



**\*Hon. Joseph M. Getty, 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. Audrey J. S. Carrión**  
Vice-Chair, Conference of Circuit Judges

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

**Hon. Angela M. Eaves**  
Circuit Court for Harford County

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

**Marina Fevola**  
Chair, Conference of Circuit Court Administrators

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

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

**Hon. Katherine Hager**  
Chair, Conference of Circuit Court Clerks

**\*Pamela Harris**  
State Court Administrator

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

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

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

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

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

**Mary K. Smith, Administrative Clerk**  
District Court in Howard County

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

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

**Hon. Dorothy J. Wilson**  
District Court in Baltimore County

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

**Faye Gaskin, Secretary**  
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\*Denotes Executive Committee Member

# MARYLAND JUDICIAL COUNCIL

## MARYLAND JUDICIAL COUNCIL Minutes September 22, 2021

### Judicial Council Members Present:

Hon. Joseph M. Getty, Chair	Hon. Bonnie G. Schneider
Hon. Keith Baynes	Hon. Alan M. Wilner
Hon. Pamela J. Brown	Hon. Dorothy J. Wilson
Hon. Audrey J.S. Carrion	Markisha Gross
Hon. Karen Holt Chesser	Hon. Katherine Hager
Hon. Angela M. Eaves	Pamela Harris
Hon. Matthew J. Fader	Hon. Kathy Smith
Hon. Jeffrey Getty	Mary K. Smith
Hon. James Kenney, III	Roberta L. Warnken
Hon. Donine Carrington Martin	Burgess Wood
Hon. John P. Morrissey	

### Others Present:

Hon. Mimi Cooper	Cynthia Jurrius
Faye Gaskin	Jay Knight
Carole Burkhart	Kelley O'Connor
Heather Croft	Eliana Pangelinan
Maureen Denihan	Suzanne Pelz
Andrew Fontanella	Valerie Pompey
Lou Gieszl	Suzanne Schneider
Melinda Jensen	Christine Uslin

A meeting of the Judicial Council was held Wednesday, September 22, 2021, via Zoom for Government. The meeting began at 9:30 a.m. Chief Judge Getty opened the meeting, advising everyone that the audio portion of the meeting was being live-streamed pursuant to the Open Meetings Act. He then remarked that he was honored to join the distinguished judges, senior judges, and other members of the Council. Chief Judge Getty expounded upon two observations, the first being that when he first joined the Court of Appeals five years ago, everyone on the Court had been born in the decade of the 1950's. As such, they shared common experiences which were enhanced by lunchtime conversations about growing up in their generation and discussions about the small-town nature of the Maryland Bar. Chief Judge Getty stated that the mandatory retirements that have occurred, or shortly will occur, marks a generational shift for the Court of Appeals. He noted that he will do what he can to ensure a smooth transition for the new generation.

The second observation made by Chief Judge Getty focused on the stewardship of the entire Judiciary during the pandemic. He commented on Chief Judge Barbera's exceptional leadership, as well as that of the judges of the trial courts who were on the front lines of the pandemic. He further expressed a deep sense of gratitude to the clerks and staff, noting that he met with the staff of the Administrative Office of the Courts and District Court Headquarters and was impressed with the work they did to address the critical issues faced during the pandemic, including utilizing alternative dispute resolution to address backlogs, outreaching to and coordinating with local government to support access to resources to avoid evictions, and identifying greater resources to address domestic violence and mental illness. Chief Judge Getty stated that he formed a joint subcommittee and charged it with looking at the lessons learned and formulating recommendations and best practices regarding the way forward.

Judge Brown moved for approval of the minutes of the July 21, 2021 meeting. Following a second by Judge Kenney, the minutes were adopted.

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

- a. ***Major Projects Committee.*** Chief Judge Morrissey and Ms. Harris briefed the Council on the activities of the Major Projects Committee, noting that the Committee addresses policy matters regarding the implementation and ongoing operation of technology projects as well as establishes priorities with respect to implementation of the same. The Committee works collaboratively with the Court Technology Committee, the Rules Committee, the Clerks of Court, and others as necessary. The Committee primarily has been focused on MDEC but is engaged in other initiatives as well.

MDEC has been implemented in 21 of the 24 jurisdictions, and the appellate courts. The implementation of MDEC in the trial courts in Montgomery County is scheduled for October 25, 2021, leaving Prince George's County and Baltimore City still to be implemented. Chief Judge Morrissey and Ms. Harris acknowledged the work of the courts and IT staff for the incredible amount of work done to prepare for the implementation, including developing new code to comport with existing functionality and differentiated case management that will be available for other MDEC courts; initiating a program to allow the State's Attorney's Office to communicate with MDEC and to electronically initiate juvenile and criminal filings, which currently only can occur with subsequent filings. That functionality, when implemented approximately 60-90 days after the courts go-live, will be the first in the nation. Electronic juvenile case initiation will be implemented first, followed by electronic criminal case initiation. The experiences from the Montgomery County's State's Attorney's Office will be shared with other State's Attorneys in the hope that they will follow suit and move to electronic filing at case initiation.

The MDEC team is working with leadership in both trial courts in Prince George's County in preparation for implementation in those courts, hopefully in the fall of 2022. Pre-MDEC work is underway in Baltimore City, including the hiring of a consultant to assist in determining any gaps in functionality that need to be addressed to ensure the efficient migration of the three unique case management systems in the circuit court.

Other initiatives in which the Committee has been involved include forms translation, expansion of the text messaging program, remote access to MDEC, and remote hearings.

The Language Access and Forms subcommittees developed a multi-lingual document in the five languages most utilized in the courts to be included with notices, explaining how to access language lines for assistance with the court process. JIS did the necessary programming and configuration to implement the additional document in the batch mailing process.

Prior to the start of the pandemic, plans were underway to expand text messaging to the next phase which would allow clerks to register individuals to receive notifications regarding hearings via text messaging. The project was delayed to address pandemic-related matters and to do the necessary programming to differentiate, in the messages, in-person versus remote hearings. The expanded program includes a web-based application. Data will be analyzed to determine the impact of text messaging notification on FTAs. The goal is to expand text messaging to all case types.

The Committee reviews requests for remote access to MDEC. Requests received for court-appointed ADR practitioners and court-appointed special advocates (CASA) were forwarded to the Rules Committee for consideration of a Rules change necessary to grant access. The Rules changes, which include the creation of a centralized ADR roster, will be forwarded to the Court of Appeals.

During the pandemic, there was a concerted effort to facilitate remote hearings so that the work of the courts could continue. The Committee worked with the Rules Committee to make the necessary changes to the Rules to allow remote access. Since June 2020, when the Judiciary pivoted to Zoom for Government as its virtual platform, more than 153,000 Zoom meetings have been held. It was noted that the number of meetings underrepresents the number of cases because one Zoom instance could include an entire docket. In addition, the Zoom meetings included over 81,000 participants per month utilizing an average of 3.5 million minutes per month.

The MDEC Advisory Subcommittee, whose membership comprises leadership of the courts in the implementation phase as well as those moving toward implementation and in the planning stage, addresses issues related to implementation. District Court Headquarters and the AOC also serve on the subcommittee. A tremendous amount of work has been done by JIS, Montgomery County, and Tyler Technologies in preparation for the Montgomery County implementation. The programming changes done will benefit all MDEC courts.

The Data Governance Subcommittee was formed to create a centralized strategy regarding the usage, retention, and access to Judiciary data. The subcommittee has been focused on drafting data sharing memorandums of understanding (MOU), formulating recommendations with respect to bulk data, planning for the implementation of CAPTCHA, and creating a framework for bulk data access and data analytics. CAPTCHA is scheduled to be implemented on November 1, 2021. It will help to prevent screen scraping which not only adversely impacts network performance, but potentially results in erroneous or incomplete information being provided by the entities that screen scrape. Approximately 50 screen scrapers access Case Search per day with over 100,000 hits per hour. A process has been developed to permit Maryland non-profit legal service providers to enter into an MOU, allowing them to bypass the CAPTCHA so that they can continue to access the information necessary to assist the public.

Chief Judge Getty formed the Joint Subcommittee on Post COVID Judicial Operations, chaired by Chief Judge Fader, to review, examine, and offer recommendations to the Major Projects Committee and the Court Technology Committee regarding initiatives implemented at all court levels during the pandemic that were successful. The subcommittee will formulate best practices, as well as consider which tools, programs, and procedures should be continued. The subcommittee is tasked with submitting its report by December 31, 2021.

The ODR (Online Dispute Resolution) Workgroup is charged with finding ways to leverage technology to increase efficiency in non-incarcerable traffic, small claims, and child support enforcement cases. The workgroup has surveyed other courts to determine what is being done in the ODR arena. In addition, the National Center for State Courts has been retained to assist with drafting the request for proposals. The goal is to allow individuals to have a one-stop online facility to handle their court matters. Chief Judge Morrissey noted that the application quite possibly could be expanded to include video options for remote trials in traffic, but additional research is needed.

The Landlord/Tenant Bulk Filing Workgroup was created to work with Tyler Technologies to lend its expertise in the development of a landlord/tenant bulk filing solution to be piloted in Baltimore County. Failure to Pay Rent cases currently are not part of MDEC and are still processed in paper because the system is not yet configured for bulk filing. Following the successful pilot and evaluation, the functionality will be implemented in other jurisdictions. The clerks have been back scanning landlord/tenant case documents into MDEC which allows clerks to search by name.

Chief Judge Getty expressed appreciation for the work of the Committee and its subcommittees and workgroups.

- b. ***Alternative Dispute Resolution Committee.*** Judge Cooper briefed the Council on the work of the Alternative Dispute Resolution Committee, remarking that the pandemic forced the Judiciary to quickly learn how to handle things remotely and to provide better access to the court process for those who were unable to participate in-person.

Judge Cooper highlighted some of the Committee's goals and achievements over the last year, including developing the ADR roster process, assisting ADR offices in responding to challenges with remote processes, streamlining data collection through MDEC, and reviewing revisions to Rule 9-205. The ADR in the Maryland Rules Subcommittee identified priority topics to review, including Rule 20-109 which addresses access to records in MDEC actions. In this instance, the requested access was for ADR practitioners, which brought about the need for a centralized roster. Rule 17-207, which deals with approval procedures for an individual to become eligible to conduct ADR procedures in the circuit courts, also was reviewed by the subcommittee. The subcommittee drafted revisions to provide for a centralized application process through MACRO. The draft was submitted to the Rules Committee. Discussion of other topics is ongoing.

Maureen Denihan provided an overview of the initiatives undertaken by the District Court ADR Subcommittee. During the last year, the subcommittee reviewed legislation

aimed at changing the business process for landlord/tenant cases, namely mandatory ADR before and after filing. HB 18 requires the landlord to give notice to the tenant of the intent to file and provide information regarding court resources available to assist the tenant, within 10 days of filing the complaint. The District Court's ADR Office developed a strategy to implement the legislation, which included potential revisions to the ADR volunteer application as well as maintaining continuity between two applications, CDC guidelines, and the roster.

Judge Cooper highlighted some of the ways the Committee and the ADR offices – MACRO, District Court ADR Office, and Court of Special Appeals ADR Division – have addressed, and continue to address, the challenges brought about by COVID-19. In the District Court, in-person programs were reengineered to virtual so that services could continue to be offered. In addition, a remote pre-trial ADR program was instituted. Orientation sessions shifted from an in-person to an online model and Zoom for Government competency workshops were held for practitioners. A centralized telephone number was established for court help centers to direct individuals seeking assistance; work is ongoing to connect the public with available resources.

Cynthia Jurrius discussed the Maryland Mediation and Conflict Resolution Office (MACRO). She stated that the four main areas of MACRO's work are court ADR programs, grants for ADR services and partnerships, ensuring practitioner efficacy and quality through training and evaluation, and enhancing the public's awareness of alternative dispute resolution. Throughout the pandemic, MACRO has worked closely with court ADR managers to support online mediation and with JIS to integrate ADR processes into the case management systems. MACRO awarded approximately \$2.8 million in grants to courts and community justice partners and conducted webinars on navigating online ADR. In addition, MACRO conducted online surveys to assess the effectiveness of online ADR; the surveys also can be used for in-person ADR. To increase the public's awareness of ADR, MACRO collaborated with the Access to Justice department to develop a four-part video series.

Ms. Denihan noted that the District Court ADR Office launched the Pretrial Remote ADR Program in July 2020 and of the 213 cases in which the parties have agreed to participate in the voluntary process thus far, 70 percent reached full agreement and 15 percent reached partial agreement. The other parties are still working through the process. The Office also launched the Pretrial Remote Peace Order Mediation Pilot in Montgomery County in January 2021. Parties are offered participation in the program at the final hearing. So far, 34 parties have participated with 65 percent reaching full settlement. An assessment will be conducted at the end of the year. The Day of Trial ADR in-person programs resumed in July 2021. The District Court ADR Office has a number of partnerships with community mediation centers that supplement its work. The Office maintained the pretrial mediation programs with those partners during the pandemic.

Jay Knight briefed the Council on the work of the Court of Special Appeals ADR Division, noting that protocols had to be changed during the pandemic to accommodate parties and their counsel. Mr. Knight remarked that the results have been incredible, adding that the remote platform has been a great resource and the settlement rate has increased since March 2020. With the more than 200 cases from March 2020 through

August 2021, there was a 74 percent settlement rate. Mr. Knight stated that his office worked in partnership with senior judges who are central to the success of the program. In addition, his office collaborated with MACRO and the District Court ADR office, as well as the Maryland State Bar Association and community partners to determine how best to move forward in a virtual world.

Judge Cooper sought the Council's approval to extend the term of the ADR in the Maryland Rules Subcommittee to March 31, 2023. She stated that there is more work to be done and that it is more complicated than anticipated. The subcommittee's term was set to expire in 2021. Judge Kenney moved that the Council approve the request to extend the term of the subcommittee to March 31, 2023. Following a second by Judge Brown, the motion passed unanimously.

Chief Judge Getty thanked everyone for their presentations. He stated that he had met with MACRO the previous week and learned about the technology and the success experienced throughout the pandemic. He remarked that he was proud of the results of everyone's efforts.

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

Chief Judge Getty asked that the Council please express his gratitude to staff at all levels for the work and continuing efforts to support the Maryland Judiciary in its continued support of the public. He added that even during these difficult times, staff have worked hard, and leadership has to continue to acknowledge their hard work and express their thanks to them.

There being no further business, the meeting adjourned at 10:43 a.m. The next meeting is scheduled for November 17, 2021, beginning 9:30 a.m.

Respectfully submitted,



Faye Gaskin