticipating the arrival of lunch hour or quitting time. We are in the midst of a time study, the results of which will be used by the State Court Administrative Office to assess the judicial resources needed in Michigan's trial courts.

Judges, referees, judicial staff attorneys, and other employees who handle cases must report the time they spend working on cases. The key is whether the work being done can be classified as making substantive progress toward the resolution of the case. If so, the time must be recorded irrespective of whether the activity is in the courtroom, in chambers or at home.

Article 6, § 11 of the Michigan Constitution provides that changes in the number of judgeships in Michigan's circuit courts shall be made on recommendation of the Supreme Court. The Supreme Court shall base its recommendation on the level of judicial activity in the trial courts. "Judicial activity" is the time required by judges and employees to move cases from filing to disposition.

The Supreme Court's recommendation on judicial resources is delivered to the Legislature biennially, generally in the late summer of odd-numbered years. The task of developing the recommendation falls to the State Court Administrative Office (SCAO), the administrative arm of the Supreme Court.

The Legislature uses the recommendation in determining whether to adopt legislation that would authorize the creation or elimination of a judgeship in a particular court. Relative to circuit courts, Michigan law requires that in addition to legislative authorization, the county board of commissioners must also approve the creation of a judgeship, so two approvals are necessary before a new circuit judgeship can be created.

I suppose one of the first questions to pop into mind would be: How would the SCAO possibly go about assessing judicial resource needs for all of the trial courts in Michigan given the widespread differences between courts

in terms of caseload, current judicial resources and support employee levels, demographics, the complexity of cases, their use of and philosophical approach to alternative dispute resolution, and myriad other factors?

Perhaps the leading expert on such issues is the National Center for State Courts, centered in Williamsburg, Virginia. Some years ago, experts at the National Center recommended a "weighted caseload" analysis to assess judicial resource need, given the disparity between trial courts across the county. According to the SCAO, weighted caseload is "a quantitative measure of judicial workload based on case weights and case filings." Case weights are determined for every case type and include pretrial and post-judgment time necessary to the final disposition of the case.

The weighted caseload approach recognizes that all cases are not created equal, and that many and varied resources may be needed to handle some case types compared to others. It also removes, as an obstacle to a uniform assessment of judicial resource need across geographic boundaries, differences in the proportion, volume and complexity of case types filed in one court versus another. This approach allows for a more accurate means of estimating judicial workload when differences in the variables mentioned above exist.

Analyzing the number of new cases filed over a period of years and using the resulting trends as predictors of judicial need is neither useful nor worthwhile. Weighted caseload is the superior approach, but it only takes the evaluator so far. Other factors unrelated to caseload can and do affect the amount of judicial time needed to resolve cases.

The SCAO has developed a two-phase approach to assessing judicial need. The time study in September and October will provide the SCAO with information necessary to develop case weights, the results of which will be included in a weighted caseload formula. The formula will produce an estimate of the number of judges needed in

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*(On the Circuit – continued)*

each trial court to process the corresponding caseload. If a court is determined to be one or more judges understaffed or overstaffed, the SCAO will begin the second phase of its study – an “extended analysis” designed to examine quantitative and qualitative factors that can influence judicial activity related to case resolution.

Factors that can be considered include docket backlog, law enforcement charging policies, prosecutorial philosophy regarding plea bargaining, the use of specialty courts, the design and functionality of court facilities, the availabil-

ity of technological resources, the local legal culture, judicial philosophy, and staffing levels.

The SCAO will consider those factors in addition to the estimated need of judicial resources as calculated by the weighted caseload formula. The current time study will enable the SCAO to update the case weights for our court, so as to produce a more precise and current estimate of judicial resource need. Only after both phases have been evaluated will the SCAO develop its recommendation, and present its findings to the Legislature in August 2007.

Until next time...



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