

The background of the cover is a photograph of the Ohio Statehouse at night. The building is illuminated from within, with its many windows glowing. The top of the building has a green roof. To the left, a taller, modern skyscraper is visible, also lit up. The foreground shows a bridge railing and the dark water of a river, with some light reflections.

 **Ohio** | Court of Claims
Annual Report 2016

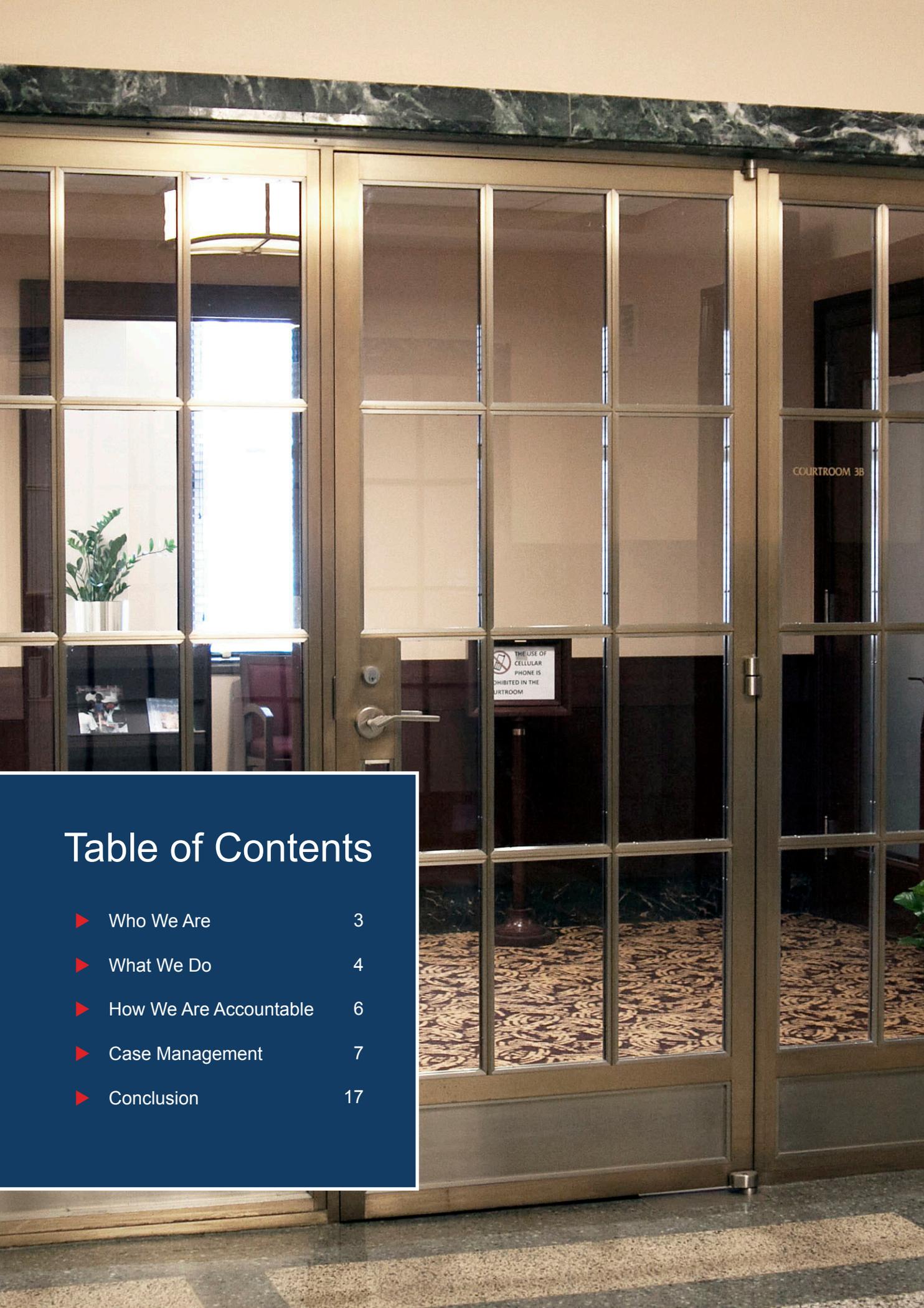


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Introduction

On behalf of the entire staff of the Court of Claims of Ohio, I am once again happy and proud to submit this annual report for the Court of Claims for the year 2016. This annual report includes a broad overview of the Court's activities during the year, including adjudicatory functions as well as administrative matters.

In 2016, the Court received 947 new or reactivated cases and closed 1,039 cases for a clearance rate of 110 percent. This past year also saw the successful implementation of efforts to streamline the hearing process related to crime victims' compensation awards.

In 2016, the Court was pleased to again receive the appointment of retired assigned judges Patrick M. McGrath and Dale A. Crawford to the bench of the Court of Claims. Judge McGrath and Judge Crawford previously served together in the Franklin County Court of Common Pleas.

Also, in 2016 the Ohio General Assembly passed Senate Bill 321 which fundamentally changed the way that disputes are resolved between citizens and government, regarding access to public records. This bill, which became law on September 28, 2016, allows citizens who believe a government entity is illegally withholding public records to file a complaint in the Ohio Court of Claims. The new law requires that these cases be quickly referred to mediation for resolution. If they are not resolved there, a judicial officer called a special master issues a binding ruling.

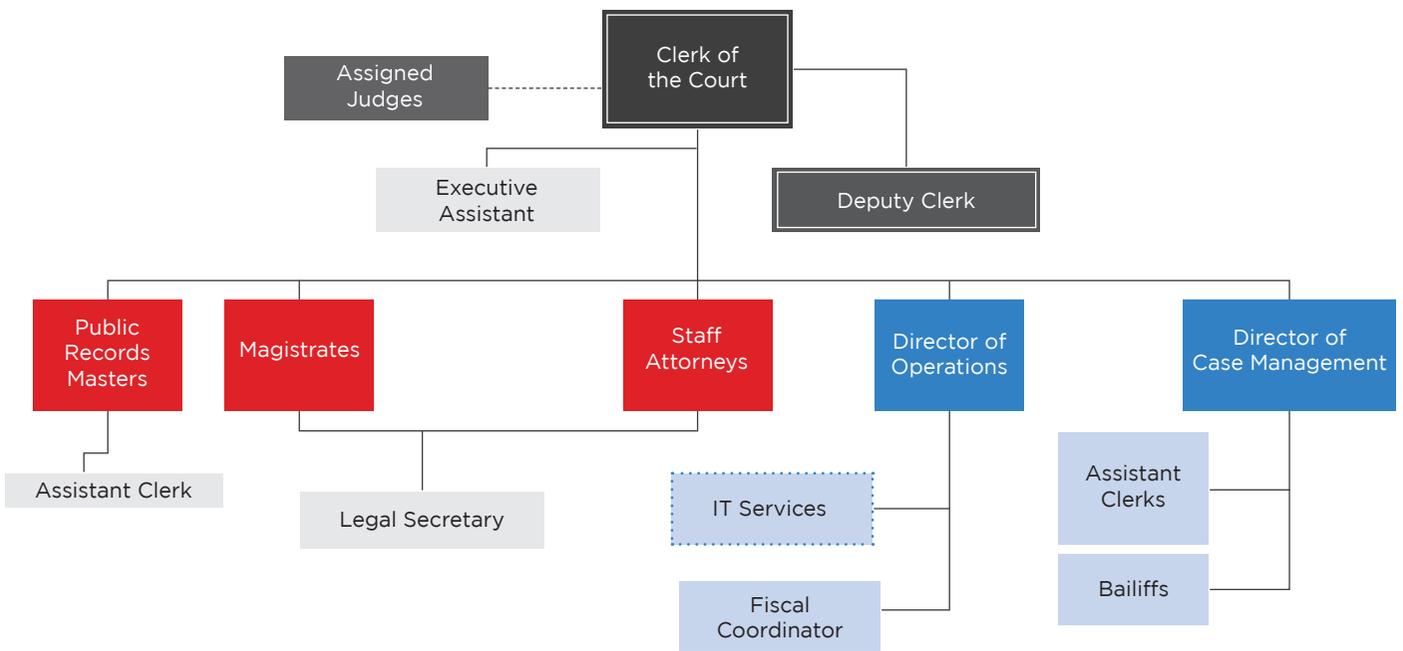
Continuing efforts to reconfigure the organization of the Court have resulted in more staff being deployed to provide direct services to the public, as well as leading to the creation of a leaner and more responsive management structure. As part of this new emphasis on better serving the public, the Court is now beginning to implement e-filing, using technology to improve access to the Court for both attorneys and pro se litigants. Consistent with this effort, we continue to work to improve our newly redesigned website, which was recognized by the National Association of Court Management as one of the 10 best court websites in the nation.

While much good work was done in 2016, much remains to be done. However, the Court of Claims has many significant assets. The Court remains well-funded and well-situated. Most important, the Court is appropriately staffed and includes a core of dedicated and hardworking employees who have made a career commitment to the organization. These abundant assets provide the foundation for the continued building of a truly outstanding trial court.



Mark H. Reed
Clerk of Court





Who We Are

The Court of Claims was established in 1975 by act of the General Assembly. At that time, the General Assembly enacted a limited waiver of sovereign immunity and established the Court of Claims as the court in which all civil actions against the state would be tried.

The Court of Claims operates under statutory authority in Chapter 2743. of the Revised Code, Rules of the Court of Claims adopted by the Supreme Court pursuant to Article IV, Section 5(B) of the Ohio Constitution, Local Rules of the Court of Claims adopted by the Court of Claims pursuant to Article IV, Section 5(B) of the Ohio Constitution, and Rules of the Court of Claims, Crime Victims Compensation Section established pursuant to R.C. 2743.09(H).

The Court of Claims employs 24 people: one deputy clerk, two managers, five magistrates, one public records master, three staff attorneys, one fiscal coordinator, two executive assistants, seven assistant clerks, and one bailiff. The Clerk of the Court is the chief executive officer of the Court of Claims, pursuant to Revised Code 2743.09. The chief justice of Ohio traditionally has appointed retired judges to serve on the Court of Claims, and in recent years the assignments have been renewed every three months.

What We Do

All cases filed in the Court of Claims are civil matters. There is no criminal docket in our Court. Most civil actions filed in the Court of Claims are classified as either judicial cases or administrative determinations.

▶ **Judicial cases** are civil cases assigned to a Court of Claims judge or magistrate and are resolved through a traditional trial court process. Parties have a right to appeal Court of Claims determinations to the Tenth District Court of Appeals and may file a discretionary appeal with the Ohio Supreme Court.

▶ **Administrative determinations** involve civil claims against the state that are valued at \$10,000 or less. In most instances, these cases are resolved by the clerk without a hearing. A party may file a motion to have the clerk's determination reviewed by a judge of the Court, whose decision is final. In the past 10 years, administrative determinations have made up approximately 60 percent of the Court's civil docket. In 2016, administrative claims were 54 percent of the civil docket.

While the majority of the cases filed in the Court are settled via the administrative process, the bulk of the Court's resources are devoted to processing and adjudicating civil cases where the amount in controversy exceeds \$10,000. These cases are handled much the same as any civil case in a common pleas court.

The Court of Claims previously held responsibility for accepting claims filed by victims of crime who were seeking reparations from the Crime Victims' Compensation Program, adjudicating those matters following an investigation by the Attorney General's Office, and paying any court-ordered awards. In the late 1990s, the Crime Victims' Compensation Program was transformed from a judicial to an administrative program, and most of the Court of Claims' program responsibilities were

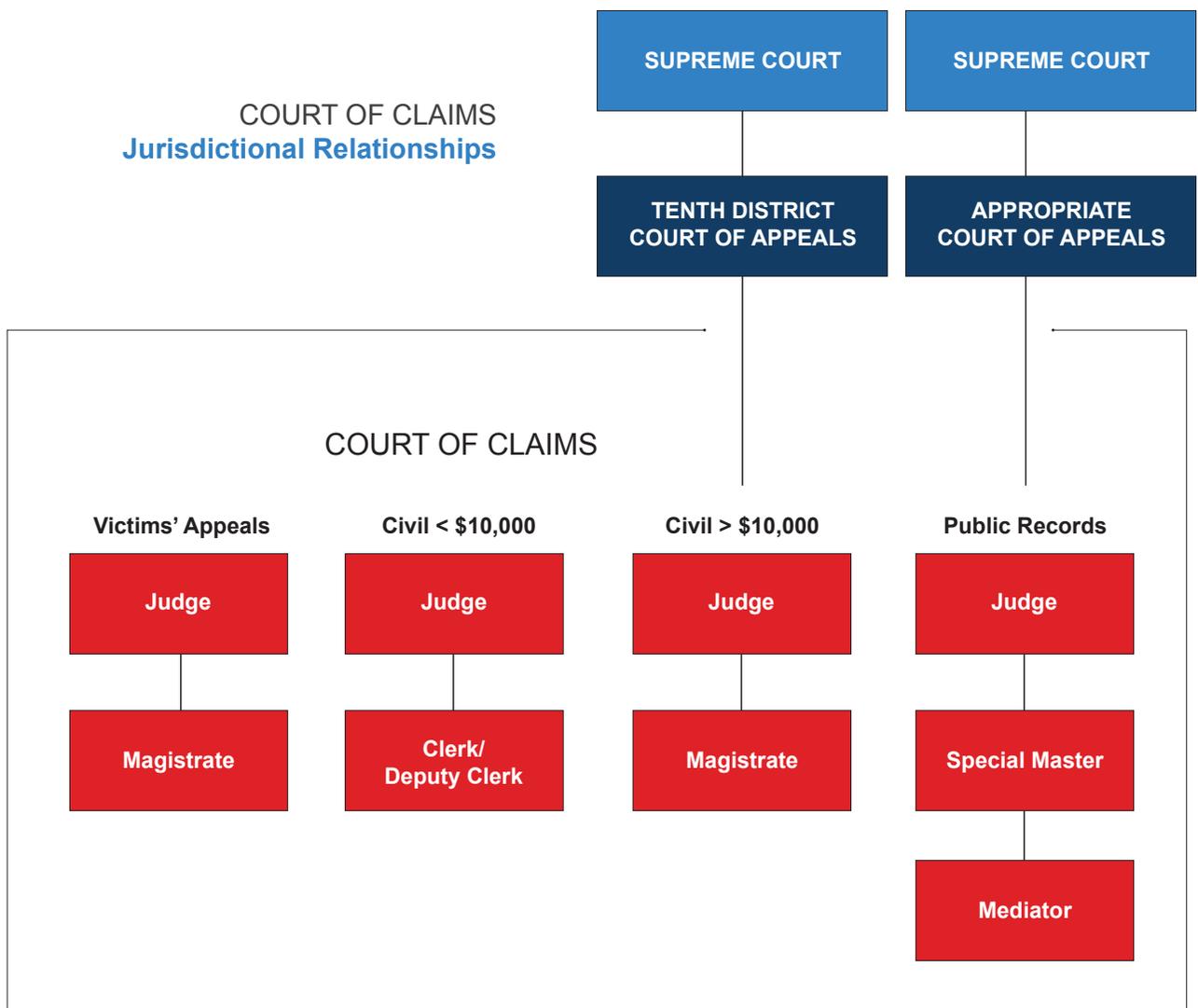
transferred to the Attorney General's Office. Crime victim compensation claims are now filed with the Attorney General's Office, which then conducts an investigation and makes an administrative determination regarding the claimant's eligibility for an award and the amount of that award.

The claimant may appeal the Attorney General's determination to the Court of Claims, where the appeal is heard by a Court of Claims magistrate. The magistrate's ruling may be objected to a judge of the Court, and the judge's determination becomes final. Awards are paid to the claimant through the Attorney General's Office. The Court of Claims receives approximately 100 crime victim compensation appeals each year, although filings were down significantly in calendar year 2016 with only 55 appeals.

Expanded Jurisdiction

On Sept. 28, 2016, a new public records law became effective that provides members of the public a faster and more affordable way of settling public records disputes with government entities. This new law established a process to hear complaints alleging a denial of access to public records within the Court of Claims. Prior to this law taking effect, the only recourse for a person denied a public records request was to sue the government entity for a mandamus action in court. This expansion of jurisdiction was a welcome recognition of the Court's continued improvement in hearing cases both timely and with finality.

**COURT OF CLAIMS
Jurisdictional Relationships**



Court of Claims Budget/Expenditures

| FUND | FY 2015 | | FY 2016 | | % CHANGE |
|-------|-------------|-------------|-------------|-------------|----------|
| | BUDGETED | ACTUAL | BUDGETED | ACTUAL | |
| GRF | \$2,501,052 | \$2,495,355 | \$2,562,959 | \$2,562,886 | 2.7% |
| 5K20 | \$415,953 | \$415,604 | \$427,184 | \$427,184 | 2.8% |
| TOTAL | \$2,917,005 | \$2,910,959 | \$2,990,143 | \$2,990,070 | 2.7% |

How We Are Accountable

The Court of Claims takes very seriously the responsibility to be faithful stewards of public funds.

The Court is funded through a separate appropriation in the biennial operating budget. The Court of Claims' budget consists of a general fund line item that funds the bulk of the court's operations and an appropriation from the crime victims' compensation fund that pays for expenses associated with reviewing appeals in crime victims' compensation cases. Unlike many state agencies, the Court of Claims has in recent years remained sufficiently funded and has not exceeded its appropriation (see chart above).

Case Management



Case management may be defined as the supervision of the processes and events of all cases filed within a court. It includes management of the time and events necessary to move a case from the point of initiation through disposition, regardless of case type.

Case management includes early court intervention, establishing meaningful events, establishing reasonable timeframes for events, establishing reasonable timeframes for disposition, and creating a judicial system that is predictable to all users of that system. In a predictable system, events occur on the first date scheduled by the court. This results in counsel being prepared, less need for continuances, and enhanced ability to effectively allocate staff and judicial resources.

One of the most fundamental ways to measure effective case management is by the determination of the court's clearance rate. Clearance rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed of in a timely manner, a backlog of cases awaiting disposition will grow. This measure is a single number that can be compared within the court for

any and all case types, from month to month and year to year, or between one court and another.

Knowledge of clearance rates by case type can help pinpoint emerging problems and indicate where improvements may be made. Courts should aspire to clear (i.e., dispose of) at least as many cases as have been filed, reopened, or reactivated in a period by having a clearance rate of 100 percent or higher.

All Court of Claims Cases 2016 FILINGS & CLOSURES

| | |
|----------------|-------|
| Incoming Cases | 947 |
| Outgoing Cases | 1,039 |

| | |
|-----------------------|-------------|
| CLEARANCE RATE | 110% |
|-----------------------|-------------|

See a breakdown of specific case types on the following pages.

▶ Civil Cases

The Court of Claims is a trial court with statewide jurisdiction. The Ohio Rules of Civil Procedure apply, except where they are inconsistent with Chapter 2743 of the Revised Code.

Court of Claims civil cases typically involve contract disputes, property damage, personal injury, wrongful death, medical malpractice, employment, defamation and wrongful imprisonment.

The Court has exclusive jurisdiction over all claims filed against the state of Ohio regardless of amount. However, claims of \$10,000 or less are determined administratively by the clerk of the court pursuant to R.C. 2743.10(A).

In all civil cases, a case management conference will occur about 60 days after the complaint is filed and will set out the trial schedule and dates of discovery for the action. The Court uses a differentiated case management system, which helps to minimize delays. Each case is assigned to the appropriate case track, which in turn allows for the performance of pretrial tasks and allocates the appropriate level of judicial and other system resources.

According to R.C. 2743.11 and R.C. 2743.03(C) (1), a party has no right to a jury trial in civil actions against the state. However, if a case is removed from the common pleas court to the Court of Claims, parties have the right to a jury trial for claims that are not against the state. In this case, jurors are drawn from the Franklin County Common Pleas list of jurors. The Tenth District Court of Appeals hears appeals of civil cases heard in the Court of Claims.

Court of Claims decisions are available for viewing in a searchable database at the Ohio Court of Claims (www.ohiocourtclaims.gov) and at the Office of the Reporter of the Ohio Supreme Court (www.supremecourt.ohio.gov).

Differentiated Case Management

In managing civil cases, the Court of Claims uses a process called **differentiated case management**, a technique that tailors the process and the court's resources to the needs of individual cases. Here's how it works:

- Active case management begins as soon as a case is filed.
- The complaint is screened to ensure that a proper state agency is named as the defendant.
- An inquiry is sent to the plaintiff to identify a connected action, or any other court cases or claims that may be related to the case.
- The clerk of the court and the director of case management review the case and place it in the expedited, standard, or major trial track, with each one adhering to a different timeline, depending upon the projected complexity of the matter. The clerk also determines whether the case is appropriate for referral to an alternative dispute resolution process.
- A trial order is issued after the connected action inquiry is filed.
- A case management conference is scheduled for about 60 days after the answer is filed.
- A pretrial hearing is held in most cases, and takes place about 30 days prior to trial.

While the vast majority of actions filed in the Court of Claims are resolved by settlement, it is unusual that a case is not tried on the date that it is scheduled to be heard. Trial continuances are therefore rare. This is because a court's ability to hold trials on the first date they are scheduled to be heard (trial date certainty) is closely associated with effective case management, and the Court devotes considerable time and attention to case management, particularly in civil cases.

| Civil Cases | |
|-------------------------|------------|
| 2016 FILINGS & CLOSURES | |
| Incoming Cases | 365 |
| Outgoing Cases | 360 |
| CLEARANCE RATE | 99% |

Civil Case Decisions

Listed below are summaries of some of the more important civil case decisions made in 2016.

Case No. 2014-00556. *Ryan Bell v. Ohio Department of Youth Services, et al.*; Filed Jan. 22, 2016

Negligence. Plaintiff alleged that he sustained injuries when defendant's employee used excessive force upon him. The magistrate found that during the incident in question, plaintiff picked up a mop stick and held it like a baseball bat in a menacing fashion while the employee issued a call for assistance. Plaintiff also asserted that the defendant would hit the employee with the mop stick if the employee called for assistance. Because plaintiff's words and actions gave the appearance that he posed an immediate threat of violence toward the employee that could result in at least severe bodily injury, and a series of non-physical alternatives to using force had been already employed, under these circumstances, the employee was justified in using force. The magistrate also found that the degree of force utilized satisfied the duty of reasonable care. As a result, the magistrate recommended judgment in defendant's favor.

Case No. 2014-00286. *Ali Abdollahi nka Michael Ali Arman v. Ohio Department of Public Safety*; Filed Feb. 8, 2016

Breach of contract; statute of limitations. Plaintiff alleged that defendant breached the terms of a settlement agreement between them when defendant provided documents from his personnel file to another government agency. Construing the evidence most strongly in plaintiff's favor, the Court found that any breach stemming from defendant's response to the public records request occurred at the latest on June 23, 2003, and the discovery rule did not apply to plaintiff's breach of contract claim. Consequently, the Court granted defendant's motion for summary judgment.

Case No. 2013-00205. *Great West Casualty Company v. Ohio Bureau of Workers' Compensation, et al.*; Filed March 21, 2016

Reversed; remanded; summary judgment; Civ.R. 56(C); unjust enrichment; quasi-contract; indemnity; statutory credit/reimbursement. The Court determined that Great West in good faith paid benefits to injured worker while the proper

situs for workers' compensation coverage was being determined, and Great West should not be forced to pay a portion of the commission's now acknowledged debt to injured worker merely because it was unclear immediately following the injury who would be responsible for compensating him. Plaintiff's motion for summary judgment was granted on its unjust enrichment claim in the amount of \$22,758.80.

Case No. 2015-00202. *Reginald Nnazor v. Central State University*; Filed April 20, 2016

Breach of contract. Plaintiff asserted that defendant breached his contract of employment when it unilaterally reduced his salary. Specifically, he alleged that he was never informed that if he were no longer a dean, his salary as a tenured professor would be reduced. Defendant argued that plaintiff failed to state a claim for breach of contract. Upon review the Court found plaintiff's employment as a professor was governed by a collective bargaining agreement (CBA), the policies of which governed his salary. Plaintiff acknowledged that he knew that the CBA would govern his position as a professor when he resigned from the dean position. Consequently, plaintiff failed to identify any contractual provision that defendant breached and as a result, rendered judgment in defendant's favor.

Case No. 2014-00553. *Jessica Edwards, et al. v. Ohio Department of Transportation*; Filed June 10, 2016

Negligence; trespass; nuisance; statute of limitations; discretionary immunity; public duty; surface water; underground water; indirect trespass. All of defendant's objections were overruled. The Court determined the magistrate was correct in determining there was an insufficient flow of water in plaintiffs' ditch and ODOT did not adequately maintain the ditch along SR 86 in front of plaintiffs' property. The Court adopted the magistrate's decision and recommendation as its own, including findings of fact and conclusions of law. Judgment on the issue of liability was rendered in favor of plaintiffs.

Civil Case Decisions

Case No. 2015-00457. *Jonathan N. Waters v. The Ohio State University*; Filed July 19, 2016

Civ.R. 12(C); defamation; slander per se; false light invasion of privacy. The Court determined that qualified privilege applied to the Title IX Investigation Report, the press releases cited by plaintiff, and Ohio State University President Drake's comments as cited by plaintiff. The Court also found that plaintiff was a limited-purpose public figure. Further, the Court concluded that a qualified privilege applied and served as a defense to plaintiff's allegation of false light invasion of privacy. Defendant was entitled to judgment on the pleadings with regard to all of plaintiff's claims.

Case No. 2012-01937. *Dan Burnett v. Ohio Department of Transportation, et al.*; Filed July 27, 2016

Negligence. Plaintiff brought an action for negligence alleging that while he was operating a tractor-trailer, a metal skid shoe broke off the bottom of a snow plow truck operated by defendant's employee and, as a result, plaintiff sustained injuries when his tractor-trailer ran over the object. Upon review of the evidence presented at trial, the magistrate found that it was more probably than not that defendant's negligence proximately caused plaintiff to suffer an injury at the L4/L5 level of his spine. As a result of that injury, plaintiff suffered significant pain in his lower back that radiated into his left leg; underwent surgery and other medical treatment for which he incurred some expenses out-of-pocket; and incurred lost wages while off work from approximately Feb. 23, 2010 to Oct. 16, 2010, or 34 weeks in total. However, plaintiff did not establish that a causal relationship existed between defendant's negligence and any ailments he experienced after Oct. 16, 2010. Consequently, the magistrate calculated plaintiff's damages as follows: (1) lost wages in the amount of \$35,345.04, representing 34 weeks of lost work; (2) out-of-pocket medical expenses in the amount of \$2,489.97, representing medical expenses incurred by plaintiff through October 2010; (3) past pain and suffering in the amount of \$35,000; and, (4) the \$25 filing fee plaintiff paid to commence this action. Lastly, the magistrate offset plaintiff's recovery by the amount of the settlement in his BWC claim (\$40,000) and by the amount of the short-term disability income he received in 2010 (\$10,939.20), for a total reduction of \$50,939.20.

Case No. 2015-00967. *Quaison Wright v. S.E.A.R.C.H.*; Filed Aug. 9, 2016

Negligence. Defendant, North West Community Corrections Center (NWCCC) (which plaintiff incorrectly identified as S.E.A.R.C.H.), filed a motion for summary judgment because it is a community-based corrections facility and is not considered the state or state agency as defined by R.C. 2743.01(A). While defendant receives partial funding from the Ohio Department of Rehabilitation and Correction (ODRC), it is not controlled or operated by ODRC. Consequently, defendant alleged that the Court of Claims did not have subject matter jurisdiction over plaintiff's claims. Viewing the matter in light most favorable to plaintiff, the court found that there was no genuine issue of material fact and that NWCCC was not the state as defined under R.C. 2743.01, and granted defendant's motion.

Case No. 2014-00987. *Wood Electric, Inc. v. Ohio Facilities Construction Commission*; Filed Aug. 12, 2016

Breach of contract. Plaintiff, Wood Electric, Inc. (Wood Electric), contracted with Defendant, Ohio Facilities Construction Commission (OFCC), to do the electrical work on a school project in Dalton, Ohio. Wood Electric's accepted bid was \$2,477,414. Wood Electric asserted that there were numerous delays in the project caused by the general contractor, which caused it to expend funds in excess of its bid. Wood Electric sought recover \$254,027.00. OFCC asserted that while there were delays, they did not proximately cause any damage to Wood Electric. The Court found that Wood Electric could seek supplemental damages and damages not contemplated at the time of filing the claim during trial. The Court also noted that OFCC had not established their own method for determining home office overhead, and found it reasonable to utilize the HOOP method, which was recognized by the Ohio Department of Transportation. Finally, the Court determined that Wood Electric's expert's testimony set forth the damages within a reasonable degree of certainty. Accordingly, it rendered judgment in Wood Electric's favor in the amount of \$254,027.00.

Civil Case Decisions

Case No. 2015-00262. *The United Young People Association v. Ohio Expositions Commission, et al.*; Filed Aug. 16, 2016

Civ.R. 56(B); summary judgment; breach of contract; unjust enrichment. The Court determined that plaintiff breached the contract when it failed to properly clean and maintain the restrooms to the satisfaction of OEC, which resulted in CTVs being sent to the Department of Administrative Services (DAS), and DAS was within its rights under the contract to terminate its relationship with plaintiff for persistent default. The Court also found that the parties' relationship was set forth in the contract documents, thus plaintiff's claim for unjust enrichment failed as a matter of law. Defendant's motion for summary judgment was granted.

Case No. 2007-04311. *Sharon Yurkowski, Admr., etc., et al. v. University of Cincinnati*; Filed Sept. 12, 2016

Wrongful death; loss of consortium. Decedent's wife and two children brought wrongful death and loss of consortium claims, alleging that University of Cincinnati (UC) was negligent in decedent's discharge from its hospital. Decedent eventually committed suicide. The only question before the Court was whether the UC doctor's decision to release the decedent from the hospital fell below the applicable standard of care. The Court found the testimony of UC's experts more persuasive than plaintiffs' expert. Specifically, the evidence demonstrated that UC's doctor performed a suicide assessment prior to decedent's release and weighed the risks of discharging him during his last inpatient stay at the hospital. The doctor also had a long history and relationship with the decedent, was aware of his tendencies, and used his knowledge to properly evaluate whether or not to allow the decedent's discharge. Moreover, even if the UC doctor breached his duty, the court found that plaintiffs failed to establish proximate cause by a preponderance of the evidence. Plaintiffs' own expert testified that he was not able to identify the proximate cause of decedent's death. Consequently, the Court rendered judgment in defendant's favor.

Case No. 2013-00454. *Nickola Ceglia v. Youngstown State University*; Filed Sept. 20, 2016

Age discrimination; R.C. 4112.02; bifurcated; liability. The magistrate determined that plaintiff stated a prima facie case of age discrimination. Further,

defendant met the burden to produce evidence of a legitimate, nondiscriminatory reason for its rejection of plaintiff, as plaintiff was not the best at paperwork, and his students were not prepared for a subsequent class. Plaintiff failed to prove by a preponderance of the evidence that defendant's failure to hire him for an open position was based upon his age. Judgment recommended in favor of defendant.

Case No. 2015-00580. *Kyle Cameron v. University of Toledo*; Filed Nov. 1, 2016

Negligence; anti-hazing; R.C. 2307.44. The court found that plaintiff, formerly a University of Toledo football player, failed to establish any of the required elements of hazing in the anti-hazing statute; he failed to demonstrate that he was coerced into participating in an act of initiation which posed a substantial risk of physical harm and that defendant knew of the occurrence of hazing. With regard to the negligence claim, the court determined that plaintiff assumed the risk of injury associated with playing the sport of football and, as a matter of law, was prevented from recovering damages for an injury sustained while participating in a football related activity. Judgment in favor of defendant.

Case No. 2014-00961. *Accurate Electric Construction, Inc. v. The Ohio State University*; Filed Nov. 18, 2016

Breach of express and implied warranty; breach of duty of good faith and fair dealing. Plaintiff alleged that defendant breached various express and implied warranties because defendant failed to provide plaintiff with a site upon which plaintiff could perform its work; unreasonably denied plaintiff's legitimate claims for additional compensation; failed to promote teamwork, cooperation, and respect amongst all project contractors; and failed to schedule and coordinate the project. Upon review of the evidence, the court determined that plaintiff's claims based on express and implied warranties were not distinct from its breach of contract claims, which the court had already previously dismissed. Similarly, the court also dismissed plaintiff's duty of good faith and fair dealing claim as this claim could not stand alone as a separate cause of action distinct from a breach of contract claim. Accordingly, the Court found no genuine issue of material fact regarding the warranty and good faith and fair dealing claims and granted defendant's motion for summary judgment.

▶ Administrative Cases

Pursuant to Ohio Revised Code 2743.10, civil actions where the amount in controversy is **\$10,000 or less**, are assigned to the small claims category of cases known as administrative determinations.

This process was created to provide a quick, informal and inexpensive way of determining claims, so the average person can file a claim without the assistance of an attorney.

Administrative determination claims are decided by the clerk or the deputy clerk of the Court based on the documents, photos, affidavits, etc. submitted. There is no trial or hearing on these matters.

During the 2016 calendar year, the Court disposed of 509 cases by administrative determination. This number constitutes 54 percent of the Court's docket. Thus this process, which resolves expeditiously cases of lower dollar value, has a large impact on the court's docket as a whole.

Administrative Cases

2016 FILINGS & CLOSURES

ALL CASES

| | |
|----------------|-----|
| Incoming Cases | 509 |
| Outgoing Cases | 606 |

CLEARANCE RATE 119%

Administrative Decisions

Listed below are summaries of some of the more important administrative determinations made in 2016.

Case No. 2015-00939-AD. *Christopher Sims v. Bureau of Motor Vehicles.* Filed Jan. 4, 2016

The clerk rendered judgment in plaintiff's favor because defendant's internal computer error caused plaintiff to receive a ticket for a suspended driver's license. As a result of the ticket, plaintiff incurred \$193.50 in towing costs and \$151.77 for lost wages. Consequently, the clerk ordered defendant to pay for the towing, the lost wages, and fees and court costs plaintiff expended in pursuing the action.

Case No. 2015-00752-AD. *Andrew Wilburn v. Ohio Department of Transportation.* Filed January 20, 2016

Plaintiff suffered damages to his car after he struck a pothole on the berm of a public road maintained by it. The clerk rendered judgment in defendant's favor because the Supreme Court of Ohio has

consistently held that defendant is not liable when a driver encounters a hazard off the traveled portion of the road.

Case No. 2015-00798-AD. *Gloria J. Kostrav. Ohio Department of Natural Resources.* Filed Jan. 22, 2016

Plaintiff's cherry tree fell into the Iron Channel of the Portage Lakes, creating a hazardous condition for boaters in the area. Plaintiff sought to have ODNR pay the costs of the tree removal because it is ODNR's responsibility to keep state waterways safe for marine travel. The clerk rendered judgment in defendant's favor because though the property where the tree fell belonged to ODNR, it did not relieve plaintiff from her responsibility under the law as owner of the tree.

Administrative Decisions

Case No. 2014-00985-AD. *Daniel Lee Spittler v. Ohio Department of Rehabilitation and Correction.* Filed Feb. 10, 2016

Plaintiff filed a complaint against defendant alleging that defendant had negligently packed up his property and lost some of items. The clerk found a bailment relationship was created when defendant's agents took possession of plaintiff's property and transported it between institutions. The clerk then found that plaintiff's headphones, charger, tennis shoes, and beard trimmer were lost and a nylon carrying case was damaged. Consequently, the clerk awarded judgment in plaintiff's favor for \$132.36.

Case No. 2015-00893-AD. *Jean Opliger v. Ohio Department of Transportation.* Filed Feb. 12, 2016

Plaintiff filed a complaint against defendant to recover damages which occurred when her car struck a pothole while traveling on 70-West in Guernsey County, Ohio, a public road maintained by defendant. Because plaintiff's claim for damages were satisfied from a collateral source, the clerk dismissed her claim against defendant.

Case No. 2015-00620-AD. *Henton, Jr. v. Ohio Department of Rehabilitation and Correction.* Filed March 25, 2016

Plaintiff filed a complaint against defendant alleging that defendant's mailroom procedure prevented him from timely filing documents with the Supreme Court of Ohio, which led him to lose his lawsuit. The clerk found that plaintiff was alleging a claim for denial of access to the courts, a constitutional claim over which the court of claims had no jurisdiction. Consequently, the clerk found that plaintiff failed to state a claim upon which relief could be granted and it was denied.

Case No. 2016-00199-AD. *Williams v. University of Akron.* Filed Aug. 18, 2016

Court found that plaintiff, an invitee at a University of Akron men's basketball game, failed to demonstrate that defendant did not exercise ordinary care with respect to the seat plaintiff was injured in during the November 16, 2015 game. The court agreed with defendant that the University of Akron had no notice of any defects, either through an outside company's inspection of the arena, visual inspection by defendant's staff, or patron feedback, with regard to the seat in which plaintiff was allegedly injured. Judgment in favor of defendant.

Case No. 2016-00274-AD. *Byrd, Jr. v. Supreme Court of Ohio.* Filed Aug. 18, 2016

Court found that plaintiff's claim that defendant's clerk of court failed to accept a filing submitted by plaintiff was barred by the public duty doctrine. Additionally, to the extent plaintiff's claims could be construed as constitutional or criminal claims, the court did not have jurisdiction over these claims. Judgment in favor of defendant.

▶ Victims of Crime Compensation Appeals

The Ohio Crime Victims Compensation Program is administered by the Ohio Attorney General, with court review provided by the Ohio Court of Claims. It reimburses crime victims, their families, and others who may incur specific expenses resulting from a crime of violence. These expenses may include medical bills, lost wages, counseling and funeral expenses, hearing aids, dental aids, glasses, walkers, and wheelchairs. Reimbursement for these expenses is considered after all payments or adjustments from insurance providers or other available sources have been made.

Once the Attorney General renders an administrative decision regarding a compensation claim, the decision may be appealed to the Court of Claims. Appeals may be made denying an award or modifying the amount of an award. Attorney fee

awards may not be appealed to the Court. A hearing on the appeal will be held within 90 days of the filing. A written decision will be issued within 60 days of the hearing.

Victims of Crime Compensation Appeals

2016 FILINGS & CLOSURES

| | |
|----------------|----|
| Incoming Cases | 55 |
| Outgoing Cases | 70 |

CLEARANCE RATE **127%**

Victims of Crime Compensation Appeals

Listed below are summaries of some of the more important appeals heard by the Court of Claims in 2016.

Case No. 2016-00029-VI.

In re N.H.; Filed June 3, 2016.

Victim of crime, allowable expense, out-of-network provider's services compensable. When in-network providers could not provide the immediate assistance necessary. Claim not denied pursuant to R.C. 2743.60(D) or (H). Judgment recommended for applicants.

Judgment for applicants. Adopted on 6-22-16, Jr. Vol. 2291, Pgs. 207-208.

Case No. 2016-00288-VI.

In re G.R.; Filed Sept. 1, 2016.

Victims of crime, allowable expense, hypnotherapy qualifies as "other remedial treatment and care" as defined in R.C. 2743.51(F)(1). Judgment recommended for applicant.

Judgment for applicant. Adopted on 9-16-16, Jr. Vol. 2292, Pgs. 76-77.

Case No. 2016-00313-VI.

In re Zerkle; Filed Sept. 15, 2016.

Applicant does not qualify as a victim of terrorism. No relationship to victims and was not injured from the terrorist attack on New York City on September 11, 2001. Judgment recommended for the State of Ohio.

Judgment for State of Ohio. Adopted on 10-17-16, Jr. Vol. 2292, Pgs. 103-104.

► Public Records Cases

In 2016, the Ohio General Assembly passed Senate Bill 321 which fundamentally changed the way that disputes between citizens and government regarding access to public records are resolved. This bill, which became law on September 28, 2016, allows citizens who believe a governmental entity is illegally withholding public records to file a complaint in the Ohio Court of Claims.

As in civil cases, active case management begins immediately upon the filing of a complaint. The complaint itself is reviewed by the Clerk of the Court to determine if it meets the minimum statutory requirements. Upon acceptance, the party requesting court review is contacted by one of the staff attorneys here at the Court, **usually within three business days of the filing of the complaint.** The attorney will review the request to properly understand what records have been requested

and why the public agency denied that request. Once the staff attorney has that information, he or she will contact the public agency to find out why the request was denied. This simple act of communication frequently resolves the problem. If it does not, then the complaint will be referred for formal mediation. The new law requires that these cases be referred to mediation for resolution, and if not resolved there, a judicial officer called a Special Master would then issue a binding ruling.

Since the process became law in late September through December 31, 2016, the Court received 18 complaints and issued two decisions. Eight cases had been resolved by mediation, and another eight cases remained pending on the court's docket.

Public Records Decisions

Listed below are summaries of the public records cases decided in 2016.

Case No. 2016-00758-PQ.

Kimberly Beem vs. Bureau of Criminal Investigation
Filed Sept. 28, 2016

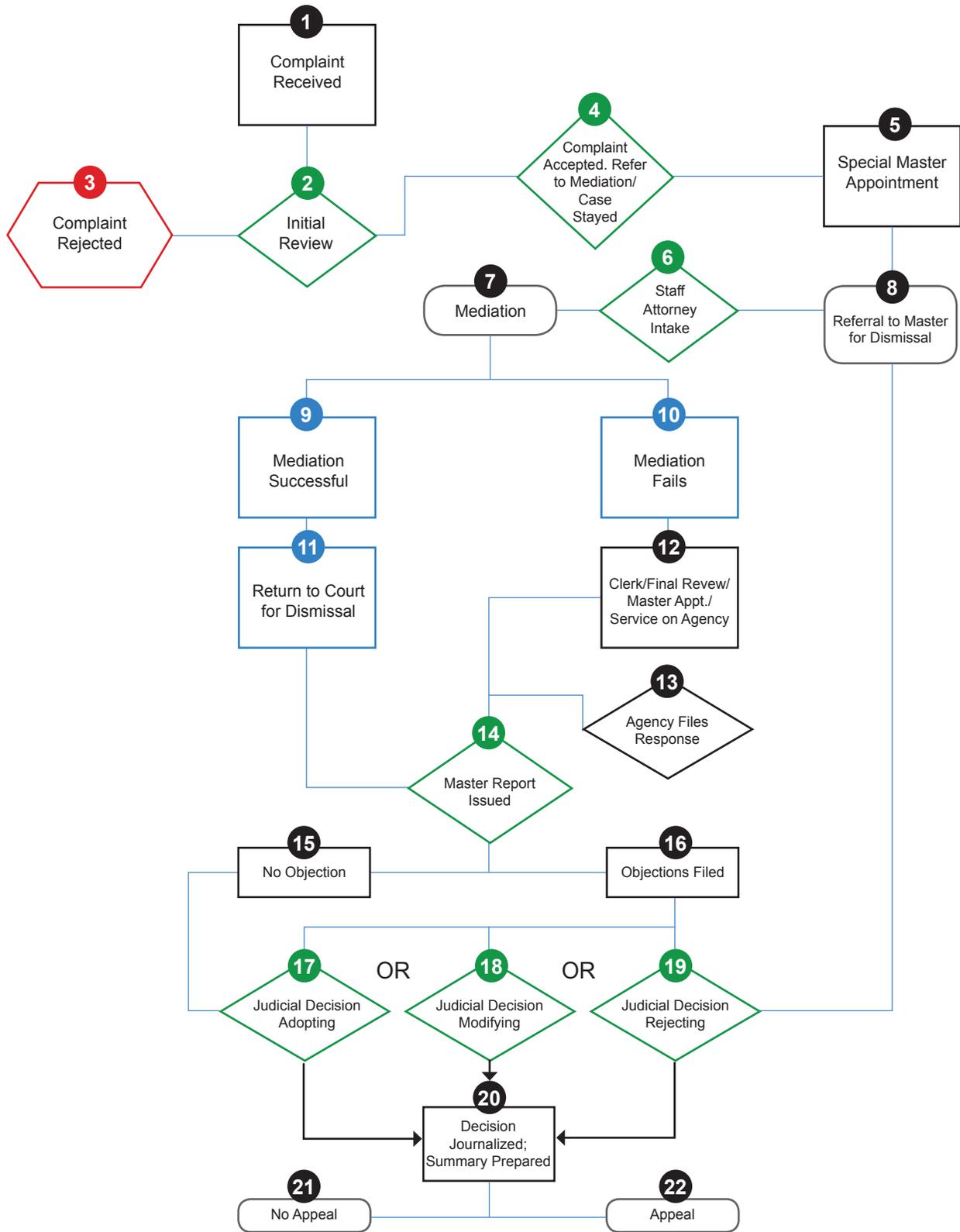
Requester Beem filed a complaint alleging denial of public records in violation of R.C. 149.43. Beem, who had been the subject of a criminal investigation by BCI, filed a request for all recordings made by BCI while conducting their now completed investigation of her. BCI had already provided the recording of their agent's interview with Beem herself. Beem insisted that as BCI agents had interviewed other individuals during their investigation of her, that she was entitled to those other recordings as well. However, BCI while admitting they had interviewed other individuals, denied that their investigators had made recordings of those interviews. The Special Master found that Beem had failed to establish by clear and convincing evidence that these additional recordings were in existence and therefore denied the request.

Case No. 2016-00783-PQ.

Danielle Carlson vs. City of Green
Filed Oct. 25, 2016

Requester Carlson filed a complaint alleging a denial of public records in violation of R.C. 149.43(B). Carlson, a journalist, filed a request for a public record identified as a letter of termination from the Mayor of the City of Green to a former City employee. This letter, which had once been part of the employee's personnel file that had already been furnished to Carlson, had been removed from the file as part of a settlement agreement between the City and the employee. The City argued therefore that the release of the letter was exempt from public records law by operation of the settlement agreement. The Special Master, however, found that the contractual promise of confidentiality on the part of the City to the former employee would violate R.C. 149.43 if enforced and that such a provision is void. The Request filed by Carlson was therefore granted.

Court of Claims Public Records Management Process





Conclusion

The year 2016 was once again a year of continued, steady improvement for the Court of Claims. The Court disposed of more cases than were filed, ensuring that no backlogs have the chance of developing. A new public records law was passed, expanding the Court's jurisdiction for the first time in decades. Relations with the Bar and other courts continue to be fostered through open communication and collaboration. Court funding is stable and adequate. The staff of the Court closed 2016 with a sense of accomplishment and looks forward to continued success in 2017.



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