

ATTORNEY GENERAL'S ACCESS TO JUSTICE TASK FORCE  
CONSUMER PROTECTION COMMITTEE

Wednesday, July 29th  
3:30 pm – 5:00 pm

**The Names of the Participants**

Amy Hennen
Arzhang Navai
Angie Barnett
Charles Sydnor III
Christine Hines
David Finkler
David Schlee
Anthony Davis
Ebele Ebonwu
Hank Greenberg
Toby Guerin
Helene Raynaud
Delegate Joseline Peña-Melnyk
Delegate Lorig Charkoudian
Marceline White
Delegate Pam Queen
Judge Mark Scurti
Markisha Dobson
Matthew Stubenberg
Michele Honick
Pokuaa Owusu Acheaw
Reena Shah
Robin McKinney
Steve Sakamoto-Wengel
Sarah Frush
Nikki Thompson
Whitney Barkley
Zafar Shah
Manny Turnbull
Rory Murray
Paul Bland
Joy Sakamoto-Wengel

## **Agenda**

1. Introductions/roll call -Steve Sakamoto-Wengel (5 minutes)
2. Consumer Data Dashboard – Matthew Stubenberg
3. Review & approve minutes of the last meeting-Marceline White (5 minutes)
4. Updates-Federal or state updates Marceline White and all (5 minutes)
5. Recap Update on Letters to Judge Barbera & Gov. Hogan on moratoria & expansions (Steve)
6. Discussion of Mediation-Del. Lorig Charkoudian, Toby Guerin -45 minutes (30 presentation, then Q&A)
7. CARES Act funding requests (Steve/Marceline) 5 minutes
8. Sub-committee reports (40 minutes)
  - a. Consumer Education Committee-Robin McKinney
  - b. Debtor Help Hotline-Sarah Frush
  - c. Court Access & Procedures-Kat Hyland/Sarah Frush
  - d. Court Forms/Notices-Aracely Panemeno/David Finkler
  - e. Court mediation/ADR-Amy Hennen
2. Action items and Adjournment (5 minutes) Marceline White

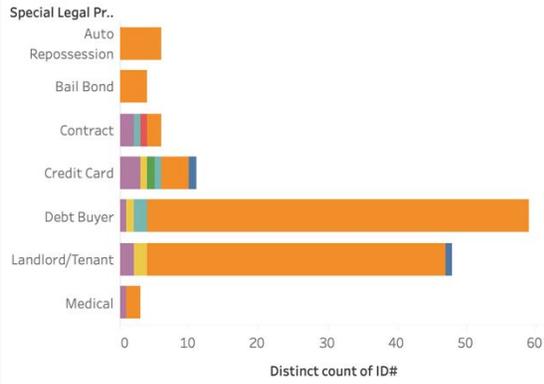
## **Actions & Tasks (Overview)**

Meeting called to order at 3:35. Introduce Consumer Data Dashboard. Committee reviewed minutes from the last meeting. Exchange ideas on Federal or state updates related to consumer protection; Delegate Lorig Charkoudian and Toby Guerin presents overview on mediation. Exchange ideas on all the sub-committees.

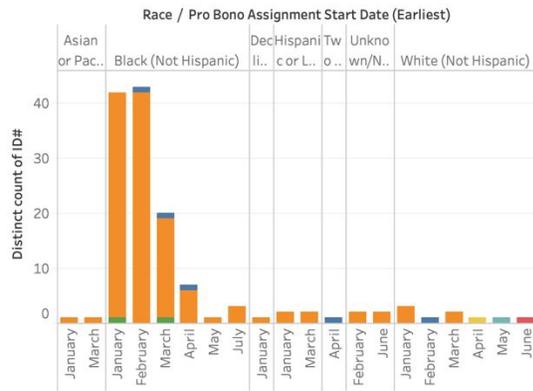
## **Discussion made by the participants**

1. Consumer Data Dashboard (Matthew Stubenberg)
  - Below is the screenshot of the dashboard

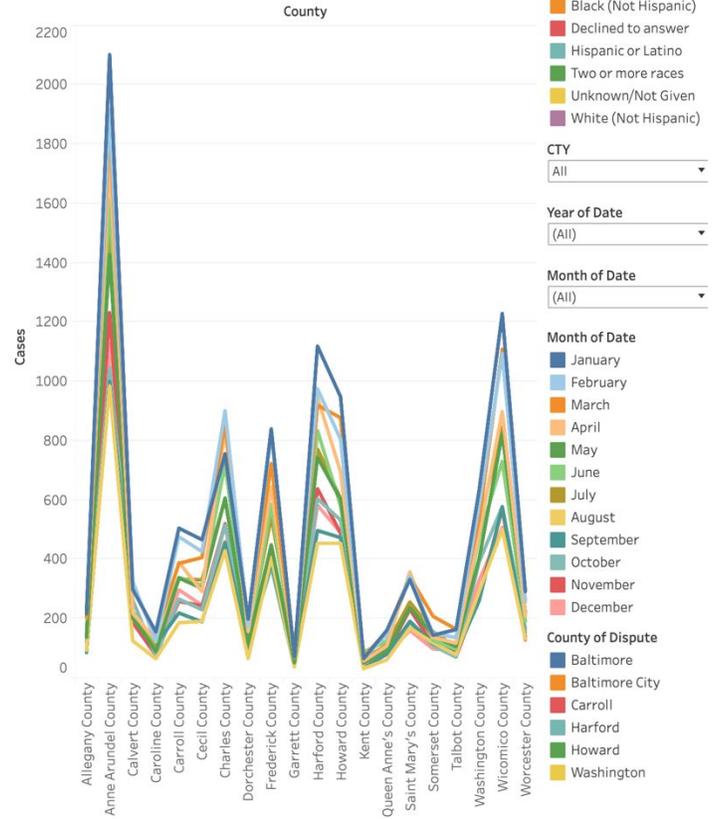
### Collections



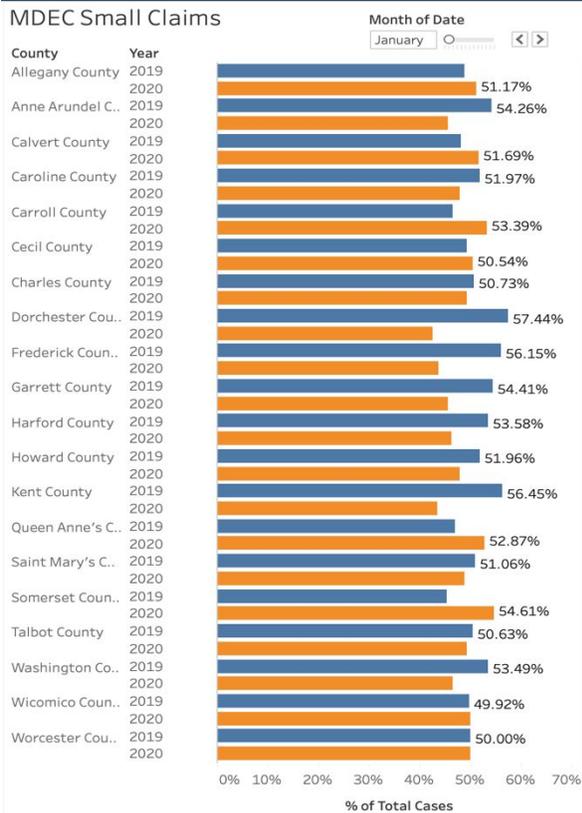
### Collections by Race



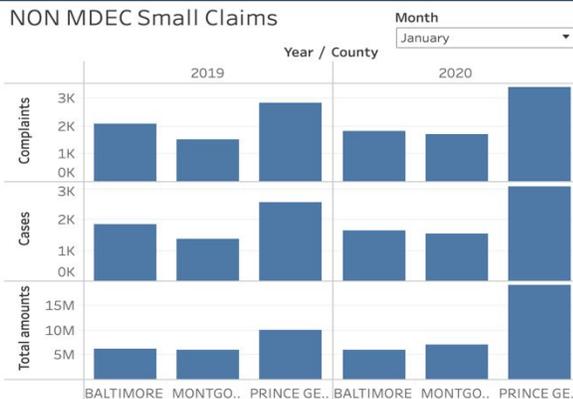
### MDEC Claims



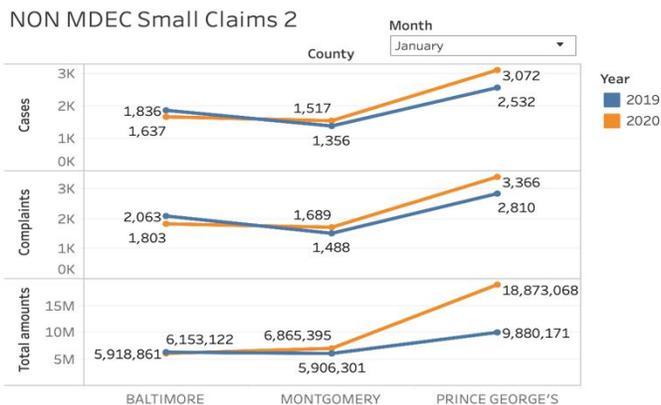
### MDEC Small Claims



### NON MDEC Small Claims



### NON MDEC Small Claims 2



- Steve: Matthew is co-chair of the Data Committee and he will be introducing the Consumer Data Portal.
- Matthew: We are in the process of building a data dashboard to display some of the data we've collected to show trends and the interrelation between the data. In terms of the data we currently have, we have 3 main sources of data as related to consumer debt cases: the small claim cases, page information from the People's Law Library, and legal service provider intake data. Currently we only have data for MVLS, but we will have the main legal service provider's data soon. We would like to get feedback on what's useful, what's the best way to display it, and what's the best perimeter to use, etc.
- Ebele: (sharing the dashboard)
  1. The first graph represents the data from case search, the number of filings for the small claim cases in all various counties. You are able to track from January 1<sup>st</sup> 2019 up till the current date (July). You can also select the particular county. We will continue working on this and let you zoom in and out when you select a particular county.
  2. Second is the number of people complaining by race, by month, and by county in 2020.
    - Reena: will we have the race data on the actual case filing from the court database? And this is from the organization database?
      - Not from the Court database. Yes for the MVLS data, and just for the civil cases.

3. The 3<sup>rd</sup> one is also about MDEC small claim cases, you can filter on the month, so you can see the trend from month to month, and you can filter out counties too. You can have a comparison between year to year.
  4. For the non-MDEC small claims, it includes a line graph and a bar chart. you can also see what happens from month to month, from year to year, and county to county.
- Matthew: asking feedback from the group, what's the most important aspect to look (breaking down by county, month or day?)
    1. Sarah: suggesting to find a way to pull out the court data by breaking down the consumer type cases (repossession cases, landlord-tenant claims.) It has to look back to the year, so that we may see a big drop or spike somewhere. It will be helpful to pull large claims data particularly on landlord-tenant debt collection cases. In addition, one thing we were really worried about was the legal service community about foreclosure money judgments going to circuit courts. We've not seen a spike that we were concerned about, so we might need this type of data.
    2. Marceline: I would like to see past year data. In terms of whether we need daily or monthly supplies (?updates?) in cases, I'm interested in a weekly change while the moratoria runs out, just to see a spike right away, but other than that, monthly change is sufficient.
    3. Ebele: it would be helpful if I can know what you're absolutely not interested in.
2. Review & approve minutes of the last meeting. Robin made a motion to accept the minutes. Nikki seconded the motion. The motion passed unanimously.
  3. A quick federal or state updates
    - Marceline: Note on 2 things we set up yesterday.
      1. The COVID-19 Medical Debt Collection Relief Act introduced by Senators Chris Van Hollen (MD), and Chris Murphy (CT)
      2. Federal Reserve of Philadelphia released a survey of COVID-19 consumer impacts
        - How this pandemic is affecting Black and Latino people.
        - Importance of the stimulus check
    - Whitney: introducing a tool that allows people to filter out what states are doing with their CARES Act money. Each state received a minimum of 1.2 billion dollars from the CARES Act and with some portions of that money going to the population over 500,000. For instance Nevada was using \$480,000 for a Homeowner Connect Program offering a free self-service web portal for Nevada borrowers needing relief at every stage of delinquency and providing on-demand assistance from HUD-certified non-profit housing counselors.
      - MD is in a pretty good spot as MD has lots of flexibility to approve expenditures.
      - Link: <https://app.powerbi.com/view?r=eyJrIjoiMTcyNGQ5ZmUtNTY3Mi00YjViLTgyNjMtZjk1NzVkYTUyZGUzIiwidCI6IjM4MmZiOGIwLTRkYzM>

4. Recap Update on Letters to Judge Barbera & Gov. Hogan on moratoria & expansions
  - Steve: I want to thank everyone for the quick turn around in reviewing and giving suggestions on the letters to Chief Judge Barbera and to Governor Hogan regarding the protections for people in both landlord-tenant and debt collection area. The letter to the Chief Judge Barbera and the Chief Judge Morrissey was sent out last Friday, and the letter to the Governor on extending his executive orders went out yesterday. So far I haven't received any response from the judges yet. Any questions about the letters
    1. Reena: is there any way in terms of communication and social media or other ways referencing the work of this committee?
      - Marceline: maybe a coordinated twitter storm.
  
5. Discussion of Mediation-Del. Lorig Charkoudian, Toby Guerin -45 minutes (30
  - Marceline: the point of this discussion was to make sure that when we are talking about mediation, we are clear about the different forms and types of mediation and the strengths and challenges within different forms; and talking about what we might be looking at in terms of ways to address debt collection in particular.
  - Del. Lorig Charkoudian & Toby: I've been really active in the last 20 years with MD judiciary in areas developing insurance systems and defining mediation. There is bad news for everyone: there are names that go with the mediation style that we use in the state: analytical, facilitated, and transformative, but there is not necessarily a consensus among people who call the practice that they do. This is a problem especially when you have a number of people who ask for mediation, as you cannot specify the type of mediation regarding the situation they need to address. Especially if we want to think about scaling up, we need to be certain what the mediation, we believe, could offer at this moment. It can be really beneficial to pull cases out of court, but if that's the only goal, we need to be very careful. It can be very beneficial to court system to have mediation in the sense of allowing the judges and court system to focus on things that really belong in court, but if we look at using mediation just to unburden the courts, problems emerge as there will be pressures on mediators to settle cases when the judge does not have to. Mediation can be helpful to develop unique solutions for people based on their relationships and situations. So this is (unburdening the court) not a reason to use mediation. When having mediation we need to really think about the relationship building, creativity, and underlying needs of the parties. And this is what makes mediation helpful. For instance, an important question is that with all the eviction cases coming through, which eviction process could benefit from an opportunity for the landlord and tenant to actually have a conversation? Mediation also has to be that both parties have to consent (answering Reena's question). We want to acknowledge that mediation takes time, so we need to make sure that the mediators are put into a position by the judge or the others to be expected to mediate a whole bunch of cases, but restricted to a limited timeline that may restrain the mediator to effectively solve each case. For trial mediation, even

pre-COVID, the challenge is that normally a court building only provides a small room for mediation, and it's impossible to do high quality mediation especially now due to current social-distancing and high docket numbers in courts. In addition, there are lots of pre-filing opportunities right now so there is also a need to redirect people to other creative solutions and conversations as a first step before getting into the court system.

- Questions (Sarah Frush): I guess my concern is that if we ask for funding in this area and LLs, Debt Collection attorneys don't want to mediate then what?
  - This is an ongoing debate back and forth in the Dispute Resolution Community. There are several debt collection medications that give the power on mediation to the debtors, and the creditors have to participate, which is required. If they refuse to do mediation, they have to explain that to the court.
- Del. Lorig Charkoudian: Some states are doing an outdoor mediation, indoor mediation, or visual mediation. Right now, in general, there is a value in having someone who is familiar with a broader set of resources, e.g., eviction prevention resources, at the beginning to prevent an unsatisfying settlement. You could potentially also have more landlords participating in the mediation. Normally, if they think this person does not have money, they might just go ahead and evict him/her; but for mediation if they think that there is a possibility that something different could happen because of the resources being brought to the table, they would be more likely to participate. For inclusive, facilitated, and transformative mediation, any of those can be done really well if you focus less on these words than do on the program and folks you've been working with.
  - Question (Helene): Is there a difference in terms of retention and long-term success of a mediated case vs. court case?
    - A research I did showed that people follow through at a much higher rate to go back to court for an enforcement action in cases where there is a judgment as opposed to where they mediated a voluntary agreement. A twice as high of voluntary compliance out of mediated agreement comparing to the court ordered agreements. (she will send that research paper to Marceline)
  - Question (Reena): do parties have to pay for the mediation? how does that work?
    - Del. Lorig Charkoudian: For what the law school is doing, parties don't pay for mediation. This is a non-profit model and our funding comes from the judiciary, primarily from the govt, or the private foundations. This is important, as there will be unfairness if one party has more ability to pay than the other.
    - Toby: The mediators are not getting paid either. This is a volunteer-based, e.g., students in the mediation clinic. The new program will introduce trainers and our paid staff as co-mediators with the volunteers.
- Toby: the statutory definition of foreclosure mediation is different than the definition of mediation in the courts, so even the process defines differently.

- Zafar Shah: part of our mandate in the housing & security committee is on proposals on foreclosure. I'm wondering if there is an existing critique.
  - Marceline: can get some data from models in NY
  - Amy: For foreclosure mediation, I have many thoughts to share with Zafar.
  
- 6. Policy & Equity committee's meeting will be held next Thursday. The discussion will be around what kinds of CARES Act money requests the Task Force wants to make to the Governor's office. The subcommittees could give us some recommendations by our next meeting.
  
- 7. Sub-committee reports (40 minutes)
  - Consumer Education Committee-Robin McKinney
    - Looked at the updated consumer education materials, there was a discussion on the scope of what the committee would be focusing on education around debt collection, and the intended defense, how to protect assets, and bankruptcy. A lot of people sent Robin education materials and she's been trying to organize them into different buckets, including;
      - Collection process and rights
      - How to avoid scams
      - Dealing with creditors when struggling to pay bills
      - Make sure to list all of the different actors, who is licensed and link back to CFR
      - Financial content on credit, budgeting, debt
      - Resources for individual or family assistance
    - This will help to organize materials for a future micro-site or resource guide. The micro site's design elements will include:
      - Section for providers
      - Use real life examples to help provide context and help them to navigate
      - Show scenario and how to resolve on same page
      - Works on full screen, mobile optimized, and tablet
      - Idea for formatting on page for easy readability: state issue faced by debtor on one side of the screen/page with action to be taken by debtor on the other side of the screen/page;
      - Can be easily sized up for people with visual impairments
      - Can this be printed out and distributed for in-person activities/outreach
      - Different types of media – video (short), checklists, handouts, etc.
      - Should be written at 8th grade reading level and available in Spanish and multiple languages
    - Hotline (Sarah Frush)
      1. We have been discussing the need and the idea around HOPE-style hotline focusing on debt issues. How can we make sure that debtors have access to the wide spectrum of info they may need for financial counseling, legal help, addiction support or housing, etc. In our small meeting, the ideas

started to formulate around what resources have already existed and how to enhance that resource, and identifying gaps or needs for improvement and how to enhance in the short-term and the room to build in long-term.

- b. Court Access & Procedures-Kat Hyland (Sarah Frush)
    1. We had a call this week, I heard they are really trying to understand what their subcommittees focus on and achieve, at this point we are trying to investigate the different items we would like to see and prevent from overlaps with other subcommittees. We want to have a comprehensive understanding of court operations. MDEC can really drive the experience of people (debtors) approaching the court. So if you are in a non-MDEC county you may have completely different experiences and may ask for different things. We can dig into some online dispute resolutions by counties. We are trying to interact with the Rules Committee. The Rules Committee started to think about what changes we want to advocate, e.g., a state-wide e-signatures program used for court docs. We also will be conducting a discussion on property garnishment.
  - c. Court Forms/Notices-Aracely Panemeno/David Finkler
    1. David left
  - d. Court mediation/ADR (Amy Hennen)
    1. Judge Scurti joined us for some of that discussion, one of the things we talked about was an ask for funding for navigators from the CARES Act funding. Reena asked if both parties are required to agree to participate in mediation, we talked about a potential rule change that if the debtors decided to participate the creditor would not have the choice, as the creditors often want to move things quickly and mediation can slow the process down. We talked about the possibility of a box to be checked on the potential defense indicating that you will be interested in ADR or mediation process. We also talked about a form that could be used by a judge or a non-mediator, someone who can look at if a case has been properly handled towards additional legal services. The tax sale docket uses a pretty similar process that the judges in the Baltimore city circuit court do this voluntarily to protect the property rights of the individuals who potentially lose their homes in a tax sale.
    2. Markisha: I want to provide a brief list of legal issues that pertain to the affidavit docket once it reopens in August:
      1. General lawsuits
      2. credit card lawsuits,
      3. bail bond lawsuits
      4. landlord-tenant
      5. automobile repossession lawsuitsI'm open for additional types of lawsuits to be added into the list.
8. Proposals for the meeting next week:
- (Marceline) comments/discussion about ways to build more support and pressure to follow up with Governor Hogan regarding the request on the moratoria.

9. Joy made the motion to adjourn at 5:12, Del. Peña-Melnyk seconded, all in favor. Meeting adjourned at 5:13.
  
3. Conversation the Chat Area during the meeting:
  - Zafar, I have a research assistant that has done a 50 state review of mediation and eviction. He is drafting an executive summary. I can update you when it is done.
  - Marceline White: Toby-could you share with me and Steve and we can share with the full committee? There is interest in evictions on this committee as well; Toby: sure
  - Michele Honick: There was a question this morning from the Public Awareness committee: will there be any interest in printed educational/publicity materials from this committee?
    - Marceline White (Guest)
      - yes there has been lots of discussions on printed and publicity on these issues. Let us know the best way to make sure the information gets shared/coordinated.
    - Sakamoto-Wengel, Steve (Guest)
      - I think the focus has been on using existing resources or organizations to produce materials rather than from the Committee
    - Marceline White (Guest)
      - Yes, Sakamoto-Wengel, Steve is right.