



FOURTH JUDICIAL DISTRICT

**Evaluation of the
Fourth Judicial District Probate Court Pilot Project:
Utilization of Adjunct Judicial Officers in Probate Court Proceedings
September 2011 – April 2012**

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Executive Summary

- The Fourth Judicial District Probate Court conducted a pilot project from September 2011 through April 2012, in which six volunteer attorneys appointed as Adjunct Judicial Officers (AJOs) heard uncontested cases on the Guardianship/Conservatorship commencing calendars one morning per week. In mid-February 2012, they also began hearing Trust calendars one afternoon per week. This limited use of volunteer attorneys as AJOs was expected to allow the Referees more time to work on complicated or controversial matters.
- The pilot project was authorized by a Minnesota Supreme Court order dated May 17, 2011, exempting Adjunct Judicial Officers in the Fourth District Probate Court Pilot Project from the Practice Restriction of Part III (B) of the Minnesota Judicial Code of Conduct. The pilot project was extended by a Minnesota Supreme Court order dated May 21, 2012, pending review of the pilot program evaluation by the Supreme Court. This evaluation is due by August 21, 2012.
- There were four pilot program goals:
 1. Give Probate Court Referees more time to work on contested matters.
 2. Both contested and uncontested Probate Court matters will be handled more quickly than before the pilot.
 3. Attorney and litigant satisfaction will be equal between cases handled by AJOs and Referees.
 4. The Probate Court Judge, Referees, AJOs, judicial staff, and administrative staff will be satisfied with the new procedures.
- One goal was met, one was not met, and the other two were only partially met. Litigant satisfaction with the handling of hearings was equally high whether a case was heard by an AJO or a Referee. The time savings for the Referees was only partially realized and there was qualified acceptance of this new process by staff and judicial officers in the Fourth District Probate Court. The goal related to efficiency of the caseload was not met.
- Goal 1 was met to some degree. Although Referees only reported working on contested matters half of the time they were freed from hearing the uncontested Guardianship/Conservatorship Commencing and Trust calendars, they were also able to use this time to work on non-contested cases and non-case related matters. When taking this into account, the Referees were able to spend time catching up on their work for 84% of the time they would previously have been presiding over the uncontested calendars.
- Goal 2 was not met. Three measures were used: **Backload Index** (number of 'pending' cases divided by number of cases resolved during a time period); **Clearance Rate** (a percentage of the number of 'new' cases resolved during a time period); and finally **Workload Rate** (combines pending cases with new cases and looks at how many total cases were resolved of all those that needed resolution during a time period). As such, Workload Rate is in essence the tiebreaker of the three performance measures. During the pilot period, the Backlog Index did improve for both Guardianship/Conservatorship cases and for Major Probate cases as a whole when compared to the same time period in the year before the pilot. However, Clearance Rates and Workload Rates did not

improve, but declined. This means that the decrease in the Clearance Rate was more significant than the improvement in the Backlog Index.¹

- Goal 3 was met. Attorneys and litigants rated both Referees and AJOs extremely high on all survey questions. On all five questions, ratings were 8.00 or higher on a nine-point scale.
- Goal 4 was met to some degree.
 - All Judicial Officers and AJOs feel that the Referees have more time to work on contested matters and that the ride-along sessions were valuable.
 - All AJOs found their training to be valuable and their experience serving as an AJO to be meaningful.
 - Nearly 60% of all surveyed feel that the use of AJOs should continue in Probate Court and three-fourths (75%) of Judicial and Adjunct Judicial Officers feel that it should become a permanent part of the Probate Bench.
 - More than two-thirds of judicial and administrative staff feel that the amount of work required of them has increased during the AJO Probate Pilot, although all of them feel that this level of work is still manageable.
 - Concerns were expressed about:
 - Conflicts of interest having AJOs both represent clients in court and hear cases on the Bench;
 - The need for 2.0 FTE Probate Court Referees rather than 1.5 FTE²;
 - Lack of consistency among the rotation of AJOs; and
 - Scheduling/logistical issues involving more time being needed for judicial and administrative staff to handle the AJOs' court files and to field questions from court participants appearing before an AJO
- Since meeting the goals was so mixed, we would only recommend continuing the AJO project for a limited time going forward to see if more time will result in improvement on all performance measures.
- If the Fourth Judicial District's Probate Court continues the use of AJOs to hear uncontested matters, the following recommendations are made:
 - Thorough and ongoing training so that all AJOs follow the same procedures as the Referees, to better ensure consistency for litigants.
 - Creation of a Probate Court Policy and Procedure Manual.
 - Solicit regular feedback from court users, Judicial Officers, AJOs, and staff supporting the AJOs and use this feedback to continually improve processes.
 - Use AJOs who don't regularly practice in the Fourth Judicial District to help mitigate concerns about conflicts of interest.
 - Examine case processing performance measures quarterly to ensure that they are improving or remaining stable and that the use of AJOs is not contributing to declines in performance.

¹ The research team and the Probate staff spent time discussing possible other methods to track processing-time changes. Even if the Probate staff had kept a hand log of the time it took to process the cases in the pilot, there would not be a meaningful comparison to the previous year since uncontested cases are not identified from other Guardianship/Conservatorship cases in the court information system (MNCIS). Therefore there would not be a method to identify similar cases from previous years. Reports on Time to Disposition are not available for any Probate cases because time standards are not identified for these case types.

² The most current Weighted Caseload would support this contention (Assessed Judge Need for Probate=1.9)

Background

In early 2011, Judge Jay Quam, Presiding Judge of the Fourth Judicial District Probate/Mental Health Court, Probate Court Referee Dean Maus, Senior Administrative Manager Anna Lamb, and Court Operations Manager Steve Bittick, began to look at the feasibility of utilizing volunteer attorneys as Adjunct Judicial Officers (AJOs) to hear some of the uncontested matters in Probate Court. Discussions took place and input was sought from the Hennepin County Bench and Bar Committee, the Probate Council of the MN State Bar Association, the Adjunct Judicial Officers Workgroup, and leaders at several levels of state court. Fourth Judicial District Chief Judge James Swenson, State Court Administrator Sue Dosal, and Supreme Court Chief Justice Lorie S. Gildea all supported conducting a pilot AJO project in an effort to ease the workload challenges in Probate Court. In the past few years, both full-time Probate Court Referees retired and due to budget constraints, they were replaced by one full-time and one part-time Referee. The pilot project was authorized by a Minnesota Supreme Court order dated May 17, 2011, exempting Adjunct Judicial Officers in the Fourth District Probate Court Pilot Project from the Practice Restriction of Part III (B) of the Minnesota Judicial Code of Conduct (see Appendix A). The pilot project was extended by a Minnesota Supreme Court order dated May 21, 2012, pending review of the pilot program evaluation by the Supreme Court (see Appendix B). This evaluation is due by August 21, 2012.

In an attempt to give the Fourth Judicial District's Probate Court Referees more time to handle contested matters, six volunteer attorneys appointed as AJOs heard uncontested cases on Guardianship/Conservatorship commencing calendars one morning per week beginning in September 2011. In early February 2012, the AJOs also began hearing Trust calendars one afternoon per week.³

This limited use of volunteer attorneys as AJOs was expected to allow the Referees more time to work on complicated or controversial matters. As a result, both contested and uncontested matters should be handled more quickly than before the pilot began. In addition to handling Probate Court cases more quickly, the pilot project sought both litigant and attorney satisfaction with the way their cases and hearings were handled by the AJOs. Finally, the pilot project gave interested attorneys the chance to preside over probate matters and allowed them to experience Probate Court from the other side of the bench. This was intended to increase the knowledge of

³ Because the monthly number of Trust case filings are very small (an average of 18 per month during the pilot period), and because the Trust calendars did not start to be heard by AJOs until February 8, 2012, they are not included in this evaluation.

probate matters for those attorneys that volunteered for the project, as a more knowledgeable bar hopefully means better cases presented to the bench in the future.

Pilot Description

From September 16, 2011 through April 13, 2012, volunteer Adjunct Judicial Officers (AJOs) heard uncontested cases on the Guardianship/Conservatorship Commencing calendars. Probate Court Chief Judge Quam's law clerks provided courtroom support to the AJOs. By removing the Guardianship/Commencing calendars from the Referees' schedules, they were free during that time to concentrate on handling contested matters or to be in chambers using the time to write orders. The addition of AJOs hearing uncontested Guardianship/Conservatorship Commencing calendars resulted in the Referees each gaining one half day every other week to work on cases that are more complicated or difficult.

Judge Quam trained six volunteer AJOs, who rotated through presiding over the Guardianship/Conservatorship Commencing calendars. They reviewed the bench manual, policies, and laws as well as completed a "ride along", in which they sat in on at least one Guardianship/Conservatorship Commencing calendar with a Referee to observe the proceedings before beginning to preside over these calendars on their own. In February 2012, the AJOs also began hearing Trust calendars one afternoon per week.

Pilot Goals

- 1) Give Referees more time to work on contested matters.
- 2) Both contested and uncontested Probate Court matters will be handled more quickly than before the pilot.
- 3) Attorney and litigant satisfaction will be equal between cases handled by AJOs and Referees.
- 4) The Probate Court Judge, Referees, AJOs, judicial staff, and administrative staff will be satisfied with the new procedures.

Data Sources

These goals were measured using a number of data sources. **Referee Activity Recording Forms** were used to keep track of the type of activities the Referees were able to work on while the AJOs heard the uncontested Guardianship/Conservatorship Commencing and Trust calendars. **Electronic reports from the MN Judicial Analytical Data Mart (MNJAD)** were

assessed to look at clearance rates, workload rates, and backlog indexes for Guardianship/Conservatorship, Trust, and total Major Probate cases during this period compared to a similar period from the previous year. **Satisfaction surveys** occurred at different points in the process. Attorneys and litigants (wards, protected persons, etc.) were asked to complete paper surveys at the conclusion of their experience each day they were in court. The Probate Bench, judicial staff, and key Probate Court administrative staff were surveyed at the end of the pilot project in May 2012.

Results

Goal 1: Give Referees more time to work on contested matters.

Probate Court Referees were asked to complete a ‘Probate AJO Pilot Referee Recording Form’ each time they were freed from hearing the uncontested Guardianship/Conservatorship Commencing or Trust calendars (see Appendix B). The Referee recorded the type of activity he worked on, for how long, and whether this work was for a contested or uncontested matter.

During the pilot period, the Referees were freed from hearing uncontested calendars thirty-three times; each time an AJO heard an uncontested calendar, the Referees were able to work on other matters for an average of 2.9 hours. After excluding the few instances where a Referee did not record the type of matter worked on, half of the time (50%) that Referees were freed to work on other matters was spent on contested cases and half (50%) was on uncontested cases (see Table 1).

Table 1. Type and Hours of Work Done by Referees While AJOs Heard the Uncontested Guardianship/Conservatorship Commencing and Trust Calendars

			Contested Case		
			Yes	No	Total
Activity	Case Related: Current G/C or Trust calendar	<i>Hours</i>	9.3	5.3	14.6
		<i>% of Total</i>	10.0%	5.7%	15.7%
	Case Related: Other Cases	<i>Count</i>	37.3	18.4	55.7
		<i>% of Total</i>	40.2%	19.8%	60.0%
	Non-Case Related	<i>Count</i>	0.0	22.6	22.6
		<i>% of Total</i>	0.0%	24.3%	24.3%
	Total	<i>Hours</i>	46.6	46.3	92.9
		<i>% of Total</i>	50.2%	49.8%	100.0%

Referees used the time freed from hearing the uncontested calendars to work on other contested cases forty percent of the time; for example, hearing contested cases or motion hearings, reviewing cases, or drafting contested orders. Ten percent of their time was spent on contested cases on the current Guardianship/ Conservatorship Commencing or Trust calendar; for example, meeting with attorneys to draft scheduling orders or hearing contested cases on the AJO's calendar.

The Referees spent the other half of their time working on uncontested cases. Six percent of their time was spent working on non-contested cases on the current Guardianship/ Conservatorship Commencing or Trust calendar; for example, meeting with and reviewing cases with the AJO or hearing cases on an AJO's calendar due to a conflict of interest for the AJO. One-fifth (20%) of their time was spent on other non-contested cases; for example, reviewing cases and signing orders.

Nearly one-fourth (24%) of the time Referees were freed from hearing the non-contested calendars was used for non-case related activities; for example, preparing for and attending CLEs, speaking at conferences, and doing general office work such as responding to emails and phone calls.

Overall, Goal 1 was met to some degree. Although Referees only reported working on contested matters half of the time they were freed from hearing the uncontested Guardianship/Conservatorship Commencing and Trust calendars, they were also able to use this time to work on non-contested cases and non-case related matters. When taking this into account, the Referees were able to spend time catching up on their work for 84% percent of the time they would previously have been presiding over the uncontested calendars. For 16% percent of the time they were supposed to be freed from the uncontested calendars, Referees reported having to work on issues related to those calendars; for example, meeting with and assisting AJOs or stepping in to hear a case in which an AJO had a conflict of interest. Because of the nature of a pilot program, it is not surprising that some time needed to be spent clarifying issues for the AJOs. In addition, there will always be situations where an AJO has a conflict of interest in a case and a Referee must step in to hear it.

Goal 2: Both contested and uncontested Probate Court matters will be handled more quickly than before the pilot.

To assess how well this goal was met, the following performance measures are used.

Backlog Index: Backlog Index is determined by dividing the number of cases pending at the beginning of a time period by the number of cases disposed during that same time period. It measures the pending caseload against the court's capacity to dispose of the caseload during a given time period. A Backlog Index of 1.0 means that the court disposed of the equivalent of the pending caseload within one year; a Backlog Index greater than 1.0 indicates that the court is falling behind in disposing of that case type. A Backlog Index less than 0.50 is considered good – it means that the court disposed of the equivalent of the pending caseload within six months (0.5 equals a half-year).

Clearance Rate: Clearance Rate is determined by dividing the number of disposed cases by the number of filed cases. It is a measure of how many cases are being disposed compared to the number of new cases coming into the court. Ideally, clearance rates should be as close to 100% as possible. A clearance rate of 100% means the court is staying current with filings – in other words, disposing of as many cases as are filed with the court in a given time period. A clearance rate over 100% means that not only are the new cases coming into court being disposed of in a timely manner, but that those cases that were active prior to the time period being assessed are being disposed of as well.

Workload Rate: Workload Rate is the percentage of disposed cases out of all cases we could have possibly disposed of (all new cases filed during a time period plus the cases that were pending at the beginning of that same time period). A Workload Rate of 75% or higher is considered good. As such, Workload Rate is used here as the 'tie-breaker'. Since it combines the elements of the previous two measures, the success or failure of this goal will rest on this final measure.

Probate Court performance measures during the pilot period are compared with those in the same eight months during the year before the Probate Court Pilot project began. As shown in Table 2, the backlog index, which looks at resolution of pending cases, improved. Since the AJOs were handling new non-contested matters, this measure is most likely related to the Referees having more time available to handle older (or pending) cases.

Table 2. Backlog Index Comparison: Pre-AJO Pilot vs. AJO Pilot Period

Case Type	Pre-AJO Pilot (Sept 2010 – April 2011)	AJO Pilot Period (Sept 2011 – April 2012)
Guardianship/Conservatorship	.39	.28
Major Probate Total⁴	.18	.16

The Clearance Rate is lower during the pilot project period than for the same time period from the previous year (see Table 3). This measure looks at resolution of new cases, which would include both contested and non-contested cases handled by Referees and the AJOs. There was a 7% increase in Guardianship/Conservatorship filings, and a 2% increase in all Probate filings, from the Pre-AJO Pilot period to the AJO Pilot Period; therefore, it is possible that the decrease in the clearance rate could be attributed to the increase in filings.

Table 3. Clearance Rate Comparison: Pre-AJO Pilot vs. AJO Pilot Period

Case Type	Pre-AJO Pilot (Sept 2010 – April 2011)	AJO Pilot Period (Sept 2011 – April 2012)
Guardianship/Conservatorship	122%	97%
Major Probate Total	106%	97%

Workload Rate combines pending cases with new cases and looks at how many total cases were resolved of all those that needed resolution during a time period. During the pilot period, the Workload Rate declined (see Table 4). This means that the decrease in the Clearance Rate was more significant than the improvement in the Backlog Index.

Table 4. Workload Rate Comparison: Pre-AJO Pilot vs. AJO Pilot Period

Case Type	Pre-AJO Pilot (Sept 2010 – April 2011)	AJO Pilot Period (Sept 2011 – April 2012)
Guardianship/Conservatorship	83%	77%
Major Probate Total	89%	84%

Goal 2 was not met. During the pilot period, the Backlog Index did improve for both Guardianship/Conservatorship cases and for Major Probate cases as a whole when compared to the same time period in the year before the pilot. However, Clearance Rates did not improve but rather declined during the project time period. Workload Rate, the measure that combines all the elements from above, also declined.

⁴ Major Probate case types: Trust, Supervised Administration, Unsupervised Administration, Special Administration, Informal Probate, Estate/Other Probate, Guardianship/Conservatorship, and Commitment.

A more ideal method of assessing the efficiency of this AJO model might have been to track the actual length of cases handled under the pilot and pre-pilot. This would have necessitated a manual method of data collection which would have only ensured data for the pilot period. The cases involved in the study are not identified in the court information system (guardianship and conservatorship cases are not split into contested and non-contested cases) and so there is no ability to identify these cases from previous years and therefore no method of identifying a pre-pilot sample.

Goal 3: Attorney and litigant satisfaction will be equal between cases handled by AJOs and Referees.

Between September 6, 2011 and April 4, 2012, attorneys and litigants on uncontested Guardianship/Conservatorship Commencing calendars were asked to complete a short survey about their experience in court at the conclusion of their hearings (see Appendix C). Once AJOs began presiding over Trust cases, court participants were also asked to complete surveys after these proceedings. Because AJOs did not begin hearing Trust cases until February 8, 2012, there are significantly fewer surveys for that case type: of the 310 completed surveys⁵, 302 were regarding uncontested Guardianship/Conservatorship Commencing cases. Therefore, results are presented for that case type only.

Participants rated five statements about their experience in court on a scale from 1 to 9, where 1 indicated 'Strongly Disagree' and 9 indicated 'Strongly Agree'.

1. The judicial officer treated me fairly.
2. My case was completed in a timely fashion.
3. I understand what occurred in court today.
4. The judicial officer listened carefully to what I (or my lawyer) had to say.
5. Overall, I was satisfied with the hearing today.

As shown in Table 5, ratings for all five questions were extremely high overall. Ratings for both Referees and all six AJOs rounded to a score of 8.00 or higher on a nine-point scale for each of the five questions. AJO 6 was rated highest on three of the five questions (fair treatment, completing cases in a timely fashion, and understanding what occurred in court) and tied with AJO 4 on the remaining two questions (listening carefully and overall satisfaction). AJO 1 was rated lowest on four of the five questions (completing cases in a timely fashion, understanding

⁵ Surveys were offered to participants at each hearing and were anonymous. Therefore, people could have completed a survey on more than one occasion.

what occurred in court, listening carefully, and overall satisfaction), while AJO 5 was rated lowest on the question about fair treatment. However, it is important to keep in mind that these ratings all still rounded to 8.00 or higher on a nine-point scale.

**Table 5. Litigant Perceptions of How Referees or AJOs Handled the Hearing
Mean (Average) Score based on scale from 1 (Strongly disagree) to 9 (Strongly agree)**

	Referee 1 (n=36)	Referee 2 (n=76)	AJO 1 (n=37)	AJO 2 (n=43)	AJO 3 (n=52)	AJO 4 (n=28)	AJO 5 (n=18)	AJO 6 (n=20)
The judicial officer treated me fairly.	8.75	8.26	8.00	8.71	8.21	8.71	7.89	8.85
My case was completed in a timely fashion.	8.78	8.20	8.03	8.60	8.15	8.67	8.17	8.90
I understand what occurred in court today.	8.78	8.51	8.05	8.79	8.31	8.70	8.11	8.90
The judicial officer listened carefully to what I (or my lawyer) had to say.	8.78	8.32	8.05	8.81	8.33	8.85	8.44	8.85
Overall, I was satisfied with the hearing today.	8.78	8.20	7.97	8.74	8.19	8.85	8.06	8.85

Table 6 breaks out survey respondents' ratings according to their role in the court hearing. For all roles but the seven 'Other' court participants⁶, ratings were 8.00 or higher on a nine-point scale. After excluding the role categories with very small numbers of responses (Trustees, 'Others', and role unknown), Proposed Wards/Protected Persons rated the Referees and AJOs highest on all five questions. Again excluding the three categories with less than ten respondents, Guardians/Conservators rated the Referees and AJOs lowest on three of the five questions (fair treatment, completing cases in a timely fashion, and listening carefully), while Petitioners rated them lowest for understanding what occurred in court and overall satisfaction. Again, it is important to keep in mind that these ratings were all still 8.00 or higher on a nine-point scale.

⁶ 'Other' court participants included three family members, a fiduciary, a social worker, a witness, and a beneficiary.

**Table 6. Litigant Perception of How Hearing was Handled by Hearing Participant’s Role
Mean (Average) Score based on scale from 1 (Strongly disagree) to 9 (Strongly agree)**

	Attorney (n=107)	Petitioner (n=59)	Guardian/ Conservator (n=89)	Proposed Ward or Protected Person (n=33)	Trustee (n=6)	Other (n=7)	Role Unknown (n=9)
The judicial officer treated me fairly.	8.51	8.36	8.22	8.70	9.00	6.71	8.89
My case was completed in a timely fashion.	8.42	8.39	8.18	8.67	9.00	7.43	9.00
I understand what occurred in court today.	8.58	8.36	8.39	8.82	9.00	7.71	9.00
The judicial officer listened carefully to what I (or my lawyer) had to say.	8.58	8.39	8.31	8.91	9.00	7.71	8.89
Overall, I was satisfied with the hearing today.	8.42	8.24	8.28	8.88	9.00	7.71	8.89

Attorney and litigant comments were most commonly positive. See Appendix D for a complete list of comments made by survey respondents.

Examples of positive comments:

- *“Great program for uncontested matters.”*
- *“Friendly and helpful.”*
- *“Great job AJO 2!”*
- *“AJO 3 did an excellent job of keeping order in the courtroom when two objectors from a different case were addressing the court. She was friendly yet firm to objectors. And as usual, she was very courteous, respectful, and inquisitive of respondent in the case that I appear in.”*
- *“She did a fine job – very judicial.”*

Examples of negative comments:

- *“The hearing was fine. The appearance of conflict with attorney-hearing officer and the Court still remains and is not being addressed by the court.”*
- *“What’s the court doing about the conflict of interest issue?”*
- *“Thank goodness Referee 2 was hearing cases today. An AJO would not have known how to handle the matter or specific issues that arose.”*

Goal 3 was clearly met. Attorneys and litigants rated both Referees and Adjunct Judicial Officers extremely high on all five survey questions - 8.00 or higher on a nine-point scale.

Goal 4: The Probate Court Judge, Referees, AJOs, Judicial staff, and Administrative staff will be satisfied with the new procedures.

In early May 2012, the Fourth Judicial District’s Probate Bench (one Judge, two Referees, and six AJOs), three judicial staff who support the AJOs in the courtroom, and six key Probate Court administrative staff were asked to complete an online survey about their opinions of and experiences during the AJO Probate Pilot. All but one of the Judges/Referees completed the survey. Some of the questions were the same for all groups, while some were unique to particular groups.

Four questions were asked of all groups:

“Do you think that using AJOs should continue?”

As shown in Table 7, 59% of all respondents feel that the use of AJOs in the Fourth Judicial District’s Probate Court should definitely or probably continue, 18% feel it should probably not continue, and 24% are not sure. AJOs and judicial staff are most interested in seeing the use of AJOs continue after the pilot period is over; 100% feel it should definitely or probably continue. The Judge and Referees are split in their view. Administrative staff are most uncertain about whether the Fourth District should continue to use AJOs; two-thirds (67%) replied that they were not sure if the use of AJOs should continue and the remainder thought it should not continue.

Table 7. Use of AJOs in Fourth Judicial District’s Probate Court Should Continue

	Judge/ Referees	AJOs	Judicial Staff	Administrative Staff	Total
Definitely	1 50.0%	5 83.3%	2 66.7%	0 0.0%	8 47.1%
Probably	0 0.0%	1 16.7%	1 33.3%	0 0.0%	2 11.8%
Not sure	0 0.0%	0 0.0%	0 0.0%	4 66.7%	4 23.5%
Probably not	1 50.0%	0 0.0%	0 0.0%	2 33.3%	3 17.6%
Definitely not	0 0.0%	0 0.0%	0 0.0%	0 0.0%	0 0.0%
Total	2 100.0%	6 100.0%	3 100.0%	6 100.0%	17 100.0%

Judicial and Administrative staff were asked a follow-up question: **“Why do you feel that using AJOs should or should not continue?”**

Common responses concern worries about the potential conflict of interest when having AJOs both appear in court as an attorney and hear cases as an AJO and concerns about needing 2.0 FTE Referees rather than the current 1.5 FTE. See Appendix E for the verbatim list of comments.

“What do you like best about using AJOs in Probate Court?”

Common themes involve allowing the Judicial Officers and staff more time to work on other matters, as well as the AJOs expressing appreciation for being able to serve their area of practice in an additional capacity. See Appendix E for the verbatim list of comments.

“What do you like least about using AJOs in Probate Court?”

The potential conflict of interest when having AJOs both appear in court as an attorney and hear cases as an AJO, the lack of consistency among the different AJOs and the Referees, and scheduling/logistical issues were most often cited as concerns. In addition, the AJOs expressed concern about not having remote access to MNCIS in order to prepare for court.⁷ If they want to prepare in advance, they must make an additional trip to the Government Center. See Appendix E for the verbatim list of comments.

“Do you have any other comments about your experiences during the AJO Pilot?”

There are a broad range of responses to this question. The two most common themes are in regard to the need for a second full-time Referee and concerns about consistent, thorough handling of cases by AJOs. See Appendix E for the verbatim list of comments.

Six questions were asked of Judicial and Adjunct Judicial Officers only:

“Do you feel that the AJO Probate Pilot achieved the objective of giving the Referees more time to work on contested matters?”

All responding Judicial and Adjunct Judicial Officers agree that the AJO Probate Pilot achieved the objective of giving Referees more time to work on contested matters (see Table 8). Three-fourths (75%) feel that it definitely achieved the objective and the remaining one-fourth (25%) feel that it somewhat achieved the objective.

⁷ Because the AJOs are not court employees, access to the court information system is limited to Public Access remotely.

Table 8. AJO Probate Pilot Achieved Objective of Giving Referees More Time to Work on Contested Matters

	Judge/ Referees	AJOs	Total
Definitely	1 50.0%	5 83.3%	6 75.0%
Somewhat	1 50.0%	1 16.7%	2 25.0%
Not sure	0 0.0%	0 0.0%	0 0.0%
Not really	0 0.0%	0 0.0%	0 0.0%
Not at all	0 0.0%	0 0.0%	0 0.0%
Total	2 100.0%	6 100.0%	8 100.0%

“Do you think that having AJOs should become a permanent part of the Probate Bench?”

Half (50%) of Judicial and Adjunct Judicial Officers think that AJOs should become a permanent part of the Probate Bench, one-fourth (25%) feel that they possibly should, and one-fourth (25%) are not sure (see Table 9).

Table 9. Should AJOs Become a Permanent Part of the Probate Bench

	Judge/ Referees	AJOs	Total
Definitely	1 50.0%	3 50.0%	4 50.0%
Possibly	1 50.0%	1 16.7%	2 25.0%
Not sure	0 0.0%	2 33.3%	2 25.0%
Probably not	0 0.0%	0 0.0%	0 0.0%
Definitely not	0 0.0%	0 0.0%	0 0.0%
Total	2 100.0%	6 100.0%	8 100.0%

“If Probate Court AJO work continues, how long should the rotation be?”

As shown in Table 10, opinions are split on this question. Slightly more than one-third (38%) of the Judicial and Adjunct Judicial Officers feel that a rotation should be between three and five years, one-fourth (25%) don't know, and the remaining responses (less than one year, one to two years, and 'other') are evenly split at 13% each.

Table 10. Suggested Length of AJO Probate Court Rotation

	Judge/ Referees	AJOs	Total
Less than one year	1 50.0%	0 0.0%	1 12.5%
1-2 years	0 0.0%	1 16.7%	1 12.5%
3-5 years	1 50.0%	2 33.3%	3 37.5%
Other*	0 0.0%	1 16.7%	1 12.5%
Don't know	0 0.0%	2 33.3%	2 25.0%
Total	2 100.0%	6 100.0%	8 100.0%

* "Perhaps renewable 1-2 year terms. It takes a little while to get trained in and you only sit once every six weeks. One year goes by quickly."

“How valuable do you think the “ride along” sessions were for the AJOs?”

As shown in Table 11, all responding Judicial and Adjunct Judicial Officers feel that the “ride along” training sessions were valuable for the AJOs. Nearly two-thirds (63%) feel that it was extremely valuable and the remaining respondents (38%) feel that it was somewhat valuable.

Table 11. Value of “Ride Along” Sessions for the AJOs

	Judge/ Referees	AJOs	Total
Extremely valuable	1 50.0%	4 66.7%	5 62.5%
Somewhat valuable	1 50.0%	2 33.3%	3 37.5%
Not sure	0 0.0%	0 0.0%	0 0.0%
Not very valuable	0 0.0%	0 0.0%	0 0.0%
Not at all valuable	0 0.0%	0 0.0%	0 0.0%
Total	2 100.0%	6 100.0%	8 100.0%

“Do you have any other ideas for training AJOs?”

AJOs would like to have hearing checklists and/or scripts to aid them on the Bench; this was supported by a Judicial Officer recommendation for a bench manual highlighting important policies and procedures. In addition, AJOs would like to have more substantive training regarding Trust matters and more time with the Referees learning how to better perform their job. See Appendix E for the verbatim list of comments.

“Do you have any other ideas for work that the AJOs could do?”

Several comments indicate that Judicial and Adjunct Judicial Officers feel that AJOs could handle all types of uncontested work in Probate Court. Other comments made were that AJOs could hear cases in other divisions, hear contested cases, or handle other counties’ cases through ITV. See Appendix E for the verbatim list of comments.

One question was asked of Judicial Officers (Judge and Referees) only:

“During the AJO Pilot, did you see or hear anything that made you concerned about possible conflicts of interest concerning the AJOs hearing Probate matters?”

There were only two responses to this question. One Judicial Officer does have concerns about possible conflicts of interest concerning the AJOs hearing Probate matters and one does not (see Table 12).

Table 12. Saw or Heard Anything That Made You Concerned About Possible Conflicts of Interest Concerning the AJOs Hearing Probate Matters

	Number Responding	Percent Responding
Yes	1	50.0%
Not sure	0	0.0%
No	1	50.0%
Total	2	100.0%

(If yes): What concerns do you have about possible conflicts of interest?

- Having the same person sitting as a judicial officer one day and then appearing as an attorney in the same court another day conveys an impression of possible favoritism and conflict of interest. It would be better if the AJOs were not practicing before the same court in which they serve as judicial officers.

Three questions were asked of Adjunct Judicial Officers (AJOs) only:

“Why did you volunteer to be an Adjunct Judicial Officer?”

Adjunct Judicial Officers feel that being an AJO is a good way to help an overburdened court and to offer their specialized expertise to the Bench. They also enjoy experiencing Probate Court from another perspective. See Appendix E for the verbatim list of comments.

“Did you find the experience of being an AJO meaningful?”

All six AJOs (100%) stated that they definitely found the experience of being an AJO to be meaningful (see Table 13).

Table 13. Found Experience of Being an AJO Meaningful

	Number Responding	Percent Responding
Definitely	6	100.0%
Somewhat	0	0.0%
Not sure	0	0.0%
Not really	0	0.0%
Not at all	0	0.0%
Total	6	100.0%

“How valuable was the training provided to you?”

As shown in Table 14, all Adjunct Judicial Officers feel that the training they received was valuable. Five of the six AJOs (83%) feel that it was extremely valuable and one (17%) feels that it was somewhat valuable.

Table 14. Value of AJO Training

	Number Responding	Percent Responding
Extremely valuable	5	83.3%
Somewhat valuable	1	16.7%
Not sure	0	0.0%
Not very valuable	0	0.0%
Not at all valuable	0	0.05
Total	6	100.0%

Two questions were asked of judicial and administrative staff only:

“How has the amount of work required of you changed under the AJO Probate Pilot?”

As shown in Table 15, more than two-thirds (67%) of the Probate Court’s judicial and administrative staff feel that the amount of work required of them increased during the AJO Probate Pilot, nearly one-fourth (22%) feel that they have about the same amount of work, and one person (11%) feels that they have somewhat less work. Administrative staff are more likely to feel that their workload hasn’t changed during the pilot; one-third (33%) of administrative staff feel that they have about the same amount of work.

Table 15. How Has Amount of Work Changed Under AJO Probate Pilot

	Judicial Staff	Administrative Staff	Total
Much more work	0 0.0%	1 16.7%	1 11.1%
Somewhat more work	2 66.7%	3 50.0%	5 55.6%
About the same amount of work	0 0.0%	2 33.3%	2 22.2%
Somewhat less work	1 33.3%	0 0.0%	1 11.1%
Much less work	0 0.0%	0 0.0%	0 0.0%
Total	3 100.0%	6 100.0%	9 100.0%

“Why do you feel that the amount of work required of you changed under the AJO Probate Pilot?”

Administrative staff often commented that orders and decisions weren’t always consistent with what the Court has done in the past, so more time was required to handle the files and answer questions from court participants. See Appendix E for the verbatim list of comments.

“Is your current level of work under the AJO Probate Pilot manageable?”

As shown in Table 16, all judicial and administrative staff feel that their current level of work under the AJO Probate Pilot is manageable. More than three-fourths (78%) feel that it is definitely manageable and nearly one-fourth (22%) feel that it is somewhat manageable.

Table 16. Current Level of Work Under AJO Probate Pilot is Manageable

	Judicial Staff	Administrative Staff	Total
Definitely	2 66.7%	5 83.3%	7 77.8%
Somewhat	1 33.3%	1 16.7%	2 22.2%
Not sure	0 0.0%	0 0.0%	0 0.0%
Not really	0 0.0%	0 0.0%	0 0.0%
Not at all	0 0.0%	0 0.0%	0 0.0%
Total	3 100.0%	6 100.0%	9 100.0%

Overall, Goal 4 was met to some degree. All Judicial and Adjunct Judicial Officers feel that the Referees have more time to work on contested matters and that the ride-along sessions were valuable. In addition, all the AJOs found their training to be valuable and their experience serving as an AJO to be meaningful.

Nearly 60% of all surveyed feel that the use of AJOs should continue in Probate Court and three-fourths (75%) of Judicial and Adjunct Judicial Officers feel that it should become a permanent part of the Probate Bench; however, nearly one-fifth (18%) feel that it should probably not continue and nearly one-fourth (24%) are not sure. More than two-thirds of judicial and administrative staff feel that the amount of work required of them has increased during the AJO Probate Pilot, although all of them feel that this level of work is still manageable.

Concerns were expressed about:

- Conflict of interest having AJOs both represent clients in court and hear cases on the Bench;
- The need for 2.0 FTE Probate Court Referees rather than 1.5 FTE⁸;
- The lack of consistency among the rotation of AJOs; and
- Scheduling/logistical issues involving more time required of judicial and administrative staff to handle the AJOs' court files and to field questions from court participants appearing before an AJO.

Conclusions

Of the four goals set for the Fourth Judicial District Probate Court Adjunct Judicial Officer Pilot Project, one was met, one was not met, and the other two were only partially met. The measure successfully met related to the litigant satisfaction with the handling of the hearings by AJOs and Referees. The time savings for the Referees was only partially realized and there were qualified acceptance of this new process by staff and judicial officers in the Fourth District Probate Court. The goal related to the efficiency of the caseload was not met.

Attorneys and litigants appearing on the uncontested Guardianship/Conservatorship Commencing and Trust calendars rated both Referees and AJOs extremely high on survey questions about fair treatment, completing cases in a timely manner, understanding of what occurred in court, being listened to in court, and overall satisfaction with their hearings. On all five questions, ratings were 8.00 or higher on a nine-point scale.

⁸ The most current Weighted Caseload would support this contention (Assessed Judge Need for Probate=1.9)

The AJOs clearly enjoyed their experience serving on the Bench. All six found their experience to be meaningful, reported that their training was valuable, and felt that using AJOs in Probate Court should continue. Judicial staff were also very positive about their experiences during the AJO Pilot and all three felt that the use of AJOs should continue.

Judicial Officers and administrative staff were mixed in their feelings about the pilot. Of the two Judicial Officers and six administrative staff surveyed, only one felt that the use of AJOs in Probate Court should continue. Half reported being unsure and nearly forty percent felt it should probably not continue. Concerns were expressed about the potential conflict of interest having AJOs both represent clients in court and hear cases on the Bench, the need for another full-time Referee, lack of consistency on the Bench among the rotation of AJOs, and scheduling/logistical issues involving more time being needed for staff to handle the AJOs' court files and to field questions from court participants appearing before an AJO.

Although Referees only reported working on contested matters half of the time they were freed from hearing the uncontested Guardianship/Conservatorship Commencing and Trust calendars, they were also able to use this time to work on non-contested cases and non-case related matters. When taking this into account, the Referees were able to spend time catching up on their work for 84% percent of the time they would previously have been presiding over the uncontested calendars.

During the pilot period, the Backlog Index did improve slightly for both Guardianship and Conservatorship cases and for Major Probate cases as a whole when compared to the same time period in the year before the pilot. However, Backlog Index only measures the rate of 'pending cases' being resolved. Clearance Rates, which declined, measure the rate of resolving 'new' cases. Workload Rates measure the amount of resolved cases of both 'new filings' and 'pending' cases combined and therefore could be considered the most important measure of the three measures. Unfortunately, this measure showed declines during the AJO pilot period. This means that the Clearance Rate decline was more significant than the backlog rate increase, since when we use the combined measure of Workload Rate we still see a decline. Although Clearance Rates and Workload Rates declined, both were still considered in acceptable range according to State Court Administration's dashboard criteria.

Recommendations

Clearly, the litigants were satisfied with their experience in front of the AJOs and did not report any significant differences from what litigants appearing in front of the Referees reported. AJOs were very satisfied with their experience running non-contested hearings in court. Court employees and judicial officers were rather mixed in their support of the project. Although some of the staff mentioned that the project created more work for them, they felt the amount of work was still acceptable. Referees were allowed more time to work on other issues while the AJOs were handling the non-contested cases, but only about 50% of their freed time was used on contested matters. The more objective measure of court efficiency was not realized although Probate Court as a whole remains within acceptable levels for all three measures.

If the Fourth Judicial District's Probate Court continues the use of Adjunct Judicial Officers to hear uncontested matters, training will need to be ongoing and thorough so that all AJOs follow the same procedures as the Referees. Creating a Probate Bench Policy and Procedures manual would be helpful going forward. This will better ensure consistency for litigants appearing before this Court.

Feedback from court users, Judicial and Adjunct Judicial Officers, and staff supporting the AJOs should be regularly solicited and results of that feedback should be used to continually improve processes. Using Adjunct Judicial Officers who don't regularly practice in the Fourth Judicial District may help to mitigate concerns about conflicts of interest.

Case processing performance measures should be examined quarterly to ensure that they are improving or remaining stable and that the use of AJOs is not contributing to declines in performance. It is possible that once the AJOs are fully trained, and if they do not relinquish their position, that they will be able to handle cases more quickly and need less assistance from the Referees in the future.

Since reaching the goals was so mixed, we would only recommend continuing the AJO project for a limited time going forward to see if more time will result in improvement on all performance measures.

The court could also review the decision to have 1.5 Referees since the most current available data from the MN Weighted Caseload (end of the calendar year 2011) indicates a need of 1.9 judicial officers handling Probate matters.

Appendix A. MN Supreme Court Orders

OFFICE OF
APPELLATE COURTS

MAY 17, 2011

STATE OF MINNESOTA

FILED

IN SUPREME COURT

ADM08-8004

**ORDER EXEMPTING ADJUNCT
JUDICIAL OFFICERS IN THE FOURTH
JUDICIAL DISTRICT PROBATE COURT
PILOT PROJECT FROM THE PRACTICE
RESTRICTION IN PART III (B) OF THE
APPLICATION SECTION OF THE
MINNESOTA CODE OF JUDICIAL
CONDUCT**

The Fourth Judicial District (District) has proposed a pilot project involving use of volunteer lawyers as part-time Adjunct Judicial Officers (AJOs) to preside in uncontested matters in Hennepin County Probate Court. Part III (B) of the Application Section of the Minnesota Code of Judicial Conduct would preclude those volunteer lawyers from practicing law in the Hennepin County Probate Court during their service as an AJO in that court. Part III (B) authorizes this court to exempt specific appointments from that practice limitation, and in order to facilitate recruitment of volunteer lawyers with experience in probate practice, the District seeks such an exemption for volunteer lawyers in the Probate Court Pilot Project. The Probate and Trust Law Section Council of the Minnesota State Bar Association (Probate Council) supports the pilot project.

IT IS HEREBY ORDERED THAT:

1. Volunteer lawyers who are appointed to serve as part-time Adjunct Judicial Officers to preside in uncontested matters in Hennepin County Probate Court as part of the Fourth Judicial District Probate Court Pilot Project are exempted from the limitation on practice in the division of the court in which they serve as an AJO as provided in Part III (B) of the Application Section of the Minnesota Code of Judicial Conduct. As provided in Part III (B), in no event shall an AJO act as a lawyer in a proceeding in which the AJO has served as an AJO or in any other proceeding related thereto.

2. The exemption provided in this order shall expire after one year and is contingent on the pilot project satisfying the following conditions:

A. Although the District may solicit a list of qualified candidates for appointment from an outside organization or organizations, such as the Probate Council and the Hennepin County Bar Association Bench & Bar Committee, selection and appointment of volunteer lawyers as AJOs must be made by the Chief Judge of the District.

B. Preference in appointment should be given to lawyers who typically practice outside of Hennepin County if they are otherwise qualified.

C. The District, in consultation with State Court Administration, shall evaluate the effectiveness of the program and its acceptance in the probate community and shall report to this court within 90 days of

completion of the first year of the pilot project. The report shall include feedback obtained from counsel and parties whose matters were handled by an AJO and from related stakeholder groups including the Probate Council.

Dated: May 17, 2011

BY THE COURT:

Lorie S. Gildea
Chief Justice

MAY 21 2012

FILED

STATE OF MINNESOTA

IN SUPREME COURT

ADM08-8004

**ORDER EXTENDING FOURTH JUDICIAL
DISTRICT ADJUNCT JUDICIAL OFFICER
PROBATE COURT PILOT PROJECT
EXEMPTION FROM THE PRACTICE
RESTRICTION IN PART III (B) OF THE
APPLICATION SECTION OF THE
MINNESOTA CODE OF JUDICIAL CODE**

On May 17, 2011, the court authorized a one-year pilot project in the Fourth Judicial District to use volunteer lawyers as part-time Adjunct Judicial Officers to preside in uncontested matters in Hennepin County Probate Court. The May 17 order exempted these part-time Adjunct Judicial Officers from the practice restriction in Part III (B) of the Application Section of the Minnesota Code of Judicial Conduct, contingent on satisfying certain conditions set out in that order, including submission of a report evaluating the effectiveness of the program and its acceptance in the probate community within 90 days of the completion of the first year of the pilot project. The Fourth Judicial District has requested an extension of the pilot project pending the completion of the final report to this court.

IT IS HEREBY ORDERED THAT:

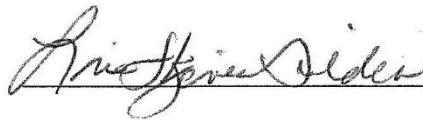
1. The Fourth Judicial District Probate Court Pilot Project and the exemption from the limitation on practice as provided in Part III (B) of the Application Section of the Minnesota Code of Judicial Conduct for the volunteer lawyers appointed to serve as

part-time Adjunct Judicial Officers in that project shall continue pending further order of this court. All other terms and conditions of the May 17, 2011 order remain in effect until further order of this court.

2. The report and evaluation of the Fourth Judicial District Probate Court Pilot Project is due within 90 days of the date of this order.

Dated: May 21, 2012

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea", is written over a horizontal line.

Lorie S. Gildea
Chief Justice

Appendix B. Probate AJO Pilot Referee Recording Form

Referee : ___ Referee 1
 ___ Referee 2
 ___ Other _____

For each line, indicate **EITHER** "contested or non-contested" AND a "Case-Related Current G/C Calendar or Other Cases" or "Non-Case-Related"

Date : ____ / ____ / 11

Elapsed Time	Contested Y/N	Activity		
(in minutes)				
<i>Please enter the number of minutes spent on each activity in this column</i>		Case Related -- Current G/C Calendar	Case Related Other Cases	Non Case Related
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appendix C. Fourth Judicial District of Minnesota Probate Court Survey

Hearing Date:

Type of Hearing:

- Guardianship/Conservatorship
 Trust

Judicial Officer:

- Referee Borer
 Referee Davis
 Referee Maus
 Referee McLeod
 Referee O'Reilly
 Referee Robben
 Referee Slye
 Referee Tarrant
 Other _____

SELECT ONE ANSWER ON EACH LINE ACROSS.

	1 - Strongly disagree	2	3	4	5 - Neutral	6	7	8	9 - Strongly agree
1. The judicial officer treated me fairly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. My case was completed in a timely fashion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. I understand what occurred in court today.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. The judicial officer listened carefully to what I (or my lawyer) had to say.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Overall, I was satisfied with the hearing today.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What was your role in court today?

- Attorney
 Petitioner
 Guardian/Conservator
 Proposed Ward/Protected person
 Trustee
 Trustor/Settlor
 Beneficiary
 Other _____

Comments:

Appendix D. Probate Court Survey Comments made by Attorneys and Litigants

	Comments	Type of Respondent
Referee 1		
	Excellent experience.	Attorney
	Extremely gracious and judicial.	Attorney
	Treated situation with kindness and insight.	Guardian/Conservator
Referee 2		
	For Q2: 45 minutes late without explanation.	Proposed Ward/Protected person
	Much better with Referee 2 rather than AJO.	Attorney
	The attorney for respondent seemed uninformed and ill-equipped to deal with this type of matter.	Attorney
	Thank goodness Referee 2 was hearing cases today. An AJO would not have known how to handle the matter or specific issues that arose.	Attorney
	Referee 2 is always prepared and respectful and good advocate for the ward/pp.	Attorney
	Thank you!	Attorney
AJO 1		
	For Q2: Once we started - we waited 45 minutes with no explanation. General Comment: The ward was confused when the officer asked him, 'Did you understand the testimony'. Tip: Use simple vocabulary	Attorney
	Very concerned about prior hearing, which should have been contested when respondent stated on the record he objected to G/C and that he was competent. Hearing was continued as non-contested. Outcome may not have been different but this was WRONG!! Where is the statute and constitution in this process!!!	Petitioner
	Friendly and helpful.	Trustee
	Comments	Type of Respondent
AJO 2		
	Great job AJO 2!!	Attorney
	The hearing was fine. The appearance of conflict with attorney-hearing officer and the Court still remains and is not being addressed by the Court.	Attorney

	Comments	Type of Respondent
AJO 3		
	For Q2: Took 10 minutes longer than Referees. General Comment: Using volunteer referees is a bad idea.	Attorney
	Your questionnaire does not ask the relevant questions about the volunteer referees - how their status affects their appearance before the court as attorneys. This is a bad policy!	Attorney
	Great job, AJO 3. Better than some judges in most counties...	Attorney
	AJO 3 did an excellent job of keeping order in the courtroom when two objectors from a different case were addressing the court. She was friendly yet firm to objectors. And as usual, she was very courteous, respectful, and inquisitive of respondent in the case that I appeared in.	Attorney
	What's the court doing about the conflict of interest issue?	Attorney
AJO 4		
	None.	
AJO 5		
	Kind person/good hearing!	Petitioner
	Great program for uncontested matters.	Trustee
	AJO 5 did an excellent job today!	Attorney
AJO 6		
	She did a fine job - very judicial.	Attorney

Appendix E. Comments to Open-Ended Questions on the Judicial Officer, Adjunct Judicial Officer, and Judicial/Administrative Staff Surveys

Asked of All Survey Groups:

- **“What do you like best about using AJOs in Probate Court?”**

Judge/Referees:

- Having shorter hearing times for G/C appointment and having more time for Judicial Officers to handle other matters.

AJOs:

- I appreciate the process more and how to better represent my case before a judicial officer.
- I really enjoyed working with Judge Quam, the referees, Steve Bittick, Divya, Kelli, and the entire staff. All of them were so helpful and supportive. Working with the various litigants and attorneys was extremely gratifying. The attorneys were generally supportive and helpful, the parties were gracious, and the cases were interesting. Serving on the bench is a great experience for any practicing attorney. It makes one a better attorney. I have enjoyed every part of the experience and I am so grateful for the opportunity.
- Sense of being able to help the court alleviate the backlog of cases.
- The contact with the families that were petitioning. There are some very heartwarming stories out there about how families take care of their loved ones. There also are interesting legal issues that get raised.
- I truly appreciated the opportunity to serve the bar, the clients, and the court through this project. The clients are so in need of these orders that it was very fulfilling to play a small role in helping get those orders for them in a more timely manner. It was also very meaningful to play a role that hopefully added value to the court and its staff, who do so much for so many people but who are not appreciated enough. So, helping the court was huge. 2) Having a pro bono opportunity in this field. 3) Perspective--always having more perspective to appreciate the good in our every day. 4) Finally, I have refined my knowledge and increased my appreciation for all that happens in the courtroom.
- Working with the court personnel has been excellent. Being able to confer with Judge Quam, Referee Maus or Referee Borer prior to a hearing where their greater experience is helpful in resolving a foreseeable issue.

Judicial Staff:

- Reduction in delays for cases to come to court; interacting with AJO officers.
- That it frees up time for Judicial Staff to work on case management, pending orders and file preparation for cases to be heard.

Administrative Staff:

- Allows some scheduling flexibility.
- Helps George.
- I believe it is worth piloting the use of AJOs where appropriate to assist the Court with handling our caseloads with less judicial and staff resources than we've had in the past.
- I think it does help give Referee Maus & Referee Borer more chambers time, although not as much as would be desirable, and it does help those matters that are uncontested get on our calendar faster. I also believe that for the most part court users are satisfied, although some attorneys are uncomfortable with the waiver of the conflict of interest.
- They took the pressure off the regular referees on the very basic cases. This works fine for estate matters and maybe even some to the trust cases.

• “What do you like least about using AJOs in Probate Court?”**Judge/Referees:**

- Lack of consistency and conflict of interest issues.
- Scheduling and other logistical issues.

AJOs:

- Having to come to Minneapolis to get ready for the hearings. After the first time, it took about as much time to get ready as to hear the cases. The commencing calendar was first thing in the morning and there was not public access early enough or enough time even if there was early access unless I got up very early. So I usually had to make an extra trip over the Minneapolis a day or two before the hearing date to get ready.
- Having to travel to courthouse whenever I needed to access the online data base (Odyssey)
- I can't think of anything.
- Not sure. Maybe trying to learn all of the things on Odyssey, but that is not a big deal. I just don't have much to put in this section!
- The infrequency makes it a bit harder to get better at doing the job well.
- We do not have remote access to the electronic files. We must make an additional trip to the courthouse to review our cases a few days prior to the hearing date.

Judicial Staff:

- I cannot think of anything I do not like about the AJO Probate Pilot.

Administrative Staff:

- Any real technical cases that were being heard in the courtroom and the AJO is unable to handle had to be referred to one of the Referees. This in turn, caused the Referees to stop their chambers to address the issue and to determine that next step. This in turn takes away from their chambers time in the issuing orders and etc. and caused them to fall further behind.
- Changes to the G/C calendar sessions. Not always consistent, which is understandable.
- Having to figure out who to direct documents to.
- Lack of consistency and appearance of conflict of interest for AJOs to practice here and hear cases here.
- While it does give the referees more chambers time, it does not solve our main problem, which is that despite what weighted caseload says we really need two full time referees. Referee Borer's part time schedule along with two part time clerks makes communication and scheduling trials more difficult, and the AJO pilot doesn't really address that. Frequently questions by court users and staff have to be put on hold until Referee Borer is here to address them. The other issue is courtroom support, which is currently being handled by the presiding judge's staff and will commit the staff of future presiding judges, who may or may not be willing.

• “Do you have any other comments about your experiences during the AJO Pilot?”**Judge/Referees:**

- I was surprised at how well it was received by the Bar, the parties, and the AJOs themselves.

AJOs:

- I am happy and privileged to be part of the project.
- I don't know how long appointments should be. I can see having 1-2 year appointments (more community involvement that can develop better practitioners before the court but it creates less consistency that may frustrate the Bar) but I can also see the benefits of long term service (consistency and more skilled jurists). I don't know if it gives the Judges more time to work contested matters. If I stay on for more time, I have some definite opinions about what should and should not happen in the court as a matter of bench policy.
- It was an honor to do this. I was impressed with the efficiency and competence of the staff who support the judges and AJOs.
- Regarding the length of rotation, it should be at least two years. I think perhaps much longer, though, so that the bar has continuity on the bench. There would likely be value in staggering the rotation so that only 3 rotate on at a time; that way there are always some AJOs who have experience. The staffing of the

AJOs for the pilot was great - some big firm, some small firm, and some from different parts of the metro. That mix should be kept if possible.

Judicial Staff:

- I think Judge Quam did an awesome job putting this pilot project together and feel it works extremely well!

Administrative Staff:

- I hope that the decision about whether to continue using AJOs in Probate/Mental Health Court is made based on the objective findings of the evaluation rather than for more subjective reasons.
- I think it helps somewhat, but is not a substitute for a full time referee. As a temporary measure until the budget will allow us to have a full time referee, it is better than nothing, but not as a permanent measure instead of a full time hearing officer.
- I think we seem to be losing sight of what a Guardianship and/or Conservatorship is all about. These are vulnerable adults that we are supposed to be protecting, and the majority of these cases are not just general cases. I am of the opinion that we cannot just aye or nay these cases. There many things involved here that need closer scrutiny and consideration from the Court, in order to ensure that each of the individuals receive the best possible care. There are probably issues already that have fallen through the cracks. With all the bad press Guardianships/Conservatorships have already received, maybe a second look should be taken in regards to these cases.
- It seems like we are rubber-stamping these files. Because of the nature of these cases with vulnerable adults, having someone experienced on the bench who can read between the lines and make additional inquiries makes more sense. Referees can address what might be a small issue or misunderstanding in the courtroom rather than continuing the hearing to another date. AJOs do not know what the procedures are after the hearing so some people have been given limited information about the rest of the process. I also wonder what happens after Judge Quam rotates out of Probate. There is a significant amount of training needed to clerk in the courtroom to make sure nothing is missed.
- Wish we would have known it was being considered before it was determined it was going to happen. Still feel we need two FT Referees. Makes it hard with a PT Referee for him to ever work on orders, as he is either hearing the General Calendar or in Trial when here. He stays late, comes in early, and works from home a lot. I'll bet it is close to 0.75 or 0.80% of what would be FT. I feel sorry for George. Would be much easier to have two FT Referees: one hear the General Calendar and the other have a trial week and then reverse. Easy for time off, etc.

Asked of Judicial and Adjunct Judicial Officers Only:

• **“Do you have any other ideas for training AJOs?”**

Judicial Officers:

- Develop a short bench manual highlighting important policies and procedures.

AJOs:

- An opportunity for trainees to speak with experienced AJOs.
- For the trust calendar, more substantive training may be needed to address things such as forming special needs trusts and other more complex substantive issues that appear on that calendar.
- I ended up drafting my own script for myself. Having a suggested one-page script would be good. The AJO could then tailor it to suit themselves.
- Longer informal chats with referee judges on how they perform their jobs; more to the point - their thoughts when exercising judgment and discretion.
- Perhaps providing a hearing checklist/script. I think each of us prepared our own and I would be happy to share mine.

• **“Do you have any other ideas for work that the AJOs could do?”**

Judicial Officers:

- Yes. All types of uncontested work. Also, possibly, handling other counties' cases through ITV.

AJOs:

- A. Over the past 2-3 months, AJOs have been assigned to the Wednesday afternoon trust calendar. I am enthusiastic because trust cases allow the AJO to draw deeper on our own experiences as practitioners. There seems to be more room for hearing officer discretion on trust matters. B. Decedent's estate petitions that are uncontested.
- I *think* that we could hear the estate calendar. In some ways, that might be easier than us hearing the trust calendar for a few reasons. For example, there might be fewer institutional personal representatives, which would result in fewer conflicts for the AJOs (meaning we could hear more of the cases). We did not try that during the pilot, but I think we could do it.
- I think that the use of AJOs in a variety of cases would be good -- traffic, criminal, family, and other areas.
- Probate hearings; contested case mediations?
- Serve as special masters in contested work.
- The majority of probate matters are uncontested. So, most of them could be handled by AJOs also.

Asked of Adjunct Judicial Officers Only:

• **“Why did you volunteer to be an Adjunct Judicial Officer?”**

- A. To give back to the profession and assist the overburdened judiciary. B. To gain experience as a Judicial Officer, quite different from the attorney experience of appearing on behalf of clients. C. With 32 years of probate and trust law experience, I had something to offer.
- First, serving as an AJO was a great way to contribute to a solution to a problem that had been negatively impacting the trust and estate practice, which was too long of delays from filing a petition to a hearing. Being part of the solution and just acknowledging the problem was very important to me. Second, I knew this would be a way to do pro bono work that utilized my specialized training. Third, I plan to work in this field for many more years, and it is important to contribute positively to the bar as part of this profession. As part of that, I wanted to do all I could to make this pilot a success.
- I love the area and have dedicated my career to the area of practice so I want to be a part of, and improve, this area of law.
- I thought it would be a very rewarding and interesting way to provide a service to the court and those it serves, while at the same time obtaining valuable experience on the bench. I thought the idea of using volunteer lawyers to reduce the caseload and backlog for the court was a very good one. It was a win-win for all involved.
- I was interested in helping with the budget problems for the courts in the area that I practice in. I was also interested in seeing the world from the other side of the bench. I knew that I would learn things that would be useful in my practice.
- Opportunity to serve the court system and the profession and help alleviate the delays in hearings; interest in observing the court from the "inside".

Asked of Judicial and Administrative Staff Only:

• **“Why do you feel that using AJOs should or should not continue?”**

Judicial Staff:

Definitely/Probably

- I think the AJOs are doing an awesome job plus it allows Referee Maus, Referee Borer, and Judge Quam time to complete work that needs to be done in chambers.

Administrative Staff:

Not sure

- I don't know that there is a significant savings of time for the Referees/Judge vs. the amount of additional work elsewhere in the office. Also, could there be a problem with conflict of interest when there is a contest involving the AJO's firm and another party?

- I only do the scheduling and the calendars seemed to work out OK. Very few issues.
- In my opinion, I feel we need an additional full time referee that is well versed in Probate, Guardianships/Conservators & Trust matters. Pre-trial and Court trials are being pushed way out due to lack of available hearing officers.
- The initial customer survey results as well as feedback from the AJO's has been mostly positive. I feel like I need to see the results of the full evaluation of the pilot before I can answer this question.

Probably Not

- I think it is very difficult for an attorney to wear two hats, even if they are not doing it at the same time. Even when they are behind the bench, how do they "turn off" the viewpoint they have when they are in front of the bench and do what is best from the court's perspective? I have a great deal of respect for the individuals that have been providing this service, but I know from having sat in court when they appeared in front of a referee that they frequently request things (even in uncontested matters) that the court was not willing to do, and I think it is very difficult for them to say no when they are in this position.
- Really need two FT Referees. PT Referee is swamped and working longer than paid for. This is just a temporary fix for a bigger problem. Also many attorneys complain about it being a conflict for the AJOs to also practice here and then hear cases as AJOs.

- **“Why do you feel that the amount of work required of you changed under the AJO Probate Pilot?”**

Judicial Staff

Somewhat more work:

- *(No comments)*

Somewhat less work:

- Judge Quam's clerks, Kelli and Divya, clerk for the AJOs, which frees me to work in chambers.

Administrative Staff

Much more work:

- Orders and decisions that weren't consistent with what the Court has done in the past, such as waiving bonds, discharging trustees without hearing or allowing final accounts, etc. These had to be identified and then brought to the Judge/Referee/AJO involved and rectified.

Somewhat more work:

- After the date of an AJO hearing, it complicates things when trying to route documents, schedule/reschedule hearings and direct calls.
- I am responsible for processing the orders that come out of the hearings. With the assistance of the AJOs, we are able to schedule more hearings, which means more orders to process. When I get the files, there are frequently loose documents as well as the screening sheets and minutes that need to be entered and scanned. The orders require a little more scrutiny as some have contained provisions that do not comply with our established policies (not setting a bond in a conservatorship or discharging a trustee without having heard & allowed their accounts, etc.). When questions arise, the minor ones may need a discussion with the clerk or a phone call to the AJO; the major issues are referred to Steve Bittick for handling.
- There are more questions from attorneys, we need to do additional follow-up on some of the documents that need to be filed or additional explanations as to types of info needed.

About the same amount of work:

- As an administrator, there was some extra work to plan and set up the pilot, including drafting the project outline and meetings to work out the details. Once the pilot started, my role has been limited to a few check-in meetings to get feedback on the project, requests for party survey results, and giving input into the final pilot survey questions with the Research Department.