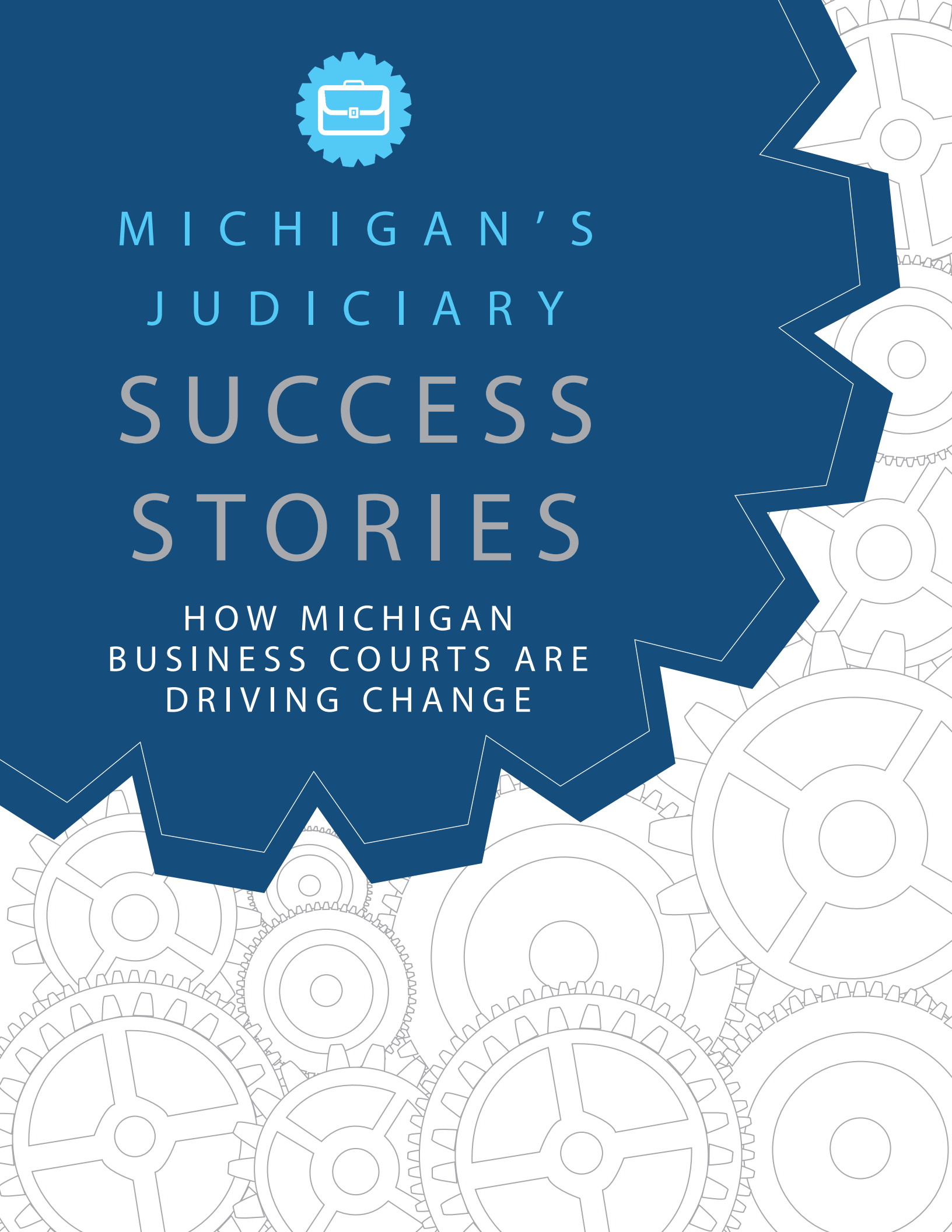




MICHIGAN'S JUDICIARY SUCCESS STORIES

HOW MICHIGAN
BUSINESS COURTS ARE
DRIVING CHANGE



MESSAGE FROM MICHIGAN SUPREME COURT
JUSTICE BRIDGET MARY MCCORMACK

May 2017

My colleagues and I are proud of the great work of Michigan's 16 business courts and the talented judges who lead them. Macomb, Kent, and Oakland counties pioneered these specialized dockets, with the concept spreading statewide in 2013. From the start, business court judges have facilitated timely, efficient, and consistent resolution of thousands of complex business cases.

Just as a patient might go to a medical specialist for a specific health concern, litigants turn to business courts to help resolve complicated disputes so that companies can make decisions and plan for the future based on a clear and timely interpretation of the law. Business court judges do this using a variety of methods, including alternative dispute resolution.



Justice Bridget Mary McCormack

Along with their colleagues statewide, the judges featured in this booklet dispose of roughly 2,500 cases each year. Judge Christopher Yates of Kent County and Judge Jim Alexander of Oakland County have both presided over business court dockets since their inception, while Judge Timothy Hicks of Muskegon County and Judge Joyce Draganchuk of Ingham County have taken on their business court dockets more recently.

I am very pleased with the recent legislative progress regarding statutory changes that will better tailor the courts' jurisdiction to include more cases that can benefit from this specialized process and to remove others that don't fit. State Senator Rick Jones introduced Senate Bill 333, and we appreciate his support for these reforms to make business courts even more successful. I was privileged to testify in support of these changes before the Senate Judiciary Committee, along with Judge Yates and Judge Alexander.

Legislative action isn't all that we are doing to enhance the work of these courts, however. Our Michigan Judicial Institute recently presented a seminar for business court judges and attorneys that addressed recurring issues on the business courts' dockets, including Electronic Storage Information, Business Court Jurisdiction & Discovery Protocols, Best Practices in Utilizing Early ADR in Business Court Cases, and Effective Case Management Practices.

You can find more information about these courts—including a case search function for nearly 1,400 opinions—at www.courts.mi.gov/businesscourt.

A handwritten signature in black ink that reads "Bridget Mary McCormack". The signature is fluid and cursive.



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DID YOU KNOW? The One Court of Justice website contains nearly 1,400 business court opinions that are searchable.

Visit www.courts.mi.gov/businesscourt.



During the May 2, 2017, MJI Business Court Seminar, MSC General Counsel Tom Clement delivers a legislative update on a panel with Kent County Circuit Court Judge Christopher Yates and Oakland County Circuit Court Judge James Alexander.

OAKLAND COUNTY CIRCUIT COURT JUDGE JAMES ALEXANDER

Judge Alexander Believes Judicial Camaraderie Creates Foundation for Success in Michigan's Business Courts

Patience and a love of the law are two qualities Judge James Alexander, of the 6th Circuit Court in Oakland County, thinks are necessary for all judges to possess.

"People are coming at you fast and furiously and you need to be able to step back, relax, listen patiently, and make a decision," Judge Alexander said.

Before Judge Alexander was a judge, he was working at a private practice as a corporate planning and litigation lawyer. Later on, he joined former Governor John Engler's staff, and was later appointed by Gov. Engler to the Oakland County Circuit Court in 2001.

The Oakland County Business Court began in June 2013, after Governor Snyder signed legislation mandating that all circuit courts with at least three judges maintain a business court docket. Judge Alexander is one of two judges assigned to the Oakland County Business Court.

Judge Alexander explained, "Having a specialized court with a group of judges who have developed consistency and expertise makes it more desirable for businesses to come to Michigan because they know what they are going to get if



Judge James Alexander

they end up in a dispute."

The Oakland County Business Court had 960 business cases filed last year.

"The cases that we get can range from a very simple collection matter over \$25,000 to major shareholder derivatives actions that may have 30 or 40 different parties involved with lawyers from all over the county," he explained. "We really handle all kinds of business related issues."



In addition to working with diverse cases, the Oakland County Business Court utilizes multiple tactics to improve efficiency. A few tactics implemented include employing advisory committees and case management conferences.

Judge Alexander explained, "One of the things we have gotten to understand through this docket is that a lot of businesses we see are going to have ongoing relationships. They might have run into a little hiccup with that relationship, and it is important to resolve it quickly and without too much adversarial nature, so they can get back to business."

"The business judges around the state are always talking to each other. We are sharing ideas, we are sharing experiences, and we're not afraid to call each other and say 'Hey, I'm dealing with this issue. Have you had it and can you help me?'"

Judge Alexander attributes the success of business courts across the state of Michigan to the camaraderie shared amongst the other 21 business court judges and the transparency they share.

"The business judges around the state meet a few times a year, and we are always talking to each other," Judge Alexander explained. "We are sharing ideas, we are sharing experiences, we're not afraid to call each other and say 'Hey, I'm dealing

with this issue. Have you had it and can you help me?' The other thing is all of our decisions are published on the Supreme Court website so lawyers can know what to expect if they have an issue and we can go and see what our colleagues have done if we have an issue."

Looking at the future, Judge Alexander said that business courts in Michigan still have a long way to go, but have a solid foundation.

"It is important to understand business courts are still in their infancy," Judge Alexander said. "Michigan became a State in 1837 and business courts became a thing three years ago. We are still learning to walk, but I think we have done a really good job at this point."

In the future, Judge Alexander has plans for the business court to look at new issues, such as electronic discovery.

"It is an ongoing process," Judge Alexander said, "but it is a lot of fun being on the ground floor, and I look forward to the things we are going to accomplish down the road." ✎

Judge Joyce Draganchuk has a secret formula

With more than 30 years of experience in the legal field, she credits her success on the bench in the 30th Circuit Court in Ingham County to a very simple directive she developed early in her career: being prepared.

“I don’t believe in winging it,” said Judge Draganchuk. “I believe in being prepared. That means reading the briefs, reading the law, knowing the arguments, knowing the facts of the case, and truly using this skill that I developed.”

Showing up prepared not only gives her confidence in herself, she says, but it gives other people confidence in her, too.

In fact, in 2013, Judge Draganchuk was among the group of original 18 judges who were first tapped to be business court judges in Michigan.

“I have always believed that the best things in life are the things that you struggle for, the things that you really sweat and work to achieve. If it comes easy, it is not as gratifying when you get it,” she remarked. “I saw business court cases to be the ultimate challenge.”

Judge Draganchuk takes a unique approach when handling her business court cases. She meets with the attorneys



Judge Joyce Draganchuk

very early on in the case at the initial scheduling conference. During this time she will ask them open-ended questions in regards to how they feel the case will progress.

In doing this, she finds that mediation skills are essential.

By mediating between the attorneys and getting them to think about handling cases in a new way, she believes she is able to create resolution in the most efficient way possible.

“When I can send attorneys on their way toward an early facilitated mediation



or maybe some other way of early case resolution, and then have them return a short time later to tell me that the case has been settled, that is meaningful to me," Judge Draganchuk shared.

the bench for three consecutive terms. Her favorite part about the job is the power that comes with it allowing her to make a significant impact on a person's life.

With such a passion and focus for her business court docket, as well as the criminal court docket, it may seem surprising that Judge Draganchuk didn't initially set her sights on being a judge, at all. Law school was not even in her plans.

"By mediating between the attorneys and getting them to think about handling cases in a new way, she believes she is able to create resolution in the most efficient way possible."

"It's not the kind of power you have from sitting higher than everyone else in the courtroom wearing a black robe," she explained. "It's the power of my words in my position that can really influence people and drive people to do better."

But during her career as a legal secretary, a lawyer had approached her and encouraged her to take the next step. After earning her law degree from Wayne State University School of Law and later working as a prosecutor, she says that becoming a judge seemed like a natural progression.

Judge Draganchuk says that often times in her criminal docket when

she is sentencing a nonviolent offender, she will make it a point to say things to that person like, "You can do better," or "I think you are very worthwhile," and to look for the good in them.

"I never dreamed of it when I was 12, or anything like that, it just happened. After years of being a prosecutor, there was an open seat on the 30th Circuit Court," she recalled. "Some friends approached me and suggested I run. So I ran, and that's how I ended up being a judge."

In doing this, Judge Draganchuk has had multiple instances where these certain people have gotten out of prison and come back to her courtroom to thank her for the motivation she gave them to lead a successful life.

Moments like this, according to Judge Draganchuk, is what makes her job even more worthwhile. 🛠️

Judge Draganchuk has been re-elected to

MUSKEGON COUNTY CIRCUIT COURT JUDGE TIMOTHY HICKS

Muskegon County's Judge Hicks Manages New Business Court Docket with the Help of Alternative Dispute Resolution

Growing up, Judge Timothy Hicks, of the 14th Circuit Court in Muskegon County, always had an interest in being a public servant.

"For a while I wanted to be the president or a senator," Judge Hicks recalled. "When I was a kid, I was always the dorky guy who read histories or biographies."

Later on, after graduating from Cooley Law School, he clerked with then circuit court Judge Robert Holmes Bell. "When I saw Judge Bell and how good he was at it, he was kind of inspirational; I thought, 'Wow! That would be a pretty good way to go,'" Judge Hicks exclaimed.

After earning his law degree from Cooley Law School and practicing privately for 13 years, Judge Hicks was appointed to the bench in 1996 by former Governor John Engler. Throughout his time as a judge, Judge Hicks has been assigned to different dockets, with his most recent assignment being the business court docket in January 2017.

"I wanted to do it and I was happy to do it," Judge Hicks said. "It sort of meshes with my private practice background, and I am in the last chapter of my career, so it gives me a change of pace and some new challenges."



Judge Timothy Hicks

Judge Hicks said one of the main differences between the business docket and other dockets is that individuals involved in the cases generally know one another.

"Business court cases are a little more interesting because you have cases with individuals who typically had a good relationship in the beginning, and then it turns south," Judge Hicks explained.

Business courts in Michigan were created with the goal of improving the consistency of



decision-making and speeding up resolutions. One of the ways Judge Hicks achieves this is utilizing alternative dispute resolution (ADR).

"I am a big believer in and will continue to utilize all the ADR tools at my disposal," Judge Hicks said. "For example, some of these cases respond very well to facilitated mediation, lots of times even before the case has had much discovery."

Judge Hicks said that one of the goals in working in the Muskegon County Business Court is to tailor his management of cases to the specific needs of that case. Judge Hicks said that one way he hopes to do this is through a differentiated case management approach.

"That sounds fancy, but what I am trying to recognize is that not every case is the same. Some of them are going to need a year or more, especially if they involve intellectual property, but many of them can be resolved a lot sooner than that," Judge Hicks clarified.

Judge Hicks mentioned that the most rewarding part of being on the business court docket is when cases are resolved through a mutually agreeable settlement.

"The most challenging part is the human dilemma," Judge Hicks said. "It is getting lawyers to consider a new way of doing things, considering creative solutions, and getting them to focus more on things like ADR, rather than using their proverbial swords and shields and heading to the courthouse."

"A lot of business court cases—really because of the long history people have with each other—have some personal issues that are getting in the way," he explained. "A lot of times, if you can break through those, then a settlement falls into place, and those times when we can accomplish that are the most satisfying for me."

One of the challenges of this method Judge Hicks says is having all individuals involved agree to this new approach.

"The most challenging part is the human dilemma," Judge Hicks said. "It is getting lawyers to consider a new way of doing things, considering creative solutions, and getting them to focus more on things like ADR, rather than using their proverbial swords and shields and heading to the courthouse."

Despite the challenges, Judge Hicks said that knowing the work he does as a judge has meaning makes it all worth it.

"What I do every single day makes a difference for people and our community, it is not always fun, but it makes a difference and that's the best part for me," Judge Hicks said. 🛠️

KENT COUNTY CIRCUIT COURT JUDGE CHRISTOPHER YATES

For Judge Yates, making a difference from the bench is ‘business as usual’

One might call Kent County Judge Christopher P. Yates an over-achiever.

After finishing his undergraduate studies at Kalamazoo College, he took an unconventional route, and earned both his M.B.A. and law degree in just four years from the University of Illinois at Champaign.

Fresh out of law school, Judge Yates started clerking for Chief Judge James Churchill of the U.S. District Court, and then for U.S. Court of Appeals Judge Ralph Guy.

“Judge Churchill and Judge Guy are two giants in the law. They became my role models, and I have tried to emulate them in every way. I always knew that if I ever had the chance to serve as a judge, I would be as much like them as I could,” he explained. “They have been shining examples of what a judge should be.”

After completing his judicial clerkships, Judge Yates moved to the U.S. Attorney’s Office for the Eastern District of Michigan, where Stephen J. Markman - the current MSC Chief Justice - hired him, and Alan Gershel oversaw his work on criminal cases.

Not a bad list of references to start a resume....

“I’ve been very fortunate. The first 10 years of my career could not have been a better instruction on how to be a good lawyer, and eventually to be a good judge,” said Judge Yates. A “good judge”



Judge Christopher Yates

indeed, Judge Yates was handpicked to run Michigan’s first specialty business docket pilot program in Kent County.

“We were able to be pretty innovative at the pilot stage and were given a great deal of latitude by the Supreme Court and the State Court Administrative Office,” he explained.

“We developed a model that I thought fit perfectly with what I had seen work in major commercial litigation in federal court.”

About ten months after the Kent County pilot started, Michigan enacted a statute that required all courts with at least three circuit judges to implement a specialized business docket.



"I was lucky enough to get to work on shaping the legislation that created the business courts," Judge Yates recalled. "I give the Legislature and the governor a lot of credit for inviting input from those of us who were handling business dockets, and the end result, I think, incorporated all of the best practices."

Business courts handle commercial cases that are typically more complex and time-consuming than other civil, criminal, or family cases.

"These courts are beneficial to both the bench and the bar, but more importantly, to the business community. Judges used to have general criminal/civil dockets, where the large commercial cases would languish because there were all these other cases that you have to prioritize as a judge — you have to give your criminal cases, particularly with people in custody, first priority," he remarked. "You didn't have the time to devote to handling discovery disputes, meeting with the attorneys, and making sure that the big commercial cases were moving along smoothly."

But by pulling those cases out of the general civil/criminal docket, they are now assigned to judges who have specialized experience and see those sorts of issues all the time, such as Judge Yates. Business court judges can devote the necessary time and resources to the cases, and give the

"Business court judges can devote the necessary time and resources to the cases, and give the parties an opportunity to solve them quicker, more efficiently, and less expensively."

parties an opportunity to solve them quicker, more efficiently, and less expensively.

"In Kent County, I can tell you that all of us on the bench have found the business docket to be helpful. My colleagues are grateful that I'm handling the bigger, more complicated cases, and I'm pleased that I don't have to worry about other cases—that I can devote my full attention to the complex business cases."

As a judicial clerk, Judge Yates first learned the law in a judging sense, as a formal discipline that required analysis without regard to personal beliefs.

"I feel like I'm intellectually coming home again because I started out trying to be as solid analytically as I could as a law clerk, and now I'm back trying to be as solid analytically as I can as a judge."

Judge Yates revels in his position.

"Every day, I come to work and I feel like my efforts make a difference."

Judge Yates has been happily married for 13 years to East Grand Rapids high school teacher Janice Yates, who is a high achiever in her own right, as she was named both the Michigan and national history teacher of the year in 2016. They have four daughters and live in the Grand Rapids area. 🏡

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