

**40<sup>th</sup> JUDICIAL CIRCUIT COURT 2004-01J  
71-A JUDICIAL DISTRICT COURT 2004-01J  
LAPEER COUNTY PROBATE COURT 2004-01J**

**LOCAL ADMINISTRATIVE ORDER 2004-1J**

**APPOINTMENT OF COUNSEL FOR INDIGENT PARTIES**

**IT IS HEREBY ORDERED:**

This Local Administrative Order is issued in accordance with *Michigan Court Rule 8.123* and is effective January 1, 2004. This purpose of this Local Administrative Order is set forth the procedures for selection, appointment and compensation of counsel who represents indigent parties in the 40<sup>th</sup> Circuit Court, 71A District Court, and Lapeer County Probate Court.

**I. SELECTION CRITERIA, PERFORMANCE PROCEDURE and ADMINISTRATOR OF PROGRAM:**

**I. Selection Criteria:**

- A) Attorneys are to request in writing to the Chief Judge their desire to be on the Appointment of Counsel for Indigent Parties Roster (ACIPR).
- B) Attorneys seeking appointments must reside in Lapeer County or have their principal place of business in Lapeer County and provide proof of current local Lapeer County Bar membership as well as State of Michigan Bar membership. Attorneys must also demonstrate appropriate facilities in Lapeer County to meet with and counsel appointed indigent clients in Lapeer County. In addition, in order to receive Guardian Ad litem appointments in the Lapeer County Family Court attorneys must attend annual Guardian Ad Litem update training or provide verification to the court of their successful completion of training enabling them to represent children in child protection proceedings.
- C.) Attorneys seeking appointments to specialized courts or proceedings must meet all necessary prerequisite training requirements and obtain necessary certifications in order to have their name placed upon the list of attorneys eligible to receive such appointments in the specialized courts or proceedings within the Lapeer County Court system.

## **2. PERFORMANCE REVIEW:**

- A). The chief judge or his or her designate shall conduct the performance review of the attorney during their first court appearance considering the following factors:
- 1) Knowledge and application of law.
  - 2) Ability to communicate with the individual(s) they represent.
  - 3) Courtroom practice, skill.
- B.) Following the performance review, if the attorney is deemed satisfactory by the chief judge, their name will be permanently added to the list of attorneys eligible for appointments and unless removed for cause or otherwise deemed ineligible by the chief judge they will be given additional appointments.
- C.) If the attorney is deemed unsatisfactorily by the chief judge they will not be added to the Permanent list and will not be given additional appointments. If, after one year, they wish to reapply they may be given a second chance provided they can demonstrate that they have acquired the requisite skills to represent their clients(s).

## **3. REMOVAL/TERMINATION:**

- A). only the chief judge or court administrator may remove an attorney from the established List under the following circumstances (If they are removed from the list they will be notified in writing by the chief judge):
- 1) Chief Judge
    - a) The attorney proves to be incompetent or unethical.
    - b) The attorney does not act in the best interest of justice.
    - c) The attorney does not meet training requirements or maintain certifications needed to practice in a particular area requiring specialized skill or certification.
  - 2) Court Administrator
    - a) The attorney has been suspended, sanctioned, or disbarred by the Michigan State Bar.
    - b) The attorney refused two appointment requests in succession.
    - c) The attorney fails to maintain required Bar memberships or fails to meet minimum qualifications for appointments.

review and approve same for payment. Any request for extraordinary fees must be submitted in petition form and approved by the appropriate judge.

6. **MAINTENANCE OF RECORDS**

A. Each court shall maintain a current copy of the list of attorneys available for appointment and who have been appointed in the courts and the records shall be maintained in accordance with S.C.A.O general schedule rule 16 regarding maintenance of records.

B. The following records shall be maintained by each court:

1. The number of appointments given to each attorney by that court.
2. The number of appointments given to each attorney by each judge of that court.
3. The total amount of public funds paid to each attorney by that court.
4. The total amount of public funds paid to each attorney for appointments by each judge of that court.

C. At the end of each calendar year, the courts shall compile an annual written or electronic report of the following:

1. The number of appointments given to each attorney by the court.
2. The number of appointments given to each attorney by each judge of that court.
3. The total amount of public funds paid to each attorney by that court.
4. The total amount of public funds paid to each attorney for appointments by each judge of that court.

7. **PUBLIC ACCESS TO RECORDS**

A. The records in regard to the appointment and compensation of court appointed counsel shall be available to the public for inspection without charge at each court office.

1. Any person requesting to view the records shall submit a request in writing to the court and the court shall schedule a convenient time.
2. The court may charge a reasonable fee for providing copies of the records.

4. **APPOINTMENT PROCESS:**

- A. All appointments shall be made on a rotating basis, except where variation is necessitated due to the complexity of the case, a conflict of interest, current representation of the defendant by other appointed counsel, or unavailability of the next attorney on the roster. In probate court guardianship reviews pursuant to M.C.L. 700.5309 it provides that the court shall review guardianships not later than one year after the guardian's appointment and not later then every three years after each review, to facilitate this requirement the probate court shall appoint from the list of qualified attorneys an attorney of the month to conduct all guardianship reviews and said attorney will be paid \$60.00 for each individual review and written report submitted to the court.
- B. Except where passed due to unavailability, an attorneys name shall remain at the top of the list pending the next available appointment that attorney is eligible to receive.
- C. Any attorney may voluntarily reduce frequency in the appointment rotation upon written request, with restoration of the allowable frequency also available upon written request.
- D. A list of attorneys for appointments shall be maintained by the following persons in each Court and the individuals identified below will be responsible for the appointment of counsel and maintenance of the records as required by S.C.A.O. general schedule rule 16.

- 1. Circuit Court: Chief Judge of the Circuit Court
- 2. Circuit Court Family Division: Juvenile Administrator
- 3. District Court: District Court Administrator
- 4. Probate Court: Register of Probate

F. The appointment of an attorney shall be indicated on the list and a copy of the updated list shall be distributed to each of the above Courts.

5. **COMPENSATION**

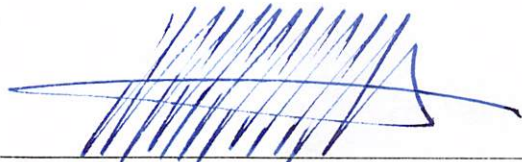
- A. Attorneys appointed by the court shall be compensated by an hourly rate or a compensation schedule set by the judges of the Circuit Court, District Court, and Probate Court.
- B. The attorney shall submit an itemized bill to the appropriate judge and the judge shall

8. **REPORTS TO THE STATE COURT ADMINISTRATOR**

- A. When requested by the State Court Administrator, the courts shall provide a copy of its most recent annual report and/or data on an individual attorney or judge for a period specified by the request.

EFFECTIVE January 1, 2004

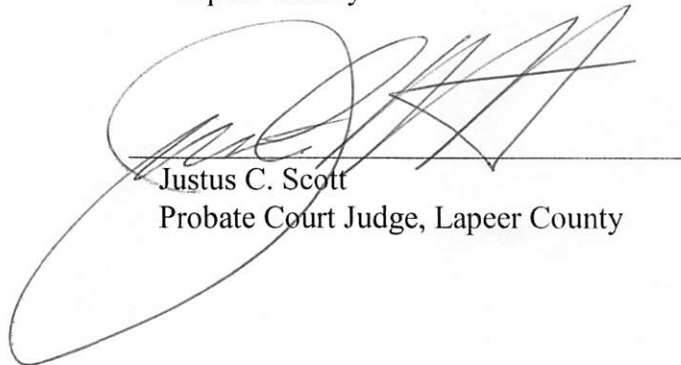
February 26, 2004



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Nick O. Holowka  
Chief Circuit and District Court Judge,  
Lapeer County

February 26, 2004



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Justus C. Scott  
Probate Court Judge, Lapeer County