

EYE ON THE COURTS

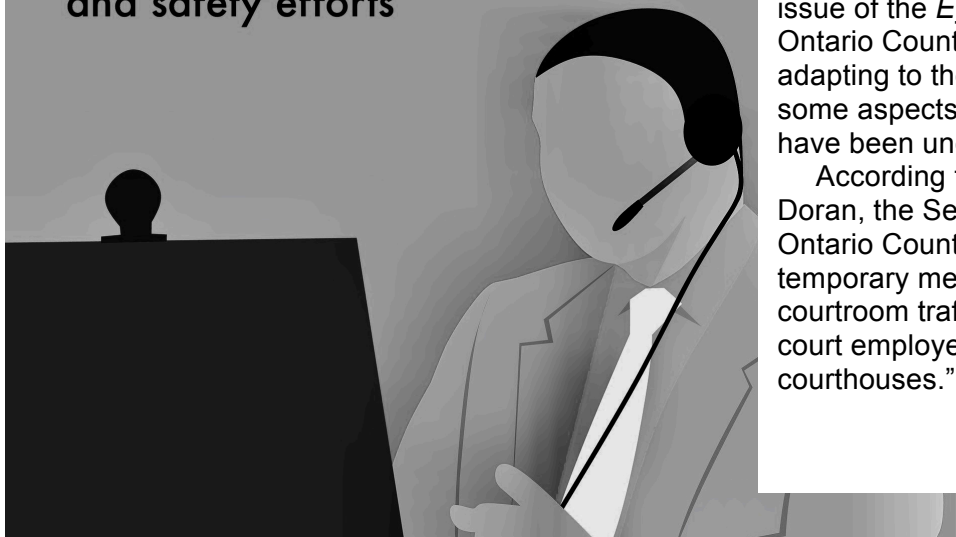
A periodic report from the Geneva Court Watch Coordinating Committee

A project of the League of Women Voters of Geneva, a non-partisan organization

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Pause sparks appreciation ...

for professionalism
and safety efforts



As the Coronavirus pandemic compels us all to develop new ways to lead our lives, do our jobs, connect with our families and engage with our community, it also gives us the chance to stop and consider all the things we usually take for granted. It thus seems appropriate in this issue of the *Eye* both to applaud the way the Ontario County judicial system has been adapting to the new constraints and to note some aspects of its normal operation that may have been underappreciated.

According to Supreme Court Justice Craig Doran, the Seventh Judicial District, of which Ontario County is a part, has introduced "various temporary measures to significantly reduce courtroom traffic for the health and safety of our court employees and all who enter our courthouses." (*Finger Lakes Times*, 4/2/20)

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Correction

An article that appeared in Issue 52, the December 2019 Eye On the Courts newsletter, contained an error. The article was about payment and non-payment of property taxes, and the tax foreclosure process. The article incorrectly stated that tax foreclosure auction rules bar homeowners from bidding on their own properties. In Ontario County, property owners are allowed to bid on their own foreclosed property at the tax foreclosure auction. It should be noted that property tax foreclosure rules can and do vary from county to county based on local laws.

— Chris Hoffman, Secretary, LWV of Geneva

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Chief among those measures was using virtual conferencing and restricting court activity to the “essential.” Thanks to the hard work of those involved, two weeks later Doran could announce that the District was in a position to move beyond the “essential” to address more kinds of cases. (*Finger Lakes Times*, 4/15/20)

As we shelter in place and think about our experiences observing courtrooms throughout Ontario County (some of us for many years, others for only a few months) we are struck by the spirit of welcome that we have met almost everywhere. Clerks prepare dockets for us (even when we forget to request them in advance) and patiently provide us with names of attorneys we can’t identify; security officers greet us with smiles; judges often engage us in conversations after the court session. We are not treated as interlopers or adversaries, but as people who share the courts’ desire to make the judicial system as fair and efficient as possible. We also realize that some of those who work toward that goal are seldom, if ever, recognized in the *Eye*, so we want to take this opportunity to applaud the interpreters and probation officers, without whose efforts the judicial system would not work anywhere near as well as it does.

Thanks to everyone in the courtrooms (and behind the scenes). We hope to be able to rejoin you soon.

— Judith McKinney, LWV of Geneva

This Project ... The Court Watch Coordinating Committee acknowledges the Rotary Club of Geneva, the Presbytery of Geneva, The Presbyterian Church in Geneva and the many local friends of the League of Women Voters, who financially support this project.

Anyone interested in making a donation can write a check to: League of Women Voters Court Watch c/o Beth Reiners, 719 White Springs Drive, Geneva, NY 14456.

“Eye on the Courts” is edited by Anne Schühle and compiled by members of the coordinating committee: Len DeFrancesco, Phyllis DeVito, Judith McKinney, and Beth Reiners. Additional Court Watch volunteers include: Joann Holland, Scott McKinney, Ellen Mitchell and Patricia Schiller.

League of Women Voters ... Anyone wishing to join (or renew their membership with) LWV of Geneva or make a contribution to the League or Education Fund can contact Carol Pfeffer, cepfeffer2@verizon.net, 440 William St., Geneva, NY 14456. LWV is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

Court Observations

The comments printed here are the personal observations of individual court watchers and do not necessarily reflect the views of the Court Watch committee or of its sponsor, the League of Women Voters. Except with written permission of the League, there shall be no republishing, excerpting or other use in any manner of the material here published, including, but not limited to, campaign literature to promote a particular policy or to elect a particular person.

Court Watchers observed 29 court sessions from December through April.

ONTARIO COUNTY COURT and FAMILY COURT

Judge 1869

- Sentenced defendant to jail during pre-court conference; parents of defendant were not allowed into court until defendant was being led away
- Explained consequences of actions clearly
- Explained reason for length of jail term and imposing jail term and mandatory rehab
- Allowed adequate time for all parties; treated all with respect; maintained pleasant demeanor

Judge 1797

- Did not explain half-hour delay opening court
- Explained rights clearly, checked to ensure each defendant understood
- Explained rulings clearly
- Was patient while APD and defendants — and interpreter as needed — discussed the results of sidebars
- Made sure defendant who rejected a plea deal understood that the evidence was compelling, and the ultimate sentence might be harsher than the one being rejected
 - Listened carefully to a defendant’s apology and plea for leniency, expressing appreciation for the comments but adding “we are responsible for our actions.”
 - Was assisted by clerk on correct wording when imposing long, complex sentences
 - Greeted and introduced all parties as they approached the bench; was respectful and professional
 - Spoke clearly and in accessible language even when addressing complicated real estate issues
 - Encouraged a woman to consult with legal aid

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- Encouraged additional discussion between parties outside court to resolve a situation

Judge 6548

- Encouraged parties to try mediation
- Tried to ensure that all parties understood what they needed to do

Court Personnel:

- Maintained order and quiet
- Treated all parties with respect; were pleasant and professional
- Helped things proceed efficiently; had a good sense of when to bring in defendants

**EAST BLOOMFIELD
TOWN COURT**

Judge 1042 was cordial, welcoming, handled things smoothly

Judge 8212

- was a bit casual, but respectful to all
- explained rights clearly
- cautioned defendant let off with a warning after DUI arrest because of low blood alcohol level that another arrest would be dealt with more strictly

Court Personnel: court officers and clerk friendly, helpful, competent

CANANDAIGUA CITY COURT

Judge 3494

- Explained brief delay in opening court and apologized
- Explained rights exceptionally clearly, being careful to define terms (e.g., discovery) that defendants might not understand
- Explained rulings clearly, notably in a case where defendant who had earlier been released on own recognizance was to be taken to jail
- Waited patiently while APD explained things to a client
- Treated all parties with respect
- Allowed ADA to take the lead in a case where judge, APD and ADA had conflicting information about date of arrest and details of plea deal

Judge 7562

- Did not provide explanation for delay opening court, but apologized for delay during proceedings caused by printing problems
- Explained legal terms to defendant in layman's terms; checked for understanding
- Was firm and calm when making clear to defendant consequences of non-compliance
- Worked with clerk to resolve question of license suspension status
- Commended defendant for making payments, offered encouragement

Court Personnel

- Maintained order and quiet
 - Treated all parties with respect; were pleasant and professional
 - Helped things proceed efficiently; smoothly managed flow of people in and out of courtroom
- Other issues:** The court layout makes it very difficult to hear anyone but the judge

**CANANDAIGUA TOWN
COURT**

Judge 9817

- Was quiet but clear
- Carefully explained consequences of pleading guilty, of a repeat offense

Court personnel:

- Court officers were friendly
- Clerk was efficient, kept cases moving along

Other issues: There was a dull rumble of conversation, with judge dealing with one case while the ADA was offering plea deals for traffic offenders in the courtroom. Noise is exacerbated by the presence of a large table at the front of the seating area, where lawyers and clients who were waiting to be called carried on conversations.

FARMINGTON TOWN COURT

Judge 5453

- Spoke slowly and clearly for an interpreter

- Requested that the ADP confer tained an attorney
- Spoke sternly to defendant with long-overdue fine but offered another chance before sentencing to jail

Court personnel

- Officer treated all with respect
 - Clerk very knowledgeable about the cases, kept paperwork organized and moving
- Other issues:** Pace was slow on two court dates

GENEVA CITY COURT

Judge 0635

- Spoke clearly and slowly, regularly making eye contact to be sure communication was clear
- Encouraged parties to meet with a facilitator/mediator and return to court with a solution, explaining that new laws require an emphasis on "alternative dispute resolution"

• In a vehicle accident claim, did not object to having the attorney who was representing the insurance company of both parties also serve as attorney for the defendant, despite the other party's discomfort; did help the unrepresented party navigate the process

- Remained calm when being yelled at by someone who was to be evicted from housing, simply repeating, "My decision has been made, sir."

• Stressed that waiving the reading of their rights did not mean waiving the rights themselves.

- Explained rulings clearly and made clear when pleas were to lesser charges

Judge 2748

- Occasionally covered mouth with hand, making it harder to understand
- Began traffic court with a very long explanation of the rights, looking up frequently while reading; tried to simplify legal terminology but not always successful

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- Stressed importance of notifying court if unable to pay fine by agreed upon date
- Did not call for silence despite audible conversations among those waiting
- Checked to be sure someone had a safe place to go; did not ask for the address, stressing that it should not be part of the record
- Pointed out to **ADA 7812** the need to ensure that all elements fit a specific case when using boilerplate language

• Correctly read body language of a defendant and offered services of an interpreter; when it turned out that none would be available, recalled the case and spoke slowly and clearly

Judge 1586

- Treated defendants as individuals rather than cases:
 - expressed admiration and support for defendant nearing end of probation and treatment
 - thanked defendant in military uniform for service to country
 - offered condolences to defendant on death of a family member
- Remained restrained and professional when dealing with two people angry at a decision in an eviction case

Clerks helped things proceed efficiently; dealt smoothly with many cases and repeated changes in which judge was on the bench

GENEVA TOWN COURT**Judge 2664**

- Was respectful to all parties in the court; showed equal patience with a defendant who was late and with an attorney who was late
- Was difficult to hear when reading names at start of each case when not facing the microphone; was easy to hear during the cases
 - Maintained efficient flow of cases
 - Spoke slowly when an interpreter was working
 - Gave encouragement to a repeat offender now showing progress
 - Thanked probation officers for their input

Other personnel:

• Officer was curt but professional, held muted conversation while cases were being heard

- Clerk was cordial and helpful

Other issues:

- The seating arrangement seemed to make people uncomfortable; seats faced one another, some had backs to the judge
- Use of copier in the courtroom made it hard to hear the judge
- Noise in the outer room was audible and distracting

HOPEWELL TOWN COURT**Judge 1139**

- Spoke clearly and audibly.
- Was respectful to all parties, addressed defendants formally
- Did not introduce attorneys or ADA at the start of each case
- Explained right to trial very clearly
- Checked carefully to be sure defendants were pleading guilty of their own free will
- Did not ask questions to determine capacity to understand a plea
- Showed compassion, saying, "How are you?" "I'm sorry to hear about your accident." "Are you feeling better?"
- Allowed defendants to address the court and took their comments into consideration
- Gave adequate time to each case despite a very large number of cases

Judge 1123

- Was very easy to hear and greeted defendants cordially
- On a non-ADA night there was no clerk in the courtroom, so judge made own copies and left bench to get a fingerprint form.

Other personnel: The officer at the door was professional and respectful to everyone; did not control the volume of chatter in the room except when requested by judge.

Other issues:

- Security protocol occurs in courtroom, so it's distracting when people enter during proceedings
- Many people in the gallery were using phones despite sign at the entrance asking that they be turned off; no one reprimanded them

**MANCHESTER TOWN COURT
Judge 8114**

- Began conducting court business early, then at official start time gave a general welcome and announced that proceedings were being recorded
- Was easy to hear and understand despite conversations between attorneys and defendants in the entryway
- Pace was quite slow

**VICTOR TOWN COURT
Judge 5874**

- Announced names of defendants but not names of attorneys
- Treated defendants with respect, generally addressing them formally
- Seldom made eye contact with defendants
- Was slow and careful in case with interpreter, often checking to make sure the defendant understood what was happening

Judge 2765

- Was easy to hear
- Listened carefully to all
- Seemed well-prepared, aware of details of cases
- Carefully explained consequences of violating order of protection
- Complimented a defendant for doing well in treatment and wished him good luck

Other personnel: Clerk greeted people pleasantly; when observer mentioned difficulty hearing, officer asked judge to check the microphone, which was then turned on

Other issues: Attorney-client conversations in a room at the back of the court were audible and distracting (door was open)

**THOSE WHO (MAY) APPEAR IN
MULTIPLE COURTS
For the District Attorney's Office
1919**

- Spoke so softly that the APD needed to have things repeated
- Spent a lot of time looking at phone and computer while at the bench; lack of attentiveness

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to and unfamiliarity with the cases slowed the process

- No eye contact with defendants
- Quietly resolved traffic cases on the side, returning to work with the judge as needed

6962

- Was rather quiet; sometimes difficult to hear
- Was very well-prepared, well-informed about cases
- Spoke clearly and slowly for the interpreter

3210

- Appeared well-prepared, familiar with all cases
- Was professional, respectful
- Requested—and expressed appreciation for—probation officers contributions to deliberations

6841

- Observer had to strain to hear even though sitting near the front
- Seemed well-prepared despite large number of cases

9552

- Could be heard well
- Expressed disappointment that a defendant given probation for an earlier conviction had been charged with a new crime

9541

- Discussed traffic issues with people prior to the start of court so cases could proceed quickly
- Was very easy to understand
- Was professional, prepared and respectful to all
- Seemed a bit inexperienced and nervous, but professional
- In a contentious case deferred to a senior member of the office

7812

- Seemed a bit arrogant; had an attitude; joked about APD
- Was challenged by **APD 2469** because of inaccuracies; and reminded by **Judge 2748** of importance of caution when using boilerplate

5912

- Dealt with task of talking to large number of people with disarming humor
- Tried to speak first to those traffic defendants with children at home or other reasons to leave promptly, then asked those waiting to sort themselves by arrival time

7572

- Was well-prepared and efficient
- Had a distracting nervous habit (twirling a large rubber band around and around)

For the Public**Defender's/Conflict Defender's Office (some conflict defenders may appear under "other attorneys")****3133**

- Treated everyone with respect
- Seemed very familiar with each case
- Advocated for clients by requesting consideration for special circumstances

- Checked with each defendant to be sure they understood judge **8047** requested adjournment since had not yet had chance to talk to defendant, apologized

8115

- Spoke only loudly enough to be heard by judge, defendant, ADA
- Appeared prepared
- Stepped in when other APDs were absent from the court
- Advocated well for defendants in a couple of complex cases.
- Provided defendant with clear explanation of next steps in the process and what defendant needed to do

2469

- Spoke clearly and audibly
- Was prepared despite large number of cases
- Treated all parties with respect
- Was a forceful advocate for defendants
- Was patient and supportive of a defendant who did not seem fluent in English and for whom no

English and for whom no interpreter was present; helped defendant pay fine before court opened

1211

- Seemed very familiar with the cases
- Advocated well for clients, requesting consideration for special circumstances
- Checked with each defendant to be sure judge was understood
- Did well explaining proceedings to client who appeared to have a cognitive disability

2260

- Was easy to hear throughout proceedings on two occasions; was very hard to hear on another
- Advocated for creation of special arrangements to help defendant handle payments for large fine

• Wandered through courtroom when not needed at the bench, which was distracting

3941 was helpful to a defendant who decided not to contest the charges and represented self.

7656 was hard to hear

9399

- Had a friendly demeanor
- Spoke Spanish to some defendants

• Asked for adjournment to check with HR to ensure that accepting plea wouldn't jeopardize defendant's employment

4056 was knowledgeable, professional, easy to hear

1256

- Was easy to hear throughout proceedings
- Seemed very familiar with each case; had worked with ADA to resolve many cases before appearance
- Advocated for clients by requesting consideration for special circumstances
- Checked with each defendant to be sure judge's questions and decisions were understood

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2583

- Had clearly prepared defendants to know what to expect in court
- Was articulate on behalf of clients
- Was easy to hear, efficient

1825

- Treated everyone with respect
- Appeared prepared
- Helped a defendant who did not have an attorney

Other Attorneys (including some conflict defenders and assigned counsel)

5540

- Spoke clearly
- Advocated for special consideration for defendants with difficult or complicated circumstances
- Respectfully questioned size

of fines and surcharges

6214

- Spoke clearly on multiple occasions; on others was hard to hear
- Conferred frequently with defendant to confirm understanding
- Was respectful to the judge while pushing for further consideration before ruling
- Requested (and received) adjournment to allow consultation with an immigration attorney
- Was replaced by another attorney at request of a defendant
- Advocated successfully for a no-show client by laying out a complicated situation of charges, courts and actions already taken by his client

3851 was prepared and respectful to all

6387 was pleasant and efficient

representing a defendant who was not in court

4393

- Was easy to hear
- Helped things move along quickly
- Took responsibility for following up with an individual who was a no-show

• Advocated for a hardship license, having explained restrictions to defendant

5575 was persistent in getting clarification of adjustment to defendant's status

8650 was extremely soft-spoken; as far as could be determined, seemed competent and well-prepared but could not really be heard on any of three occasions

5291 could be heard; explained to defendant how to respond to questions determining readiness to plead guilty to a charge

