



# Tenth Judicial Circuit of Michigan

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LEOPOLD P. BORRELLO  
CIRCUIT JUDGE

STATE OF MICHIGAN

In the Circuit Court for the 10<sup>th</sup> Judicial Circuit

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**LOCAL ADMINISTRATIVE ORDER: 2003-04C**

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**PLAN FOR APPOINTMENT OF COUNSEL FOR INDIGENT PARTIES**

This administrative order is issued in accordance with Michigan Court Rule 8.123 effective, January 1, 2004. The purpose of this order is to describe the 10<sup>th</sup> Circuit Court's procedures for appointing and compensating counsel who represent indigent parties.

1. Selection Criteria and Procedure.
  - a. Selection process for the Circuit Court (adult felony) cases.
    - i. The attorney submits a cover letter and resume to the Chief Judge of the Circuit Court. The cover letter should indicate the attorney's interest in appointment in the Circuit Court, and describe the attorney's qualifications.
    - ii. The Chief Judge may interview the applicant depending upon the Chief Judges' familiarity with the attorney.

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- iii. The applicant's qualifications will be reviewed at a regularly scheduled Judges meeting.
- iv. The judges will select applicants for court appointments based upon the attorney's qualifications and current needs of the court.
- v. The judges may choose to limit an attorney's appointments to non-life maximum cases until the judges gain knowledge of the attorney's work product and experience.
- vi. The Lists of attorneys available for appointment to represent indigent parties (the General List, and Life Maximum List) will be updated upon approval of a new attorney. The Lists will be maintained by the Interviewer, Office of Assigned Counsel.

b. Selection process for the Family Division of the Circuit Court

- i. The Family Division will negotiate a contract with several lawyers or law firms for the representation of children in delinquency cases. Separate contracts may be negotiated with a lawyer or law firm group for the representation of children in neglect and abuse cases. Additional contracts may be negotiated with lawyers or law firm for the representation of parents in neglect and abuse cases.
- ii. The selection process will include, but not be limited to, competitive bidding between two or more lawyers and/or law firms. The contract between the Family Division, Juvenile Services and the lawyer or law firm will conform to the requirements of Michigan Court Rule 8.123.
- iii. The selection committee will include the Chief Circuit Judge, the Presiding Judge of Family Division and one other judge assigned to the Family Division, and the Circuit Court Administrator.

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2. Minimum Standards and Qualifications.

- a. The attorney must be licensed to practice law in the State of Michigan.
- b. The attorney must possess the required skill and knowledge to adequately represent clients.
- c. The attorney must be able to appear in the Court on a regular basis.
- d. The attorney must have an office in or near Saginaw County where the attorney can meet with the clients.

3. Performance Evaluation and Review.

- a. The judges in the Court will monitor the attorney's performance on a regular basis. The judges may address performance issues as they occur; including commenting on above average performance at the time it occurs.
  - i. The Chief Judge may remove an attorney from the Lists, or pursuant to a court contract, at any time for reasons including, but not limited to: violations of the rules of professional conduct for attorneys; criminal convictions; inappropriate advances or comments of a sexual nature to clients, other attorneys or court staff; inappropriate anger directed to clients, other attorneys or court staff; substance abuse problems that effect the attorney's ability to represent clients; and soliciting payment from clients when the Court has appointed the attorney to represent the client, or for such other reason as the Chief Judge may determine to be in the best interest of justice.
  - ii. The cause for removal of the attorney from the Lists may be reviewed at the next scheduled judges' meetings. The attorney that has been removed from the Lists may submit in writing an explanation of the offending behavior or incident, circumstances and reasons surrounding the offending behavior or incident and reasons for future inclusion on the Lists.
  - iii. The judges may decide, either by consensus or majority vote, to include the attorney on future lists.



5. Appointment Process by List.
  - a. The Office of Assigned Counsel will keep the Lists and select attorneys for appointment by starting with the first name on the appropriate List and moving down the List as each attorney accepts or refuses an appointment. The Order of Appointment will be prepared and presented to the Chief Circuit Judge for signature.
    - i. The method of rotation from the General List and Life Maximum List shall be done so in a manner that is equitable for all attorneys on each List.
  - b. The Chief Judge may select an attorney outside the normal rotation on the Lists if the judge deems it appropriate to do so. This selection should be based upon special circumstances or qualifications that the attorney will bring to the case such as second language skills or a special expertise that is required in the case, the place of residence of the defendant relative to the attorney's office, representation of the defendant in prior or current cases, or the immediate availability of the attorney. Additionally the judge may vary from normal rotation if he or she deems it appropriate when evaluating what may be in the best interests of the defendant and the court relative to the efficiency and economy in the handling of a case.
6. Appointment Process by Contract.
  - a. The Family Division, Juvenile Services will appoint attorneys based upon the terms set forth in the contract between the Family Division and the contracted lawyer or law firm.
  - b. Details are contained in the attached representative copy of the current Contracts.
7. Administration of the Appointment Process.
  - a. The Circuit Court Administrator will be responsible for the appointment process in the Circuit Court.

- b. The Circuit Court Administrator will be responsible for the appointment process in the Family Division.

8. Compensation Method.

- a. Attorneys appointed from the Lists for Circuit adult felony cases are compensated at an hourly rate for actual time spent on each case up to a maximum as may from time to time be determined by the Chief Judge.
- b. Family Division contractual attorneys are paid in accordance with the terms of their individual contracts.
- c. Appointed attorneys on Circuit adult felony cases will submit a bill to the Court for the actual time spent on each case. The bill will be submitted to the Circuit Judge assigned the case, or to the Chief Circuit Judge in those cases where felony charges were dismissed in the District Court, or otherwise not bound over to the 10<sup>th</sup> Circuit Court.
  - i. The bill will be submitted for the actual time spent on each case after the conclusion of the case. Conclusion of the case is defined as sentencing, dismissal by Prosecutor or Court, or withdrawal or substitution of attorney.
  - ii. The bill will be itemized by the activity of each case stating the hours or fraction of hours spent in each activity.
  - iii. The minimum billing increment will be one-tenth of an hour.

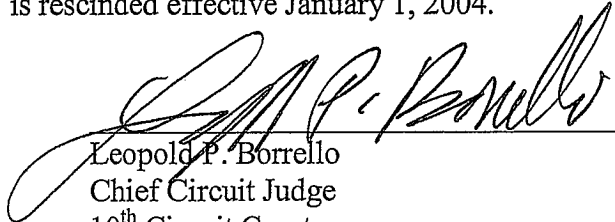
9. Maintenance of Records.

- a. The Circuit Court including the Family Division will maintain records of the number of cases assigned to each attorney in a calendar year by generating a report.
- b. The Court will maintain records of the number of cases assigned to each attorney by the Chief Judge in a calendar year by generating a report.
- c. The Court will maintain records of the total amount of public funds paid to each attorney by the Court during a calendar year.

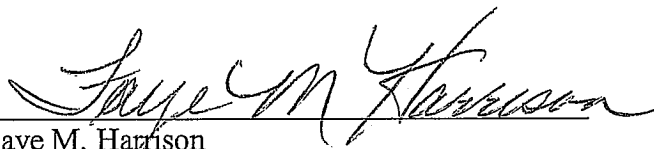
- d. The Court will develop a method to maintain records of the total amount of public funds paid to each attorney for assignments by each judge in a calendar year.
- e. The Court pursuant to SCAO Records Retention Schedule 16 will maintain and keep the above records.
- f. The above records will be available to the public through written request made to the Court Administrator at no expense.

IT IS SO ORDERED that the 10<sup>th</sup> Judicial Circuit Court's Plan for the Appointment of Counsel for Indigent Parties shall be effective as of January 1, 2004. It is further ordered that 10<sup>th</sup> Circuit LAO 1991-01 is rescinded effective January 1, 2004.

Date: 12-12-03

  
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Leopold P. Borrello  
Chief Circuit Judge  
10<sup>th</sup> Circuit Court

Date: 12-16-03

  
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Faye M. Harrison  
Presiding Judge, Family Division  
10<sup>th</sup> Circuit Court