



**Hon. Matthew J. Fader, Chair**  
Chief Judge, Court of Appeals

**Hon. Keith A. Baynes**  
Chair, Conference of Circuit Judges

**Hon. Pamela J. Brown**  
District Court in Howard County

**Hon. Donine Carrington Martin**  
Circuit Court for Charles County

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

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

**Hon. Kathleen Duvall**  
Vice-Chair, Conference of Circuit Court Clerks

**Hon. Jeffrey S. Getty**  
Circuit Court for Allegany County

**Markisha Gross, Administrative Clerk**  
District Court in Montgomery County

**Kristin Grossnickle,**  
Vice-Chair, Conference of Circuit Court  
Administrators

**Pamela Harris**  
State Court Administrator

**Hon. Fred S. Hecker**  
Circuit Court for Carroll County

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

**Hon. John P. McKenna**  
District Court for Anne Arundel County

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

**Hon. Bonnie G. Schneider**  
District Court in Cecil County

**Hon. Kathy P. Smith**  
Chair, Conference of Circuit Court Clerks

**Lara Stone, Administrative Clerk**  
District Court in Harford County

**Roberta Warnken, Chief Clerk**  
District Court of Maryland

**Hon. E. Greg Wells, Chief Judge**  
Court of Special Appeals

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

**Burgess Wood**  
Chair, Conference of Circuit Court  
Administrators

# Maryland Judicial Council

## MARYLAND JUDICIAL COUNCIL

Minutes  
September 28, 2022

### Judicial Council Members Present:

Hon. Matthew J. Fader, Chair	Hon. E. Greg Wells
Hon. Keith Baynes	Hon. Alan M. Wilner
Hon. Pamela J. Brown	Hon. Kathleen Duvall
Hon. Audrey J.S. Carrión	Hon. Kathy P. Smith
Hon. Karen Holt Chesser	Nancy Faulkner
Hon. Jeffrey S. Getty	Markisha Gross
Hon. Fred S. Hecker	Kristin Grossnickle
Hon. James A. Kenney, III	Pamela Harris
Hon. John P. McKenna	Lara Stone
Hon. John P. Morrissey	Roberta L. Warnken
Hon. Bonnie G. Schneider	Burgess Wood

### Others Present:

Hon. Glenn Klavans	Pamela Ortiz
Hon. Stacy Mayer	Suzanne Pelz
Hon. John S. Nugent	Valerie Pompey
Hon. Brett R. Wilson	Gillian Tonkin
Hon. Pamela J. White	Annamaria Walsh
Maureen Denihan	Jamie Walter
Cynthia Jurrius	

A meeting of the Judicial Council was held Wednesday, September 28, 2022, at the Maryland Judicial Center. The meeting began at 9:30 a.m. with Chief Judge Fader advising everyone that the meeting was being live streamed on the Judiciary's website pursuant to the Open Meetings Act. Chief Judge Fader briefed the Council upon the portrait unveiling of former Chief Judge Mary Ellen Barbera, which occurred on September 22 at the Court of Appeals, noting that it was the first portrait of a female chief judge in Maryland.

He also reminded the Council that Prince George's County is the next county scheduled for implementation on MDEC on October 17, 2022.

Chief Judge Fader remarked that the Judiciary is at the point where the President of the United States has declared that the pandemic is over noting that there are different interpretations as to what this means. COVID is here and may be here to stay.

It is no longer a matter of waiting for a solution to wipe away the pandemic, rather it is figuring out how to move forward with the Judiciary's mission and learning to continue on with whatever the new normal is going to be. It is no longer a matter of barricading in and waiting for something else. Something else is what we are doing right now. He noted that exciting things are happening within the Judiciary including projects that will be presented today. He emphasized the importance of the Judiciary continuing to work for the people of the State of Maryland more efficiently and effectively.

Judge Brown moved for approval of the minutes for the May 25, 2022, meeting. Following a second by Judge McKenna, the minutes were adopted.

### **1. Report of the Readers and Visual Interpreters Work Group**

Judge Brett Wilson and Judge Pamela White briefed the Council on the *Report & Recommendations* of the Readers and Visual Interpreters Work Group, a work group of the Accessibility and Accommodations Subcommittee of the Court Access Committee. Judge Wilson began by referencing Chief Judge Fader's statement at the beginning of the May 25, 2022, meeting where he stated that the Judiciary's mission to provide fair, efficient, and effective justice is an aspirational one that demands attention that is constant, close, sometimes nuanced, sometimes blunt, and always purposeful. In pursuit of this mission, Judge Wilson remarked, the Judiciary must identify and remove barriers that prevent anyone from full access to the system of justice. This includes financial, physical, and linguistic barriers. With this in mind, he asked the Council please consider the work group's recommendations as it is now time to remove sensory barriers that hinder the participation for Marylanders with these cognitive and visual impairments.

Judge White briefed the Council upon the purpose of the report which is to be offered as a resource for judges and court personnel when addressing court access by persons with visual or cognitive impairments. These recommended guidelines follow the study done by the Accessibility and Accommodations Subcommittee in 2018 after which they published the *Initial Report & Recommendations* in April 2019. In that report, the subcommittee recommended among other things, that the Judiciary, "Develop a program for readers and/or visual interpreters to aid persons with sensory impairments during court proceedings and jury deliberations." In 2020, the Judiciary adopted a Reader and Visual Interpreter Policy. In addition, to further advance its original recommendation, the subcommittee created the Readers and Visual Interpreters Work Group.

Beginning with listening sessions in September 2018, the Accessibility and Accommodations Subcommittee gained knowledge about how persons with blindness are able and adept with the use of technology to fully participate in court proceedings with appropriate accommodation. Despite technological advancements exacerbated by COVID, some aids that may help outside of the courtroom may be inappropriate within the courtroom (*i.e.*, hearing aids). It is important that the Judiciary strive to provide assistance for the review of visual evidence, documents, actions, expressions, visual, cues, and the like so that these individuals can fully participate in proceedings. Since 2019, the subcommittee has closely reviewed instructions and guidelines for higher education for test readers and scribes. The entertainment industry and the National Federation of the Blind have also provided valuable information in achieving this goal.

The *Report & Recommendations* provide two sets of guidelines, one for visual interpreters and one for readers and scribes. The work group is coming before the Council today for approval of the four recommendations contained within the report:

- Recommendation 1: Adopt the first set of guidelines included in the report, *Guidelines for Readers and Scribes*.
- Recommendation 2: Adopt the second set of guidelines included in the report, *Guidelines for Visual Interpreters*.
- Recommendation 3: Promote awareness of both sets of guidelines by including them in the Accessibility Toolkit, distributing them to judges, magistrates, clerks, and court administrators, and highlighting them in articles in the *Judges Gazette* and other Judiciary publications.
- Recommendation 4: Work with the Judicial College to incorporate the guidelines in courses for judges and court staff on accessibility and other courses where appropriate.

As to Recommendation 1, individuals with visual or cognitive impairments may need assistance with written materials, including court documents. These guidelines can assist courts in responding to a request for an accommodation when a court visitor requires a reader or scribe to ensure they have equal access to court services, processes, and proceedings. A reader or scribe may be helpful in informal settings or formal courtroom proceedings. An appropriate scribe can either be a court employee or an agency professional. The must have the ability to maintain a neutral tone and to transcribe accurately without elaboration. An advocate or a coach in this instance would not be appropriate.

As to Recommendation 2, these guidelines can assist courts in responding to a request for an accommodation when a court visitor with visual or cognitive impairments needs someone to describe visual evidence, or to convey what is happening in the courtroom. Appropriate use for a visual interpreter would be during pretrial and trial considerations. Given the skills required for a visual interpreter and possible ethical considerations, a court should consider appointing an agency professional as a visual interpreter.

As to Recommendation 4, the Judicial College currently has four courses lined up for 2023 on accessibility concerns. The courses are just to provide more provocation for increased awareness of ways in which to accommodate persons with visual disabilities.

Judge White noted that any of these requests should be presented at least 30 days prior.

Ms. Harris inquired about the jury questionnaire and whether it is in an accessible format so that someone with a visual impairment can use it. The Judiciary is in the process of looking for other software and applications for jury use and this is something that may need to be taken into account. Pamela Ortiz responded that most PDF documents are screen readable if properly prepared and tagged. When developing an application, it is important to include individuals who have the

knowledge to ensure that an application is useable with a screen reader device. Ms. Harris also inquired about mail-in documents and how they may be altered into an accessible format. Ms. Ortiz stated that it may not be necessary to do this with a mail-in document as those individuals will likely have something or someone at home to assist them with written letters.

Chief Judge Fader requested clarification on what it means to say that a document is “appropriately tagged.” Ms. Ortiz responded that design features can be used to identify headers which assists with navigation of a screen reader which can relay that there is a header on a document or that information needs to be filled out. The Judiciary’s webmaster is able to review documents to ensure that they meet these requirements and has done so in the past.

Chief Judge Wells questioned the practicality of how accommodations requests such as these can be handled in the circuit courts and whether it would be possible for an applicant to go to the clerk’s office to request an accommodation. Judge White indicated that ADA coordinators are identified in the Accessibility Toolkit. She acknowledged that most of the requests will be made at the courthouse but that it should not be the judge who acts on these requests but the ADA coordinator. Chief Judge Wells noted that this is where his concerns lie, judges are typically the ones who field these types of requests in the courtroom. Judge White stated that unless it is an evidentiarily significant event, judicial decisions do not typically encompass an ADA request. There should be ways to defer the process to the appropriate process invoked by either a form or some other request so that it is brought before the ADA coordinator’s attention.

Judge Hecker concurred with Chief Judge Wells’ concerns requesting more information on how to handle these types of accommodations in a courtroom setting. For instance, if a visually impaired individual is a victim and they require a visual interpreter, how would that work without disrupting the proceedings. Ms. Ortiz stated that the work group recommends the courts use interpreter equipment so that information can be provided privately. If the interpreter needs to assist actively during a trial, then the court should determine ahead of time whether the interpretations should be done on or off the record. Judge Hecker also questioned whether the report addresses accommodation needs in the jury room. Judge White confirmed that the report does provide this guidance. It is similar to that for an ASL interpreter.

Judge Getty asked whether there are professional standards to become a reader or visual interpreter. Judge White indicated that there are not. This is a relatively new domain, so the work group relied on higher education institutions for guidance. Judge Getty questioned whether there is a central source of information where judges can go to find more information on how to handle these types of requests. Ms. Ortiz stated that the Access to Justice Department is a resource for the courts. In addition, Delores Atwater in the Judiciary Human Resources Department and Warren Hedges in Fair Practices are the go-to people on the best way to approach these types of requests and accommodations.

In the same vein, Chief Judge Morrissey asked whether there has been some thought in training ADA coordinators on how to respond to these requests. Ms. Ortiz stated that training is available for ADA coordinators. She noted that some courts have received these types of requests before. The guidelines are meant to get ahead of the request so that courts can think about how they

want to address them before they are made. She commented that it is important for clerks and staff to read these guidelines as well as they are the likely recipients of these initial requests. They should be able to at least identify the individual within the court who can provide assistance to a requestor. An outside professional can also be brought in to advise a court. Access to Justice has a recommended agency who has provided this type of assistance in the past and would be happy to connect the courts to this resource.

Judge McKenna questioned whether the guidelines contemplate an approved list of interpreters. He also asked whether family members are excluded from providing assistance. Typically, they are the ones who assist in the courtroom. Judge White stated that there is not a list of approved interpreters at this time. She noted that there can be a downside to using family members depending on the circumstances. Family members are unlikely to have formal training although this is not as much of an issue in an informal setting. For formal hearings, the court may want to consider using more formalized procedures to make an accommodation. Judge Wilson concurred stating that courts should consider the difference between something that is on the record or an aside. On the record more often would lend itself to someone who is certified so that the court can be assured that the interpretation is as accurate as possible. Whereas providing assistance to someone in the gallery or at the clerk's desk is not as formal.

Judge Carrión asked how administrative judges can help to spread the word about this initiative. From her experience, when an accommodation request like this is made generally the administrative judge is looped in by the presiding judge and the ADA coordinator. Judge White stated that the work group is currently working on bench presentations for this very purpose. They would be happy to go to any court who would like more information to discuss accessibility concerns relating to persons with sensory, cognitive, and mobility disabilities. They will also do what they can do broadly circulate this information. She reiterated that this information is also available in the Accessibility Toolkit which is accessible to all Judiciary employees.

Judge Schneider moved that the Council recommend to Chief Judge Fader approval to adopt all of the work group's recommendations. Following a second by Judge Brown, the motion passed.

## **2. Update to Court Reporting Manual**

On behalf of the Court Operations Committee, Judge Klavans has come before the Council requesting approval of an addition to the Court Reporting Manual. The Court Reporting Workgroup spent years working on the manual which was adopted by the Judicial Council in July 2021. The manual was created to address the variability throughout the State in reporting and transcription services and to provide clear guidance and standards for the way this business is done. The Court Operations Committee is requesting to add the following language to the manual:

*Pursuant to MD Rules 8-413 and 8-608, the Clerk is required to include the cost of transcript preparation in the materials transmitted to the appeals courts. In order to facilitate compliance with the Rules, the court reporter/transcriptionist shall deliver to the Clerk a cost sheet that identifies the costs associated with preparation of the transcript. The cost sheet shall be delivered to the Clerk in the same manner and at the same time the transcript is*

*produced (the cost sheet means a document indicating the total cost of the transcript).*

Judge Klavans explained that clerks oftentimes have difficulty in getting the cost numbers from the court reporters/transcriptionists. To comply with the rules, sometimes judges end up using the email that provides an estimate of the costs. A standardized cost sheet that is included with the transcript would be helpful to formalize this process.

Judge Getty moved that the Council recommend to Chief Judge Fader approval of the recommendation to add additional language to the Court Reporting Manual regarding the requirement of court reporters/transcriptionist to include a cost sheet upon delivery of the transcript. Following a second by Judge McKenna, the motion passed.

### **3. Committee/ Strategic Initiative Updates**

- a. ***Legislative Committee.*** Judge Stacy Mayer briefed the Council on the most recent Maryland General Assembly session and the bills that passed that impact the Judiciary. During session, the Legislative Committee reviews bills to determine whether or not they affect the Judiciary. For those they deem potentially impactful the bills are sent to affected committees who then write a position paper detailing the potential impact the Judiciary. In totality, the committee reviewed 1,331 senate bills and 1,783 house bills. Of those bills, 243 were enacted, 18 of which were vetoed by Governor Hogan. Judge Mayer noted how this past session was very productive and collegial.

Judge Mayer noted that Judiciary personnel are already in receipt of the Final Report of the Legislative Committee which provides a summary of the bills that affect the Judiciary that were passed during the 2022 session. As such, she indicated that she would not go into detail about each of the bills but instead would highlight some of the more impactful bills. Of note was the recommendation of the Judicial Compensation Commission for a \$40,000 increase in judges' salaries across the board. The commission's four-year cycle for judicial compensation review was conveniently timed with the benefit of the unprecedented aid of federal relief which gave the legislature a \$1.6 billion budget surplus. House Joint Resolution 3 and Senate Joint Resolution 4 were passed approving the recommendation of the Judicial Compensation Commission to increase judges' salaries by \$40,000 over four years (\$10,000 per year) for fiscal years 2023 through 2026.

Another notable bill is Senate Bill 17 Child Custody – Cases Involving Child Abuse or Domestic Violence – Training for Judges. This bill requires the Judiciary, in consultation with domestic violence and child abuse organizations, to develop a training program for judges and magistrates presiding over child custody cases involving child abuse or domestic violence. The bill also establishes minimum training requirements (20 hours) for judges for these types of cases beginning July 1, 2024. A workgroup was put together to review the recommendations and directives in the bill to ensure the Judiciary is doing the appropriate trainings.

Judge Mayer briefed the Council on some other changes that will be on the ballot in November. These include the following:

- House Bill 1 – Constitutional Amendment for the Legalization of the Adult-Use of Cannabis. House Bill 837 on Cannabis Reform proposed several changes in order to reform laws around marijuana. The bill (1) renames marijuana as “cannabis” and makes corresponding changes; (2) requires specified agencies and entities to complete studies, collect and report data, and develop specified standards regarding the use of cannabis, the medical cannabis industry, and the adult-use cannabis industry; (3) alters civil/criminal penalties related to cannabis; (4) authorizes specified resentencing and release of individuals convicted of use or possession of cannabis; (5) alters expungement provisions; and (6) establishes the Cannabis Business Assistance Fund, the Cannabis Public Health Fund, and an advisory council. The provisions related to the studies, data collections, and reports took effect on June 1, 2022. The other provisions are subject to the ratification of the constitutional amendment in House Bill 1 of 2022 on the November Ballot. If approved, this authorizes an individual at least 21 years of age to use and possess cannabis in Maryland beginning July 1, 2023. Assuming voter approval of the referendum, the legislature will work during the 2023 legislative session to establish a more comprehensive regulatory and taxing framework for the adult-use program.
- Court of Appeals and Special Appeals Renaming. Constitutional Amendment to change the name of the Court of Appeals to the Supreme Court of Maryland and change the name of the Court of Special Appeals to the Appellate Court of Maryland. Under the new law, judges serving on the Court of Appeals will be justices of the Supreme Court of Maryland and the Chief Judge of the Court of Appeals will be the Chief Justice of the Supreme Court of Maryland.
- Eligibility to Serve as Senators and Delegates – Place of Abode. Constitutional Amendment to add eligibility requirements to serve as a senator or delegate to the General Assembly by requiring a person to have maintained a primary place of abode in the district that the person has chosen to represent. Under current law, a person must have resided in the district to which the person has been elected for at least six months immediately preceding the date of the person’s election or, if the district has been established for less than six months prior to the date of the election, as long as the district has been established. The new law requires, beginning January 1, 2024, a person must have both resided in and maintained a primary place of abode in the district for the same time period as under current law.
- Civil Jury Trials. Constitutional Amendment authorizing the legislature to enact legislation that limits the right to a jury trial in a civil proceeding to

those proceedings in which the amount in controversy exceeds \$25,000, excluding attorney's fees if the attorney's fees are recoverable in the proceeding. Under current law, the amount in controversy must exceed \$15,000 before a party to a proceeding may demand a jury trial.

- Circuit Court for Howard County – Judges Sitting as Orphans' Court. Constitutional Amendment repealing the elections of Howard County orphans' court judges and requiring the Howard County Circuit Court judges to sit as the orphans' court for Howard County.

Overall, Judge Mayer remarked, the session went very well. For the upcoming session there will be a lot of new legislators as many are retiring or not running again. There will also be a new Governor in place. In addition, the Judiciary has formed the Workgroup to Study Judicial Selection co-chaired by Judge Kathleen Dumais and Judge Alex Williams. The workgroup will conduct a study on the various methods of selecting and retaining judges throughout the country and make recommendations as to whether a change to the current selection process is warranted. These recommendations may culminate in the request for a bill introduced on behalf of the Judiciary.

Chief Judge Fader thanked the committee for the work that they did during the legislative session.

- b. *Alternative Dispute Resolution Committee.*** Judge John Nugent briefed the Council on the work completed by the ADR Committee over the last year. The most significant accomplishment was the creation of the statewide roster for ADR practitioners. The ADR in the Maryland Rules Subcommittee proposed a centralized application process for ADR practitioners who seek approval to receive circuit court-ordered cases. To facilitate this, changes were proposed to Title 17 to require practitioners to submit applications to MACRO who would then send them to the designated jurisdiction for approval by the administrative judge. The revised rules would also provide for the centralized management of continuing education. The rules were submitted to the Rules Committee for review.

The ADR in the Maryland Rules Subcommittee also worked in conjunction with the Major Projects Committee to provide for remote access in MDEC to ADR practitioners. Rule 20-109 was approved by the Court of Appeals as amended effective April 1, 2022.

The District Court ADR Subcommittee has focused on landlord and tenant cases. They created the Case Disposition Information Sheet (CDIS) to assist litigants with ADR cases in the District Court. A pilot is currently being conducted.

The Work Group on Mediation Quality Assurance for Programs and Practitioners reviews the best practices for court-based ADR programs in Maryland and studies the issue of mediation quality. The work group is considering topics such as: the

consistency of how mediation is conducted; certification of mediators; assessing mediator performance skills; the grievance process for ADR participants; selection/assignment of ADR practitioner and ADR type by case/dispute type; communities of practice for mediators (case discussion groups, reflective practice, etc.); and remote ADR practices and standards for remote mediation training. Judge Nugent noted that the last topic is the most important at this stage given the rise in remote mediations since the pandemic.

The ADR Committee collaborates closely with MACRO. Cynthia Jurrius briefed the Council on MACRO's five major initiatives.

- Court ADR Programs. The MDEC ADR tab launched on April 1, 2022. After the approval of Rule 20-109 to provide remote access to ADR practitioners, MACRO worked with JIS to provide training across the state. There is now a statewide process in place for circuit court ADR practitioners. The roster is maintained by MACRO via a web-based platform.
- Grants: ADR Services and Partnerships. Thirty-six grants were awarded in fiscal year 2023. Nine grants were to support circuit court ADR services and 27 grants were for community justice partners.
- Practitioner Efficacy and Quality. MACRO reviewed ethical and operational issues relating to ADR and screening for intimate partner violence.
- Public Awareness of ADR. There is now a searchable online consumer resource guide available by local jurisdiction.
- Research and Evaluation. There is an online survey platform for remote mediation across the state. In addition, a research project is being conducted on the ODR engagement process for persons with disabilities.

The ADR Committee also collaborates with the Court of Special Appeals ADR Division (COSA ADR). Annamaria Walsh briefed the Council on the work of this office. COSA ADR has continued to provide remote mediation services to parties as well as in-person mediation services. Ms. Walsh noted that most people prefer remote mediation. In calendar year 2022, COSA ADR handled 100 cases with a 70% agreement rate.

COSA ADR is interested in expanding the scope of services to self-represented litigants by looking into community partnerships with groups such as the University of Baltimore School of Law Family Mediation Clinic. Students there are providing representation under supervision of the clinic for mediation purposes to self-represented parties in domestic cases. Ms. Walsh indicated that they will be reaching out to other law schools and clinics to form additional partnerships. COSA ADR looking to form a workgroup with sitting and retired judges to conduct a review of the COSA ADR program to date and see where improvements or adjustments can be

made to give some relief to dockets.

A pilot was done in Baltimore County Circuit Court to review mediator assessment of safety issues and concerns in identifying intimate party violence and whether a particular case is appropriate for mediation. Ms. Walsh opined that even though most parties who come to COSA ADR bring counsel, it is beneficial for mediators to know how to recognize things like coercive control as one can never be certain when it will show up at the table.

The District Court of Maryland ADR Office (DC ADR) is another office that works closely with the ADR Committee. Maureen Denihan briefed the Council on the current status of this office. DC ADR continues to field requests of the public about ADR with the majority of information requested geared towards tenant information. These are generally landlord and tenant cases that were not a part of the complaint in front of the court but require resolution. The office maintains the referral of pre-file disputes and post-trial and pre-trial cases for mediation to the Community Mediation Center partners and the University of Maryland Care School of Law Mediation Clinic. The fiscal year 2022 agreement rate for pre-trial remote ADR was 70%.

In preparation for a return to in-person services, DC ADR conducted 12 Day of Trial Refresher orientations for those who were going back to the court after 18 months of remote services. To date, all but 3 of the 21 locations that operate a Day of Trial ADR program have resumed in-person ADR services. The agreement rate for Day of Trial ADR was 57% in fiscal year 2022 which is in line with the pre-pandemic agreement rates. A training was also conducted for landlord and tenant cases as a lot of civil cases overlap with landlord tenant. Ms. Denihan noted that the office has experienced a lot of turnovers with practitioners, so they also held three new volunteer orientations.

DC ADR is conducting a Pre-trial Mediation Pilot Program for landlord and tenant cases filed in Montgomery County under the District Court ADR Subcommittee. The pilot excludes failure to pay rent (FTPR) cases but includes breach of lease and tenant holding over cases.

DC ADR has continued to maintain accessibility to public inquiries fielding 2,738 calls to the main office phone line in fiscal year 2022. The office also fields requests for services via the ADR request online form handling 763 in fiscal year 2022. Since the inclusion of the ADR checkbox on the civil complaint form on July 1, 2021, the office has received 419 cases. These cases are either referred to a partnering mediation service provider or into the Pre-Trial Remote ADR Program, depending on the referral criteria. To better support the DC ADR program, an ODR coordinator has been hired to support and develop the ODR platform.

Judge Brown offered her praises to Ms. Denihan and the DC ADR Office noting that they have been especially helpful throughout the pandemic. She encouraged that COSA ADR, MACRO, and DC ADR consider having a booth at the MSBA

conference as many practitioners still do not know about the Judiciary's ADR programs. She recommended submitting articles to local bar journals as well to promote awareness. Judge Brown questioned whether any thought has been given to training law clerks as mediators. Ms. Denihan stated that thus far there are no law clerks on the roster, however any interested individual can apply to become a mediator as long as they complete the requisite 40-hour mediation training, abide by the Maryland Standards of Conduct on ADR practitioners, and are 21 years of age. Training is offered through private trainers and MSBA. The Judicial College will be offering a training in the Fall of 2023. Ms. Walsh noted that any law clerks who are currently in law school may also have training available via a law school clinic. Judge Schneider indicated her concerns about neutrality if law clerks were to conduct mediation while they were still a law clerk.

Ms. Harris asked how statistics on settlement rates is conducted. Sometimes lawyers may believe something is settled although that is not quite the case. She questioned whether the ADR offices have been able to address this discrepancy. Ms. Jurrius stated that data is collected from participants and practitioners although attorneys get a survey as well. The new method is to see if the case was settled as a result of mediation rather than if the case settled eventually. Judge Nugent noted that this is easier to compute in the District Court as a settlement decision is made by the close of business.

Chief Judge Wells inquired into the difference in settlement rates with remote mediation versus in-person mediation. Ms. Jurrius stated that they are looking into this now utilizing surveys. Thus far, the rates are similar with the District Court remote mediations outpacing in-person and circuit court in-person rates ahead of remote. There have been internal discussions as to the reasons for these rates and as more data is collected over the next year statistics will be provided. Chief Judge Wells remarked upon the increase of remote hearings during the pandemic and questioned whether there will be a push to have more in-person mediation now that the pandemic has waned. Ms. Jurrius stated that now that pre-COVID, COVID, and post-COVID numbers are coming in, this will be easier to determine.

Chief Judge Fader stated that it looks like there is a 5% difference in settlement rates in remote versus in-person cases for circuit courts. He questioned whether this rate is impacted by case type. Ms. Jurrius stated that they are looking into this as well to determine whether there is any significance in case type or profile or whether it is more participant driven based on the needs of parties.

In addition to providing an overview of the work of the ADR Committee to date, Judge Nugent stating that the committee is also seeking the Council's approval to extend the term of the ADR in the Maryland Rules Subcommittee to November 28, 2025. After conducting a review of the rules, it became apparent that many were outdated and required further review. To facilitate this, the committee is requesting to extend the sunset date of the subcommittee.

Judge McKenna moved that the Council recommend to Chief Judge Fader approval of the recommendation to extend the term of the ADR in the Maryland Rules Subcommittee to November 28, 2025. Following a second by Judge Brown, the motion passed.

- c. ***Major Projects Committee.*** Chief Judge Morrissey and Ms. Harris briefed the Council on the work of the Major Projects Committee.

Chief Judge Morrissey provided an update of the status of the MDEC implementation across the state. Montgomery County went live during the pandemic on October 25, 2021, adding over 400 new users. This implementation was a unique challenge as this implementation occurred simultaneously with an upgrade of the entire Judiciary to a new version of Odyssey to accommodate Montgomery County. Chief Judge Morrissey acknowledged the collaboration with leadership in Montgomery County and staff from District Court Headquarters and AOC. After about four months began to be more comfortable with the system and after six months cases processes began to improve. The courts are now averaging less than two hours to process a case once a filing comes in. Prince George's County will be the next major implementation. Their go-live is scheduled for October 17, 2022. The circuit court data conversion will begin on the evening of Thursday, October 13; the court will be manual that Friday. The District Court conversion will start on Friday evening. The conversion should be completed by late Saturday evening and the go/no-go discussion about the data and going live the next day will be held that Sunday at noon.

Baltimore City is the final jurisdiction and teams have already been dispatched to begin work. The legacy UCS system has been upgraded with OpenEdge in order to modernize their system and make it easier to convert to MDEC. Chief Judge Morrissey noted the unique challenges in Baltimore City including their multiple case management systems and the fact that their criminal fees are collected by the local sheriff's office. JIS is working with the Baltimore City IT to transfer criminal accounts receivables payments from the sheriff's office to the court. JIS has held session over the last month in Baltimore City to conduct a gap analysis and to discuss asbestos cases and juvenile cases and how to get them into MDEC. Currently, both of these case types are in separate systems outside of UCS (now OpenEdge). The vendor for asbestos cases has worked with Tyler Technologies in the past so this transition should be relatively easy. There have been ongoing discussions with the juvenile division about how MDEC can meet the needs addressed by their current juvenile system vendor, Quest. CaseSearch 2.0 will coincide with Baltimore City's go-live.

Chief Judge Morrissey provided an update on several of the committee's initiatives. The committee recently re-instituted the Text Messaging Workgroup which is now looking to expand text messaging to civil case types. The workgroup has surveyed other states to see how they handle notifications and are looking at options such as online registration for any interested party and an opt-out versus an opt-in system. The workgroup will present recommendation to the committee for approval.

Chief Judge Morrissey commented upon the Judiciary's commitment to transparency. To that end, several changes are being explored to provide more transparency in the judicial process and access to judicial records. The Court of Appeals recently ruled that judges' and magistrates' codes are not prohibited from disclosure. As a result, the Judiciary now publishes an index of these codes on MDCourts. At the request of Chief Judge Fader, the committee has begun investigating how to provide remote access to civil documents via the MDEC Portal. The committee is continuing to work on logistics about which civil case types should be included in this group (some case types like domestic violence and family matters are presumptively excluded) and how to reconfigure the system to provide documents. Currently, while documents are available in the portal, they are only accessible to parties to the case. The committee will come back before the Council with a recommendation on this.

The Council approved the installation of CAPTCHA (now DataDome) to negate the negative impact to system performance caused by the millions of hits on a daily basis by bots and screen scrapers on CaseSearch. Around 60% of the traffic on CaseSearch was due to screen scraping or bots. In order to provide the same type of access without the negative impact, the committee created a daily report which provides a list of all cases that have been filed that day. The list is accessible on CaseSearch and is updated on a nightly basis. Each list is available for 30 days.

Chief Judge Morrissey referenced the ADR Committee's earlier presentation and their discussion about providing remote access to MDEC for court-appointed ADR practitioners. The committee worked collaboratively with the ADR in the Maryland Rules Subcommittee and the Rules Committee to make amendments to Rule 20-109 to facilitate this access. In addition to ADR practitioners, the rule also allowed access to CASA volunteers and Judiciary contractors such as volunteers who work with the Maryland Center for Legal Assistance (MCLA) and staff the Maryland Court Help Centers, and investigators who work with Juvenile and Family Services.

JIS has been working to acquire redaction software to assist in complying with recent legislative changes for partial expungements and other judicial needs. For example, if the cannabis reform referendum is approved, the Judiciary will need to remove any reference to marijuana at both the charge and case level. Redaction software will be helpful to clerks and save them from having to go through the entire record line by line. The District Court in particular, Chief Judge Morrissey noted, is anticipating a lot of cases so they are putting a team together and tasking them with reviewing and working through affected cases. They will then be sent back to a judge for review and sign off. Ms. Harris stated that the legislature also provided PINs for expungement clerks to assist the circuit courts with this initiative.

Ms. Harris provided an update on the work conducted by the Major Projects Committee's subcommittees. The MDEC Advisory Subcommittee consists of court leadership as well as AOC staff and District Court Headquarters staff during the MDEC implementation process. It was initially formed during the Anne Arundel

County implementation in 2014. The membership schema typically includes one county that has recently gone live, one county that is about to go-live, and one county that is beginning the go-live process. This allowed counties to see the MDEC implementation process from beginning to end with new counties able to determine lessons learned from a county that has recently gone live. Once a county goes live, it stays on the subcommittee for a few more months before rotating off. The most recent makeup of the subcommittee includes leadership from Montgomery County, Prince George's County, Baltimore City, District Court Headquarters, AOC, and JIS. Montgomery County most recently dropped off the subcommittee after remaining for a little longer to address outstanding go-live issues.

The Data Governance Subcommittee was formed to create a centralized structure for policies regarding the Judiciary's data. The subcommittee meets on a quarterly basis or when needed. The subcommittee is divided into workgroups to address four policy areas: (1) scope of data; (2) data ownership and retention; (3) data access; and (4) data usage. The subcommittee is comprised of four workgroups who focus on each of these policy areas:

- NODS Workgroup. Due to the increase in demand for court data, the NODS Workgroup was formed to review the National Open Court Data Standards (NODS) implemented by the National Center for State Courts (NCSC). The workgroup recently completed its work mapping NODS data elements to Maryland cases, reviewing seven case types, 14 categories, and 366 data elements. The workgroup determined whether each data element was aligned, partially compatible, or not compatible with MDEC case types. The committee reviewed and approved the workgroups recommendations to either adopt, not adopt, make a future goal, or keep Maryland values for each data element.
- Data Access Review Workgroup. This workgroup was tasked with reviewing relevant rules and existing policies and formulate recommendations for changes in how the Judiciary handles access to its data. The workgroup agreed that the Maryland Rules sufficiently address access to records and made no additional policy recommendations. This was also the workgroup that initially proposed the use of CAPTCHA (now DataDome) to prohibit screen scraping to negate the risk of members of the public having inaccurate or outdated information.
- Data Ownership and Retention Workgroup. This workgroup was tasked with formulating recommendations that govern ownership over Judiciary data, as well as the retention of data. The workgroup recommended that a "data custodian" be defined in the rules. The workgroup also recommended that the Judiciary explore becoming its own archivist or at least creating a retention period of electronic records similar to the Records Retention Policy for paper records. This recommendation would apply only to records that are completely electronic. JIS currently has a project initiative, Enterprise

Content/Records Management, that would allow the Judiciary's data to be compartmentalized into its system so that once the retention period is over, the documents would then move to an archival system. A plan would still need to be made as to how the public would access this system. The committee approved the workgroup's recommendation. The workgroup is currently working on the logistics of how to implement this recommendation.

- Data Usage Workgroup. This workgroup focused on three main topics: (1) bulk data requests, (2) data dashboards, and (3) the data request form. The workgroup developed a standardized web-based form/survey to be used for all Judiciary data requests. Together with Government Relations and Public Affairs, Research & Analysis, and JIS, they instituted a process to streamline these requests. This electronic form trims off the time it takes for the Judiciary to respond to a data request by two weeks. The workgroup plans to use the information gathered from these data requests to cultivate the data dashboard.

To facilitate the work and recommendations of the subcommittee, an RFP for data analytics was released in December 2021 and closed in January 2022. The RFP requested that a consultant come and review the Judiciary's data activity to make an assessment. They will look at the NODS mapping to determine how it can be incorporated into an analytics warehouse. They will also develop requirements for the extract, transform, and loading (ETL) process so that data can be extracted from MDEC and placed into a reporting model environment. The estimated start date for the consultant is Fall 2022.

The Joint Subcommittee on Post-COVID Judicial Operations completed its report in December 2021. Chief Judge Fader, who chaired the subcommittee, gave a presentation to the Judicial Council in March of this year presenting the subcommittee's findings and recommendations. The recommendations were approved by the Council and then Chief Judge Joseph Getty. Various workgroups, committees, subcommittees as well as staff from AOC and District Court Headquarters are working to implement the recommendations. One such workgroup is the Alternative Work Arrangements Feasibility Workgroup chaired by Nancy Faulkner. The workgroup will review current Judiciary data on telework including data from JIS' evaluation of telework monitoring software, results of telework surveys, and information from Human Resources and Payroll regarding the extent of current employee telework. The final report of the workgroup will include recommendations on the feasibility of alternative work arrangements and include guidance on ensuring consistent and equitable supervision of employees and ensuring productivity of employees utilizing alternative work arrangements. The report is expected to be completed in January 2023.

The ODR Workgroup monitors development of court connected ODR initiatives and develops recommendations and possible ODR projects within the Judiciary. The workgroup worked with NCSC to develop an RFP for a vendor to help develop an ODR platform that will incorporate non-incarcerable traffic, small claims, and child

custody enforcement cases. The goal is to provide mediation for civil cases that do not require evidentiary findings.

The Landlord Tenant Bulk Filing Workgroup is focusing on developing an electronic filing and case processing system for FTPR cases. In 2021, 665,000 FTPR cases were filed. The MDEC system is currently not able to take such a large number of filings at the same time. The workgroup is working to provide functionality to allow for the additional impact that these cases will have on the system. The e-filing project pilot went live in Baltimore County in June of this year with several vendors agreeing to participate as bulk filers. The pilot has allowed for vendors to stress test the system for these incoming cases in order to ensure that the system can handle this burden with the rest of the state.

The Appeals Workgroup chaired by Clerk Katherine Hager is reviewing how the appeals process works in MDEC and making recommendations on business process changes.

Chief Judge Fader thanked the committee for the work it has done and is continuing to do. He expressed his pleasure that the Judiciary is going in the direction of ODR as well as looking into alternative work arrangements.

#### **4. For the Good of the Order**

As a follow up from the previous meeting, Chief Judge Fader asked for a status update on the creation of a centralized calendar for senior judges as discussed during the Senior Judges Committee update. Judge Hecker stated that he is currently working with Judge Kenney on this initiative.

There being no further business, the meeting adjourned at 11:45 a.m. The next meeting is scheduled for November 16, 2022, beginning at 9:30 a.m.

Respectfully submitted,  
Valerie Pompey