

The seal of the Missouri State Auditor is circular and features a central figure holding a scale and a sword. The text around the seal reads "SEAL OF THE STATE AUDITOR" at the top, "WE STAND DIVIDED" in the middle, and "1820 MISSOURI 1892" at the bottom.

**Nicole Galloway, CPA**

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**Missouri State Auditor**

**Fortieth Judicial Circuit  
Newton County**

Report No. 2020-107

November 2020

[auditor.mo.gov](http://auditor.mo.gov)



**Nicole Galloway, CPA**  
Missouri State Auditor

# CITIZENS SUMMARY

## Findings in the audit of Fortieth Judicial Circuit Newton County

|                  |   |
|------------------|---|
| Fee Assessments  | The Circuit Clerk's office does not have adequate procedures to ensure court costs are assessed.  |
| Case Disposition | The Circuit Clerk's office does not always properly record the final disposition of each case in the Missouri Courts automated case management system and does not adequately review reports of open cases. |

In the areas audited, the overall performance of this entity was **Good**.\*

\*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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# Fortieth Judicial Circuit

## Newton County

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## **NICOLE GALLOWAY, CPA**

### **Missouri State Auditor**

Presiding Judge and Court en Banc  
and  
Circuit Clerk of the  
Fortieth Judicial Circuit  
Newton County, Missouri

We have audited certain operations of the Fortieth Judicial Circuit, Newton County in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2019. The objectives of our audit were to:

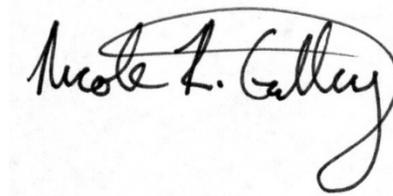
1. Evaluate the court's internal controls over significant financial functions.
2. Evaluate the court's compliance with certain legal provisions.
3. Evaluate the court's compliance with certain court rules.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the court, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal control that is significant to the audit objectives and assessed the design and implementation of such internal control to the extent necessary to address our audit objectives. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the court's management, the Office of State Courts Administrator, and Newton County and was not subjected to the procedures applied in our audit of the court.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) no significant noncompliance with court rules. The accompanying Management Advisory Report presents our findings arising from our audit of the Fortieth Judicial Circuit, Newton County.

A handwritten signature in black ink that reads "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA  
State Auditor

The following auditors participated in the preparation of this report:

|                     |                                       |
|---------------------|---------------------------------------|
| Director of Audits: | Robert E. Showers, CPA, CGAP          |
| Audit Manager:      | Lori Melton, M.Acct., CPA             |
| In-Charge Auditor:  | Marian Rader, M.Acct., CPA, CFE, CGFM |
| Audit Staff:        | Misty Bowen, MSED, CFE                |
|                     | Ryan Patterson, M.Acct.               |

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Fortieth Judicial Circuit  
Newton County  
Management Advisory Report - State Auditor's Findings

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**1. Fee Assessments**

The Circuit Clerk's office does not have adequate procedures to ensure court costs are assessed. Our review of 15 cases disposed without fees identified one case (7 percent) that should have had fees of \$121 assessed. The judge assesses fees for criminal cases when the case is disposed and provides the appropriate information sheet to the Circuit Clerk's office. Office personnel enter the fee information on the case. The Circuit Clerk said the office had not received an information sheet for this case when the disposition was entered. The Circuit Clerk corrected the error when we brought it to her attention.

Fines, bonds, garnishments, court costs, and other receipts are collected; recorded in the Judicial Information System (JIS), the Missouri Courts automated case management system; and deposited into the Circuit Clerk's primary bank account by the clerk performing end of day duties. Court records indicate receipts collected during the year ended December 31, 2019, totaled approximately \$1.3 million.

Failure to properly assess court fees could result in lost revenue.

**Recommendation**

The Circuit Clerk implement procedures to ensure assessed costs are assigned to disposed cases.

**Auditee's Response**

*The court provided a written response. See Appendix A.*

**Auditor's Comment**

The court's response states the error identified is "de minimis," however, our finding is based on a limited sample of court cases disposed without fees. While it would not be appropriate to project the impact of the identified error to the entire population of cases closed without fees (approximately 1,700), it is likely other cases have the same error.

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**2. Case Disposition**

The Circuit Clerk's office does not always properly record the final disposition of each case in the JIS and does not adequately review reports of open cases. We obtained reports of open cases from the Office of State Courts Administrator (OSCA) at December 31, 2019. The reports identified 1,294 cases that were suspended or pending, including cases waiting on information from the parties involved. Suspended cases are those for which a court clerk canceled a future court date and did not reschedule a new court date, a warrant was issued, or a probate case is currently open. Pending cases are those for which final action was taken by the court, but the court clerk has not recorded all activity in the JIS. When case activity is suspended or pending, the case no longer appears on the court docket.

Our review of 15 pending and suspended cases identified 5 cases (33 percent) that were not handled correctly. Four of these cases did not have disposition codes entered into JIS when a judgment had occurred, and one case was a probate case where the tracking date passed and the case no longer appeared



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Fortieth Judicial Circuit  
Newton County  
Management Advisory Report - State Auditor's Findings

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on the docket. The Circuit Clerk did not identify these cases during her review of the quarterly report of pending and suspended cases.

Without procedures to ensure cases are reviewed after a period of inactivity and the proper disposition of all cases has been entered into the JIS, the court cannot be assured all cases are properly handled and associated costs are assessed. This could lead to the mishandling of probate assets and lost revenue.

## Recommendation

The Circuit Clerk ensure the disposition of cases is properly recorded in the JIS and the reports of suspended or pending cases are adequately reviewed.

## Auditee's Response

*The court provided a written response. See Appendix A*

## Auditor's Comment

The court's response states the cases identified do not have any bearing on costs being assessed or collected. However, the court had cases not properly recorded in the JIS, which increases the risk cases are not fully disposed or the court personnel could fail to schedule a hearing if all cases are not reviewed regularly and recorded accurately in JIS.

# Fortieth Judicial Circuit

## Newton County

### Organization and Statistical Information

The Fortieth Judicial Circuit consists of Newton County as well as McDonald County.

The Fortieth Judicial Circuit has 2 circuit judges and 3 associate judges. The circuit judges hear cases in Newton and McDonald counties. Of the 3 associate circuit judges, 2 are located in Newton County and 1 in McDonald County. Circuit personnel located in McDonald County are not included in the scope of the audit.

#### Personnel

At December 31, 2019, the judges and Circuit Clerk of the Fortieth Judicial Circuit, Newton County, were as follows:

| Title                   | Name               |
|-------------------------|--------------------|
| Circuit Judge           | Gregory N. Stremel |
| Circuit Judge           | Kevin Selby        |
| Associate Circuit Judge | Anna C. Rhoades    |
| Associate Circuit Judge | Jacob Skouby       |
| Circuit Clerk           | Patty Krueger      |

In addition, the Fortieth Judicial Circuit, Newton County, employed 19 full-time employees on December 31, 2019.

#### Financial Information

Receipts of the Fortieth Judicial Circuit, Newton County, were as follows:

|  | Year Ended<br>December 31, 2019 |
|--|---------------------------------|
| Court deposits, fees, bonds, and other         | \$1,268,234                     |
| Probate and Juvenile deposits, fees, and other | 19,063                          |
| <b>Total</b>                                   | <b>\$1,287,297</b>              |

#### Caseload Information

From the Office of State Courts Administrator Missouri Judicial Reports, case filings of the Fortieth Judicial Circuit, Newton County, were as follows:

|              | Year Ended<br>June 30, 2019 |
|--------------|-----------------------------|
| Civil        | 3,019                       |
| Criminal     | 5,258                       |
| Juvenile     | 267                         |
| Probate      | 854                         |
| <b>Total</b> | <b>9,398</b>                |



Appendix  
Fortieth Judicial Circuit, Newton County  
Response

**IN THE 40<sup>TH</sup> JUDICIAL CIRCUIT COURT OF NEWTON COUNTY,**  
**AT NEOSHO, MISSOURI**

**TO: LORI MELTON, MISSOURI STATE AUDITOR'S OFFICE**

**RE: AUDIT RESPONSE - AMENDED**

The amount that should have been assessed (\$120.50) is de minimis when compared with the Auditor's report of 1.3 million dollars received by the Clerk's office in 2019, and shows the current system is working. Human error can occur in even the most stringent processes. It is clear this was a case of human error in an otherwise successful procedure. Nevertheless, the Circuit Clerk will now review the Cognos Report Cases **Disposed With No Fees** monthly, instead of quarterly.

Pending case reports are reviewed quarterly by the Circuit Clerk, using a report that is produced by OSCA, named Age of Pending Case Report. Court dates for each case are verified. If a case has no date, the Circuit Clerk looks at each case individually to determine what action is needed; Dismissal Letter, Judgment Missing Letter, a correction or simply setting the case on a docket. Another report utilized by the Circuit Clerk is Pending Cases With No Scheduled Event. Not all cases require that a court date be set. There are many that do not appear on the court docket for various reasons.

The five cases referenced in the Auditor's report *did* have the disposition of the case (Judgment and/or Judge's decision) entered in JIS. The disposition *code*, entered by a clerk, which tells JIS to remove the case from Time Standards Reporting is what was missing. Three cases were civil and/or domestic which does not have any bearing on costs being assessed or collected, as those fees are collected at case initiation, not disposition. One of those cases is a search warrant application, which does not even get a Judge assigned. The single Probate case also mentioned does not affect cost assessment or collection of fees for the same reason as civil.

GREG STREMEL, PRESIDING JUDGE