**MEMORANDUM**

**To: C.J. Fresard, C.J.P.T. Smith, Interim Presiding**

**Judge Gibson, & Colleagues**

**From: Attorney Compensation Committee**

**RE: Proposed Revisions to Attorney Compensation Rates and Forms for Attorney Assignments**

**Date: August 26, 2024**

**The Attorney Compensation Committee:**

In early 2023, I formed an Attorney Compensation Committee (“ACC”) to review the rates of pay for the attorneys who serve in the Family Division, Juvenile Section and any ancillary issues. Judge Mike McClory graciously agreed to serve as Chairperson of the ACC. The following Referees, Staff, and Attorneys also agreed to serve: Ref. LaChelle Logan; Referee Dan McGuire; Director of Operations, Edna Clark; Chief Ref. James Catchings; Atty. Janice L. Burns; Atty. Steve Gilbert; Atty. Thomasine Jefferson; Atty. Julie Nelson-Klein; and Atty. Marc Shreeman, who is also one of the Juvenile Trial Lawyers Association leadership team members and Past Presidents. DCA ToieLynn Smith also attended meetings as needed and/or requested to weigh in from an administrative point of view.

I am truly grateful to Judge McClory for his leadership and tireless efforts in support of the ACC. He convened and conducted countless meetings with the ACC, Juvenile Section/Court administration, the Wayne County Clerk’s Juvenile Section leadership team, ITSB, Budget Department, and others. I also thank each of the ACC committee members for all of their hard work, research, and efforts relative to this vital issue! This important work could not have been completed without their collective time and energy.

**Historic Background Information:**

By way of background, we have attached the current fee schedule, which was implemented in 2016, but did not include fee increases and instead, maintained the 1990 fee structure. *See the attached letter and fee schedule dated March 16, 2016.* Please note that the stated goal of the change in 2016 was to "eliminate deductions.... which will dramatically reduce the number of problem vouchers filed with the court.” *Id.* Thus, the changes in 2016 merely made it easier for administration to avoid "problem vouchers" that were being submitted by attorneys who had been short changed on the fee schedule. *Id.* It did not increase compensation at all, and probably decreased it by no longer paying for preliminary hearings and other changes. *Id.*

The current fees have been in place since 1990. *See attached current fee schedule*. The 1990 change reduced attorney compensation. Prior to 1990, every DRH/PPH paid $150.00 instead of paying the current $100.00. Attorneys were also paid for every adjourned hearing in which they appeared, which was eliminated in 1990. Thus, Attorney compensation fees in the Juvenile Section were reduced by approximately 30% in 1990 and have remained stagnant for 33 years.

**Current Status of Attorney Payment Rates:**

As you will see from the attached current fee schedule, currently an attorney earns $500.00 for attending a Preliminary Hearing, Pre-Trial, Trial, and Dispositional Hearing. *Id.* They also get paid $100.00 for every Dispositional Review Hearing and $50.00 for every Probation Review for the Delinquency matters. *Id.* Significantly, the Attorneys do not get paid for the following proceedings: MDHHS Family Team Meetings (FTMs) and Team Decision Meetings (TDMs) despite the impacts those meetings routinely have upon their clients; attendance at Foster Care Review Board Hearings, again despite the impacts those hearings have upon Parents and children; case conferences; trial prep or client meetings; and pretrial adjournments, regardless of who requested the adjournment/continuation. *Id.*

It is our understanding that in the Family Division, Domestic Relations Section, the attorneys are paid $500 per day for the Show Cause Docket. By contrast, an attorney engaged in a full day of TRIAL in Juvenile Court is paid $250 to $300 per day (first 1/2 day of trial is $175). *Id.* So, the court pays twice as much to defend parents for violating court orders, as we do to protect families from being separated. That is completely untenable.

In addition, this disparity also pales in comparison to the appointed Criminal Division attorney pay schedule. Importantly, this is despite Juveniles being charged with the same types of serious offenses – Murder, Carjacking, CSC 1, etc. and having the same types of proceedings – Jury Trials, Bench Trials, Preliminary Examinations, etc.

Moreover, these disparities are also reflected in stark comparison to Oakland County, which is our closest cohort in terms of size and volume although we are still much larger in both of those categories (greater than 40% of the State’s Delinquency and Neglect and Abuse cases). *See attached OCJC Juvenile Voucher*. Notably, Oakland County reviewed and revised their attorney pay rates approximately two months ago. The OCJC Voucher reflects their current rates. *Id.* As you will see from their fee schedule, the attorneys are being paid at higher rates and for the types of proceedings for which we are not paying our attorneys. *Id.* Based upon the experiences of ACC members who practice throughout the state of Michigan, that is also the case for many other Michigan jurisdictions.

These facts exacerbate our inability to attract and retain new lawyers. As you can see from the attached list of Juvenile attorneys, we have an aging attorney population who are retiring and taking their expertise, experience, and institutional knowledge with them. *See the attached Juvenile Attorney Listing*. By way of example, Judge Miller’s bar number is P55928. The overwhelming majority of the lawyers on our approved listing have bar numbers lower than hers and she has been in practice for almost 28 years!

We must immediately turn that trend around or we will be left with very few attorneys with the requisite knowledge to represent parents and children in these cases. This is evident right now in our Appellate Counsel ranks where we have such an insufficient number of appellate counsel that the Appeals are not always being handled in a timely manner due to the lack of approved and available counsel. Similar concerns are present for the Attorneys who are available to serve as Counsel for the Designated criminal cases and for the Confidential Intermediaries for Adoptions cases, for example.

Finally, and perhaps most significantly, this is not an area of the law that just anyone can jump into without adequate training and base of knowledge. This are of the law includes criminal law; civil law; criminal procedure; civil procedure; neglect and abuse law; adoptions law; guardianship law; certain aspects of probate law, and family law as it pertains to custody, paternity, revocation of paternity, child support, etc. This is part of what makes Juvenile law so unique from many other areas of the law. But, it also mandates that we must be in a posture that permits us to keep our current subject matter expert attorneys and recruit and retain new lawyers with a desire to learn this vital area of the law. We must also ensure that both groups of lawyers are being compensated appropriately and equitably. Having our lawyers compensated at the same rates since 1990 does not reflect those values at all.

**ACC Recommendations:**

Based upon all of the foregoing, the ACC recommends the adoption of the attached Proposed Attorney Fee Schedule and the attached Proposed Policy Changes on Attorney Assignments and Other Ancillary Matters. We also recommend the immediate implementation of the usage of the attached updated Attorney Assignment and Removal Forms.

**Conclusion:**

This is a very serious matter and it needs to be addressed as expeditiously as possible. We strive to serve Wayne County’s families and children with distinction, dedication, expertise, and excellence. These proposed changes will support us in doing that well beyond the life and times of our contemporaries. It will support and encourage the establishment of a sustainable pipeline for Juvenile Lawyers well into the future. Carpe Diem!

ACC:CLM/