

Notes from an Interview with
Clerk of the Michigan Supreme Court
Corbin Davis

- 1) Could you tell us what your job involves?
 - Take in all the papers
 - Issue judgments/orders
 - Maintain a database of attorneys
 - Handle comments regarding court rules/administrative actions (generally from individuals who disagree with the rule)
 - Handle the papers coming from the lower courts
 - Staff may do research (may publish changes for comments)
 - Issue orders of the Court such as rules, administrative orders, consolidation orders, or case dispositions

- 2) How has the Court changed during your time as Clerk?
 - I have been Clerk of the Court for 32 years
 - The Court is younger (meaning the justices are younger)
 - The types of decisions are different
 - Court policy has changed some
 1. We work very hard to have consistency
 2. We try to use past practice as a guide unless the rules are obsolete or a special situation arises

- 3) If you were teaching about the Court, what information would you choose to share with the students?
 - I would stress that the Court is an independent 3rd branch of the government
 - I would read some of the opinions of the Court, which have gotten shorter over the years
 - I would make sure students understood the terms that are used by the Court

- 4) What role do you see the Court playing in the national legal scene?
 - Usually we only have one case of national significance about every five years
 - The writs of the Court cover only Michigan
 - An example of a case that may be cited by other states is the case about the “freedom of information/open meetings act”
 - Attorneys in other states may use a decision of the MSC as a “persuasive argument” that they would like the judge to consider
 - Attorneys in other states may also use an opinion as “authority” that the judge must follow

- 5) Of the decisions made during your tenure, which do you think had the biggest impact on the general public?
- The Durrant case
 - Cases dealing with no-fault auto insurance
- 6) If you could change anything about the Court, what would it be?
- Getting people to realize that the Court is an independent 3rd branch
 - Making sure that decisions are applied fairly and consistently
 - Explaining that in some instances, the Court uses “legislative intent”, which is trying to figure out what the legislature intended a law to do rather than what the final written law actually does
 1. To do this they look at records of legislative debates
 2. They read the different versions of the law that were proposed
 3. They seek out staff commentary
- 7) Are there specific criteria in choosing which cases go before the Michigan Supreme Court?
- There are no written criteria
 - The Court uses the rules they have published (600 page document)
 - They examine the validity of the issues
 - They consider whether it is in the public interest to hear the case
 - About 85% of the applications for leave to appeal to the Michigan Supreme Court are denied by the Court
 - The Court has original jurisdiction over some cases
 1. Recommendations by the Tenure Board
 2. Disputes brought by attorneys
 3. Usually three cases of original jurisdiction are brought before the Court each year
 4. The Court chooses to hear such cases about once every 5-6 years
- 8) Whose responsibility is it for choosing the cases?
- The Court’s
 - They have staff attorneys who do the research and make recommendations, but the justices make the final decisions
 1. Most of the attorneys have been with the Court for several years
 2. In order to be a staff attorney, a lawyer must have practiced law for at least five years
 3. They must show research and writing ability
 - In order to hear all of the cases that are brought before the Court, the Court would have to hear six cases every day (365 days per year)
- 9) How long does it take to decide whether or not to accept a case?
- In some instance, four to six months (this would be the “easy” denial)

- Individuals must apply “to be heard”
- Much of the work of the Court is done in conference
 1. The justices usually make decisions on 30 – 40 cases each week in conference (whether or not to hear the cases)
 2. The justices generally discuss/review 20 – 50 opinions per meeting
- The vast majority of the work of the Court is done by paper
 1. Only about 90 cases per year have “oral” arguments
- Worst case scenario – it can take up to one year from the filing date for the justices to decide whether to hear a case
 1. A single case may appear for conference discussion 2 – 3 times
- On cases that are heard, the Court works to have opinions complete by the end of July
- Oral arguments are heard by the Court from October to July
- The remaining months are used for other work

10) Who is the first to be notified about the acceptance/rejection of an appeal?

- The attorney of the individual appealing the case

11) Is there any other information we should know about both your responsibilities and/or the Court?

- That the Court also has “administrative” responsibility for all of the lower courts in the state