

**STATE OF MICHIGAN  
MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

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**In the Matter of the Fact-Finding Between:**

16<sup>TH</sup> JUDICIAL CIRCUIT COURT/COUNTY OF MACOMB

**-and-**

**Case No. D02-H-2021**

UAW REGION 1, LOCAL 889

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**FINDING OF FACTS AND RECOMMENDATIONS**

Pursuant to Section 25 of Article 176 of the Public Acts of 1976, the undersigned, Barry C. Brown, was appointed by the Michigan Employment Relations Commission to hold a hearing, determine the facts and to issue a report and recommendation on this matter captioned above. Hearings were held at the County Administration Building in Mt. Clemens, Michigan on April 20, August 2 and August 10, 2004. The parties submitted written post hearing briefs on December 10, 2004, and reply briefs were submitted on February 17, 2005, and thereafter, the record was closed.

**APPEARANCES:**

**For the Employer:**

Ted Cwick-Human Resources Director

**Also Present:**

Rich Mielki-Human Resources Coordinator

Patricia McKay-Chief Research Attorney

Michael Cory-Chief Referee (Juvenile)

**For the Union:**

Dane DeRush-Unit Chair

**Also Present:**

Karen Transit-Attorney and Referee

Diane Carter-Research Attorney

Reuben Turner-UAW Region Representative

**For the Employer: (contd.)**

David Elias-Chief Referee (FOC)

Eric Herppich-Division Director-Labor. Relations

Gerald Alsip-Juvenile Division Administrator

Louis Smigiel-Accounting Manager

Keith Beasley-Court Administrator

**For the Union: (contd.)**

Thomas Wright-President, Local 889

Antonio Viviano-Circuit Court Judge

Matthew Switalski-Circuit Court Judge

Darra Slanec-Assistant Prosecuting Attorney

Charles Semarjian-Assistant Deputy Register

John Goodman-Assistant Prosecuting Attorney

Frank Krycia-Assistant Corporate Counsel

Mark Miller-Career Research Attorney

Michael Osaer-District Court Magistrate

**STATEMENT OF FACTS:**

The County of Macomb is a unit of government in a populous area of southeast Michigan. It has a large court system which employs attorneys as referees and research attorneys in the 16<sup>th</sup> Judicial Circuit Court. On August 21, 2002, these attorneys were certified as part of the UAW Local 889 bargaining unit. (MERC Case Number D02 F-082), and since then, the parties have negotiated to reach their first collective bargaining agreement. On October 29, 2003, the local union president sent a petition for fact finding to the Michigan Employment Relations Commission. In the petition, it identified 17 unit members classified as Juvenile Court Attorneys, Friend of the Court Attorneys and Research Attorneys. The petition identified "salary issues" and "quota system" as two unresolved issues. On February 13, 2004, the employer gave the following response to the union's petition:

**"Employer's Answer to Fact-Finding Petition"**

Now come the employers, the 16<sup>th</sup> Judicial Circuit Court and the County of Macomb, and in response to the Petition for Fact Finding filed by the Union, UAW Local 889, states as follows:

1. That the certified collective bargaining unit at issue is: All full-time referees, attorney/referees and research attorneys in the 16<sup>th</sup> Circuit Court of Macomb County. Excluding managers, those represented by a labor agreement and all others.
2. There are approximately 17 employees in the bargaining unit.
3. That the Employer and the Union, who have an ongoing collective bargaining relationship, have agreed to accrete the bargaining unit at issue in this fact finding petition with the "Specialized Offices" collective bargaining unit already in existence (see Attachment A). Specifically, the Collective Bargaining Agreement consists of a Master Agreement, Articles 1 through 35 and the attached SPECIALIZED OFFICES SUPPLEMENT TO MASTER AGREEMENT, Appendix E to Attachment A. This Collective Bargaining Agreement expires December 31, 2004.
4. While the Employer would concede that seven (7) collective bargaining sessions had taken place prior to mediation, the Employer would deny that a good faith effort was made to reach agreement in the course of mediation. Submitted herewith as Attachment B is a summary of the Parties' positions before the mediator. The mediator was unable to resolve the substantial gap between the Union and Employer positions.
5. The "Quota System" referred to in the petition concerns the distribution of work assignments to employees in the research attorney classification only. It is the contention of the Employer that this is a permissive issue and is controlled by the Management Rights provision of the existing Collective Bargaining Agreement, Article 23, page 25 of Attachment A. Thus, the work assignments made by the Employer are retained as a Management Right pursuant to the existing Collective Bargaining Agreement.
6. The Employer would submit that the following economic issues require consideration in fact finding:
  - a. Overtime
  - b. Longevity
  - c. Workers Compensation
  - d. Beeper Compensation
  - e. Show-up time
7. The Employer would respectfully request that the fact finder schedule a pre-hearing meeting to allow the Parties to discuss the structure of the fact-finding process prior to the taking of testimony and submission of other evidence.

**"ATTACHMENT B"**

		<u>Union Proposed Wage Increase</u>	<u>Employer Proposed Wage Increase</u>
<i>Referees:</i>	2003	49.8%* (\$97,943 max)	3.25% (\$67,521 max)

<b>Research Attorneys:</b>	<b>2003</b>	<b>74.2%* (\$90,947 max)</b>	<b>3.25% (\$53,894 max)</b>
<b>Referees:</b>	<b>2004</b>	<b>?</b>	<b>3.0%</b>
<b>Research Attorney:</b>	<b>2004</b>	<b>?</b>	<b>3.0%</b>

**\*Based on 2002 Circuit Judge Salary"**

On February 24, 2004, this arbitrator received his appointment by MERC to hear this case.

At the first hearing held on April 20, 2004, the following stipulations were made by the parties:

- "1. Salary Ranges:**
  - Chief Research Attorney**
  - Research Attorney**
  - Chief Referee - FOC**
  - Referee - FOC**
  - Chief Referee - Juvenile**
  - Referee - Juvenile**
  - Judicial Service Officer**
  - Prosecutor I - V**
  - Assistant Corporation Counsel**
- 2. Cost was never a subject in negotiations by the employer.**
- 3. Macomb County Bond Rating**
- 4. Job Descriptions for Research Attorney, FOC Referee, Juvenile Referee**
- 5. Current Salary Ranges for the positions above**
- 6. 1996 Salaries (FOC Referee, Chief FOC Referee, Prosecutor III, Asst. Corp. Counsel)**
- 7. Referees are bound by the Judicial Code of Ethics**
- 8. Within hearings, Prosecutors and Corp Counsel are subordinate to Referees**
- 9. That there have been equity adjustments for bargaining unit and non-bargaining unit employees within the past 3 decades and that the county continues to give equity adjustments when warranted."**

A pre-hearing conference had been held on April 19, 2004. It was noted then that the employer had raised issues about which there had never been any mediation. The parties agreed to negotiate about these issues, but the fact-finding went forward and the stipulations, preliminary exhibits and foundation testimony were taken on the first day of hearing. The union withdrew its

issue relating to the “quota system.” In the hearings, the parties did not bring out or discuss any of the supplemental issues raised by the employer at the start of the hearings, and the sole issue before the fact-finder was wages for the three classifications of attorneys for the years 2003 and 2004.

For some time the union, UAW Local 889, has represented other Macomb County employees. The employees involved in this fact finding have been added to the existing agreement, which has a term from January 1, 2001, to December 31, 2004. The attorneys involved in the current negotiations have been added to the “specialized offices” bargaining unit. The makeup of the bargaining unit is as follows:

**“7 - Friend of the Court Referees  
5 - Juvenile Court Referees  
7 - Research Attorneys  
19 - Total number in the unit”**

The employer’s, the 16<sup>th</sup> Judicial Circuit Court and the County of Macomb, have designated the county’s Human Resources Department, as the collective bargaining representative on their behalf. The employer has offered the 19 employees in the three classifications shown above the following:

**“Effective 1-1-03 a 3.25% across-the-board wage increase.**

**Effective 1-1-04 a 3.00% across-the-board wage increase.”**

The union has sought the following:

**“Effective 1-1-03 a \$15,000 per year equity adjustment for all members of the bargaining unit. In addition, on 1-1-03, the union seeks a 3.25% across-the-board wage increase. Also, effective on 1-1-04, the union seeks a 3.0% across-the-board wage increase.”**

The statute which established fact finding does not provide the criteria by which a full and fair recommendation may be reached. However, the evaluation standards set forth in Act 312 of the Acts of 1969 are relevant and appropriate in fact finding. In MCL 423.239, they are presented as

follows:

- “(c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.**
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:**
  - (i) In public employment in comparable communities.**
  - (ii) In private employment in comparable communities.**
- (e) The average consumer prices for goods and services, commonly known as the cost of living.**
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.**
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.**
- (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.”**

In the external comparisons, the parties have offered different counties for consideration. The union has used only Wayne, Oakland, Washtenaw, Livingston, Genesee and St. Clair for comparisons. These six counties are all in southeast Michigan, and three of the counties are contiguous to Macomb County. The employer uses fifteen counties for purposes of comparison, and five of those were also used by the union. The employer did not use Wayne County for comparison. It did use smaller, distant counties, such as Ottawa, Muskegon and Berrien. Most of the counties selected by the employer have considerably less SEV than does Macomb County, and all but one have charged a much higher millage rate in 2003. The taxable value per capita of Macomb County was much more in line with the six counties proposed by the union than it was for the smaller counties also added in by the employer. A review of the salary schedules for referees and research attorneys shows that the smaller counties pay considerably less than do the larger counties. In fact,

some of the smaller counties do not even have comparable job classifications.

It is also clear that the larger counties, like Macomb, have a more generous overall compensation package for their employees. The fact finder notes that some of the smaller counties offered as comparables by the employer have never been used in any Act 312 proceedings involving county employees. From all of these facts, the fact finder determines that the five counties used by both parties (Oakland, Genesee, Washtenaw, Livingston and St. Clair) should offer the best comparisons of salary. This excludes the exceptionally large (and high paying) county of Wayne, and it also excludes the smaller, rural counties which have less size, population and tax base to be used for comparisons.

#### **JOB DESCRIPTIONS:**

***“Referee - Juvenile Court*** - Under the direction of the Macomb Circuit Family Court Bench, presides at contested hearings on juvenile criminal and child protective proceedings (parental abuse/neglect) matters as allowed by law. Makes recommendations on child placement, preliminary hearings, dispositional matters, review hearings, issues bench warrants, conducts status conferences, hears motions, Pre-Trial hearings, Permanency Planning Hearings, takes pleas and voluntary releases of parental rights. Conducts juvenile criminal trials and Termination of Parental rights trials, which may be appealed to the Michigan Court of Appeals.

***Referee - Friend of the Court*** - Under the direction of the Macomb Circuit Family Court Bench, presides at hearings and motions on custody, visitation, support, and other domestic relations matters as allowed by law. Prepares and submits to the court written reports containing summaries of testimony and recommendations of findings and dispositions. Conducts arbitrations, settlement conferences, facilitations, and status conferences as required.”

#### **INTERNAL COMPARISONS:**

The union offers the following comparisons of referees to other attorney classifications in Macomb County:

<b>Referees</b>	<b>\$65,396</b>
<b>Prosecutor I</b> <b>(Referees earn .09% less)</b>	<b>\$65,457</b>
<b>Prosecutor II</b> <b>(Referees earn 8.7% less)</b>	<b>\$71,697</b>

<b>Prosecutor III</b> (Referees earn 18.3% less)		\$80,081			
<b>Prosecutor IV</b> (Referees earn 22.2% less)		\$84,137			
<b>Prosecutor V</b> (Referees earn 28.9% less)		\$92,023			
<b>Assistant Corporation Counsel</b> (Referees earn 31.0% less)		\$94,896			
	<i>FOC Referee</i>	<i>FOC Chief Referee/Asst. FOC</i>	<i>Asst. Prosecuting Attorney</i>	<i>Asst. Corporation Counsel</i>	<i>IV-D Manager FOC</i>
1996	\$54,059	\$56,350	\$54,320	\$66,797	\$56,350
1997	\$55,731	\$58,827	\$56,000	\$71,337	\$58,827
2004	\$65,396	\$84,679	\$83,933	\$94,896	\$77,579

The employer rejected the union's comparisons to the referee's positions. The county asserted that the classifications of referee and referee/attorney are internally comparable to the Attorney/Deputy Probate Register. These employees have the following job description:

**"[Attorney/Deputy Probate Register] conduct the hearings that are basically required by the Court Rules and the Statutes. These are hearings where certain accounts and certain petitions to modify either a guardianship or conservatorship or other miscellaneous motions, there has to be a record made of these hearings. And the court attorneys conduct those type of hearings."**

The county pointed out that these employees make the same annual salary as do the referees. The employer also noted the specialized and limited scope of the referees in the bargaining unit, and this, too, was like the Deputy Probate Register.

Using this basis for external and internal comparison of the salaries of referees, we have the following maximum salary data:

<i>County</i>	<i>Population</i>	<i>2002 Salary</i>	<i>2004 Salary</i>
1. Oakland	1,208,000	\$82,463	\$86,005
2. Genesee	442,000	\$75,231	\$77,846 (2003)
3. Washtenaw	338,600	\$72,106	\$73,428 + Longevity



4. Livingston	172,900	\$61,397	\$73,302
5. St. Clair	169,000	\$66,958	\$70,346
6. Macomb	814,000	\$65,396	\$65,396

The union stated that the FOC referees job has become more complex after the passage of Family Court legislation. This position has not been evaluated since 1987. Below is presented the comparisons of the FOC referee responsibilities since 1987:

<i>1987</i>	<i>1998 after Family Court</i>
Appointments	Motions **
Evidentiary Hearings	Appointments
Hearings	Evidentiary Hearings
	Status Conferences Settlement Conferences Mediations Arbitrations Facilitation Legal Research

The union stated that prior to the organization and certification of the bargaining unit, the chief referee had petitioned the county for equity increases for the referees. He had pointed out the higher salaries in other counties, and he emphasized the increased responsibilities of the referees. The chief judge of the circuit court allowed the chief referee to petition the Board of Commissioners in 1998 for a \$7,000 equity adjustment. This request was denied.

#### **JOB DESCRIPTION:**

***“Research Attorney*** - Under the direction of the entire Macomb County Circuit Court Bench, engages in legal research, drafts opinions and memos, gives oral advice, evaluates parties' arguments and evidence, reviews petitions for ex parte Personal Protection Orders (PPO's) attends court proceedings, prepares jury instructions, and assists with pre-trial conferences. Handles civil, criminal and domestic matters, as well as appeals from District Court and administrative agencies. Addresses substantive, procedural, and evidentiary issues.”

### **RESEARCH ATTORNEYS:**

As stated above, the research attorneys engage in legal research, give oral advice to judges, draft proposed judicial decisions, evaluate parties' arguments and evidence, prepare jury instructions, conduct settlement conferences, etc. These attorneys must be law school graduates and members of the bar in good standing. Thus, assignments require excellent organizational and communications skills. Applicants are given a writing test regarding problem analyzing and prior research and writing experience is preferred among applicants.

The employer has compared the job of research attorney to that of a law clerk. It noted that the clerks assist judges by conducting legal research, writing memoranda and drafting opinions. Of course, law clerks often have not yet passed the bar. The county also indicated that the senior citizens' attorney also does legal research, and the lawyer in this position represents clients seeking senior citizen services. The employer noted that these attorneys receive the same maximum salary of \$52,198 as do the research attorneys.

### **ABILITY TO PAY:**

The employer has not raised the argument that it is unable to pay the annual salary adjustments sought by the union. However, it has opposed the unions' salary demands by pointing out the description in the entire salary structure of county government if the equity adjustments sought by the union were granted.

### **WORK ENVIRONMENT:**

Local 889 maintains that research attorneys have a high pressure job in which they are required to produce 15 proposed written decisions per month. The union has dropped the quota system as one of the issues before the fact finder, but the union argued that the production

requirements of the employer place a great deal of pressure on the research attorneys. It was said that this is magnified because the decisions in complex cases (class action claims, product liability disputes, medical malpractice suits, etc.) are not weighted differently than are the routine shorter decisions. Further, the research attorneys are each given a week to make written recommendations on petitions for *ex parte* Personal Protection Orders (PPO's), and yet during this week, they are not credited with this work in meeting their quota of 15 proposed written decisions per month. The union asserted that the work pressures created by this quota system should be a factor which results in a higher annual salary for the research attorneys.

#### **RESEARCH ATTORNEYS SALARY COMPARISONS:**

**"Macomb County Research Attorneys currently earn a maximum salary of \$52,198, which is substantially lower than the salaries of other attorneys employed by the County:**

**Assistant Corporation Counsel earn 81.80% more - \$94,898**

**The Chief of Research earns 49.05% more - \$77,803**

**Assistant Prosecuting Attorney I earns 25.40% more - \$65,457**

**All Attorney-Referees earn 25.28% more - \$65,396**

**Judicial Service Officers earn 18.08% more - \$61,634**

**On average, these other County-employed attorneys earn 39.92% more than the Research Attorneys."**

#### **SALARY COMPARISONS FOR RESEARCH ATTORNEYS**

##### **External Comparisons-Based on SCAO Court Employees Compensation Survey (2001)**

<i>County</i>	<i>April 2000 Population [Census]</i>	<i>July 2000 Population</i>	<i>July 2001 Population</i>	<i>Population Change July 2000-July 2001</i>	<i>2001 Salary</i>
Macomb	788,149	790,861	799,886	1.1%	\$40,444 - \$50,554
Washtenaw	322,895	324,418	329,416	1.5%	\$39,336 - \$55,987
Oakland	1,194,156	1,196,615	1,202,560	0.5%	\$48,270 - \$63,484
Wayne	2,061, 162	2,059,196	2,050,900	-0.4%	\$33,714 - \$45,067

### External Comparisons-Tri County Area Only

<i>County</i>	<i>July 2002 Population</i>	<i>July 2003 Population</i>	<i>Population Change April 2000 to July 2003</i>	<i>Population Rank 2003</i>	<i>Growth Rank April 2000 to July 2003</i>
Macomb	806,909	813,948	3.3%	3	22
Oakland	1,203,379	1,207,869	1.1%	2	48
Wayne	2,040,078	2,028,778	-1.6%	1	76

### SALARY COMPARISONS FOR RESEARCH ATTORNEYS

#### Internal Comparisons

<i>Position</i>	<i>2004 Salary</i>
Research Attorney	\$41,758.43 - \$52,198.03
Judicial Service Officer (JSO)	\$49,307.62 - \$61,634.55*
Assistant Prosecuting Attorney (APA) Level I	\$49,092.96 - \$65,457.28
Friend of Court (FOC) Attorney Referee	\$52,316.88 - \$65,396.08
Juvenile Court Attorney Referee	\$52,316.88 - \$65,396.08
Chief of Research	\$62,242.93 - \$77,803.66**
Assistant Corporation Counsel	\$75,918.34 - \$94,897.92***

\*Based on salary in 2003 job posting of \$47,871.48 - \$59,839.37 plus 3.0% increase in January 2004.

\*\*Based on 2002 salary of \$58,527.88 - \$73,159.85 acknowledged by Ted Cwiek during Mediation, plus 3.25% increase in January 2003 plus 3.0% increase in January 2004.

\*\*\* Based on salary in 2003 job posting of \$73,707.13 - \$92,133.91 plus 3.0% increase in January 2004.

### DISCUSSION:

The parties have agreed upon the annual salary increases of 3.25% in 2003-2004 and 3.0% in 2005. The issue regarding the quota system for research attorneys has been withdrawn. The sole remaining issue before the fact finder is the union's proposal that there be a \$15,000 "equity adjustment" effective on January 1, 2003. The employer refers to this as an "annual salary adjustment," and it opposes any such increase.

A review of annual salary increases sought over the last several years (JX3) shows that such

requests have been frequent. Many requests for referee increases were deferred in the 1990's for an "equity study." In 1996 and again in 1998, the department had recommended a \$7,000 salary adjustment for referees. This last requested increase was put on "hold" pending court reorganization. In 1999, the FOC referees were not granted an equity adjustment due to the 1999 FOC funding cap. In 2002, the deputy register, a job the employer maintains is comparable to the referees, got a \$5,068 recommendation for salary adjustment. In summary, the chief referee often sought a significant increase in the referees' base salary, and this recommendation was supported by the department head and the chief judge. The recommended increase has been denied except for small increases granted in 1998 and 2000.

The employer notes that the chief referee has an annual salary that is only about \$3,000 greater than that of the referees. Thus, the equity increase demanded by the union would cause their compensation to greatly exceed that of their immediate supervisor and that of his supervisor, the division administrator. However, the several recommended referee annual salary adjustments made since 1996 would have all had the same effect, and yet, these adjustments were supported by all in the department's hierarchy. Additionally, whenever unionized personnel are granted a wage increase, there is always a review of the compensation of supervisory staff to insure that there are not inappropriate disparities.

The union has disregarded the fact that the employees involved in this proceeding are covered by the terms and conditions of Local 889 collective bargaining agreement. The fringe benefits offered under this contract are very generous, and in many cases, the base salaries in comparable counties are not augmented by the holidays, sick leave, insurance benefits, etc. that Macomb County employees enjoy. The cost of health care has been soaring, but it has been absorbed by the employer.

This is a factor which must be taken into account when comparing annual salaries.

**REFEREES:**

The fact finder has already noted that the responsibilities of the referees have been increased in recent years. The position has not been evaluated since 1987, and so their current base salary is not reflective of their current duties and the matters for which they now are answerable. He also notes that another attorney position in the county's legal structure, assistant prosecuting attorney, was at the same salary as the referees in 1996, i.e., \$54,000. The assistant prosecutors are now at the level of \$84,000 while the referees have risen to only \$65,000. It is hard to understand why two attorney jobs were paid the same in 1996, and there is now a \$20,000 difference in annual salary.

The fact finder has adopted the counties of Oakland, Washtenaw, St. Clair, Livingston and Genesee as the comparables in this case. He excluded Wayne County because it is so much larger, and its salaries are disproportionately higher. He excluded western and smaller counties because they are not in the same attorney job market as are counties in southeast Michigan. Based upon this, the \$65,396 paid to Macomb County referees is approximately \$10,000 less than the average in these comparable counties. Possibly, this is why the chief referee requested a \$10,000 equity adjustment in 2000.

The employer's argument did not emphasize that the referees did not deserve an equity adjustment, but rather, it asserted that the \$15,000 annual salary adjustment sought by the union would bring on a domino effect of other salary increases. The employer added that such an increase and its effects on the county's salary structure would threaten the county's financial status.

However, the assistant prosecutors have experienced the kind of salary improvement that is now sought by the referees. The supervisory hierarchy of the 16<sup>th</sup> Judicial Circuit Court system has

considered and then recommended several annual salary adjustments over a ten-year period. The county commissioners have rejected these recommended annual salary improvements with various references to “equity” considerations, etc. The fact finder concludes that it was this factor which led the referees to join Local 889 and to negotiate a better equity adjustment.

The fact finder recommends that the \$7,000 equity adjustment recommended by the department in 1998 should be adopted by the county effective on January 1, 2004. This amount is less than the union has sought, and it is delayed by one year in its effective date. However, this is certainly better than the zero improvement propose by the employer, and the amount and effective date are in keeping with the employer’s annual salary reviews and less likely to result in the wage structure chaos suggested by the county.

#### **RESEARCH ATTORNEYS:**

The maximum salary for a research attorney is \$52,198 as compared to the \$65,396 maximum for referees. Their responsibilities have increased in recent years, and the quota system does create pressures that would not exist in an environment which was less stressful. However, it is difficult to compare their jobs to those that exist in other counties. The fact finder noted that many of the smaller counties have no comparable jobs at all. In the five comparable counties, the union refers to law clerks, staff attorneys and judicial attorneys. Only Oakland County and Washtenaw County have higher paying positions, and in Washtenaw County the incumbents need not be attorneys, and they do not review PPO petitions. Similarly, in Oakland County, the responsibilities of the staff attorney varies significantly from that of the Macomb County research attorney. The comparisons are as follows:

## EXTERNAL COMPARISONS FOR RESEARCH ATTORNEYS

County	Population	Position	Law School Graduation Required?	Bar Membership Required?	Draft Proposed Decisions?	Conduct Settlement Conferences?	Review Ex Parte PFO Petitions?	Perform Non-Attorney Duties?	Salary Range
Macomb	814,000	Research Attorney	Yes	Yes	Yes	Yes	Yes	No	\$41,758.43 - \$52,198.03
St. Clair	169,000	Law Clerk	Yes	No [However, Bar Membership will command a salary at higher end]	Yes	No	No	Yes [Security & Library Maintenance]	\$33,361.00 - \$44,873.00
Washtenaw	338,600	Judicial Attorney	No	No	Yes	Yes	No	Yes [Security, Library Maintenance & Office Support]	\$42,983.00 - \$76,497.00
Wayne	2,029,000	Judicial Secretary/ Law Clerk	No [Only completion of 1 year of law school is required]	No	Yes	No	No	Yes [Secretarial Duties & Library Maintenance]	\$31,067 - \$42,251.00
Oakland	1,208,000	<u>Two positions:</u> (1) Staff Attorney	Yes	Yes	Yes [Limited to motions for summary disposition, post-conviction criminal relief & appeals from district court & admin. agencies]	No	No	No	\$47,588.00 - \$62,253.00
		(2) Judicial Staff Attorney	Yes	Yes	Yes	Yes	No	No	\$52,752.00 - \$69,379.00

It is our position that non-attorney duties diminish, rather than enhance, the professional attorney status of a position. Although Washtenaw Judicial Attorneys do not devote 100% of their time to attorney functions, they still command a maximum salary which is \$24,298.97 greater than that earned by Macomb Research Attorneys.

In the comparisons of the research attorney to other attorney positions in Macomb County, there are some distinct differences. The research attorneys supervise no one, and they do no trial work nor handle other litigation. The other attorneys which have such responsibilities are paid more.

On the other hand, the gap between the annual salary of research attorneys and the chief research attorney has been growing in recent years - especially in light of the increase of more than



7% in 2002. The difference of \$25,000 is more than in other comparable attorney positions and their supervisors. Further, the research attorneys' duties are more significant than those of the senior citizen attorney. The drafts of proposed judicial decisions and advisory memos are much more important work.

The research attorneys did receive an annual salary increase of 5.6% in 1998, but the county recognized that this was not a sufficient increase when it proposed another increase in 2001 for the more senior research attorneys, but this proposal was rejected by the Board of Commissioners. The union argued that the employer suggested comparable position, attorney/probate register, does not handle contested hearings, and so this position should not make as much as referees. Yet, the union proposes the same \$15,000 equity adjustment for research attorneys even though they also are not directly involved in litigation. Finally, the employer's mention of the part-time student law clerk position was a tacit comparison and not appropriate because of the vast differences in the circumstances of employment.

In summary, the research attorneys do not make a case for an increase in their annual salary of \$15,000 or even for the referees' increase of \$7,000, which has been recommended by the fact finder. They are underpaid in comparison to comparable positions in Washtenaw County and Oakland County, and they are relatively low paid internally when compared to other attorney positions. The referees' \$7,000 equity adjustment would represent approximately a 10% change. Using that same standard, a \$5,000 equity adjustment would be similarly appropriate for the research attorneys.

When one considers the hourly rate charged by lawyers who practice in Lapeer County or in Ottawa County and that is compared to the rates charged by attorneys in Macomb County, one sees

that many of the comparables offered by the county are not relevant. Macomb County is a growing portion of metropolitan Detroit. As the areas north of M-59 are developed, it will increase in population, SEV and court activities. The equity adjustments recommended by the fact finder are in keeping with the size, taxable value and legal activity of Macomb County. It is growing to be much more like Oakland County than it is like Lapeer or St. Clair County.

**RECOMMENDATION:**

There should be an equity adjustment of \$7,000 for referees and \$5,000 for research attorneys effective on January 1, 2004.

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**March 8, 2005**

  
**Barry C. Brown, Fact-Finder**

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