

## THE EASTERN DISTRICT OF VIRGINIA: A WORKING SOLUTION FOR CIVIL JUSTICE REFORM

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### I. INTRODUCTION

It has been referred to as "the fastest, fairest, federal court in the country,"<sup>1</sup> "the most efficient, professional federal court in the nation,"<sup>2</sup> the court "known for moving things along quickly"<sup>3</sup> and where "cases zoom through the system faster than at any other federal court in the nation."<sup>4</sup> Where is this court that is "so efficient that it could be used as a model for the rest of the country?"<sup>5</sup> It is the United States District Court for the Eastern District of Virginia.

The Eastern District of Virginia historically has had heavier civil and criminal caseloads than the national average for feder-

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The views expressed in this article are those of the author and should not be attributed to Judge Hilton or to anyone affiliated with the United States Eastern District of Virginia. The author would like to thank Darren Koenig for his patience and support and Professor Charles W. Nihan for his direction and encouragement.

1. David O. Loomis, *Why Norfolk's "Rocket Docket" is the Fastest, Fairest, Federal Court in the Country*, VIRGINIAN-PILOT & LEDGER STAR, Apr. 3, 1988, at B1 (quoting Senior United States District Judge Walter E. Hoffman).

2. *Rocket Docket: Fast and Good*, WASHINGTONIAN, June 1996, at 93 [hereinafter *Rocket Docket*]; see Karen A. Wagenhofer, *Low-Profile Firm Wins Big for Black & Decker*, ILL. LEGAL TIMES, Jan. 1997, at 3 (describing Federal Eastern District of Virginia as "the most efficient federal court in the United States").

3. *Cuomo Hearing Speeds Guidance on Respa Section 8*, REG. COMPLIANCE WATCH, Jan. 20, 1997, available in 1997 WL 7893669, at \*3.

4. Saundra Torry, *On the Fast Track with Alexandria's "Rocket Docket,"* WASH. POST, Nov. 10, 1997 (Washington Business), at 7; see also Eva M. Rodriguez, *D.C. Court Picks Up the Pace*, LEGAL TIMES, Sept. 4, 1995, at 6 (stating that the court is known for "shooting cases through the system").

5. Frank Green, *Court District in State Viewed as Model*, RICH. TIMES DISPATCH, Dec. 2, 1991, at A1 (noting that the Eastern District of Virginia, with one of nation's busiest calendars, typically disposes of cases within four months).

al district courts.<sup>6</sup> Despite its increasingly burdensome case-loads, the Eastern District of Virginia ("Eastern District" or "EDVA") has maintained its status as the most efficient federal district court in the country.<sup>7</sup> Civil cases move rapidly through the Eastern District of Virginia's system. The median time from filing to conclusion generally is four months.<sup>8</sup> It is for this reason that the EDVA is colloquially referred to as the "Rocket Docket."<sup>9</sup>

Over the past few decades, scholars, practitioners, and even judges have criticized the docket delays in the federal judiciary and the fact that sky-rocketing litigation costs prohibit court access to many potential plaintiffs.<sup>10</sup> As a result, Congress enacted The Judicial Improvements Act of 1990,<sup>11</sup> which was created to "identify, develop and put into effect solutions to problems of cost and delay in civil litigation."<sup>12</sup> Title I of the Judicial Improvements Act is the Civil Justice Reform Act of 1990 ("CJRA"),<sup>13</sup> which lists its purposes as "facilitat[ing] deliberate adjudication of civil cases on the merits, monitor[ing] discovery, improv[ing] litigation management, and ensur[ing] just, speedy,

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6. See Kim Dayton, *Case Management in the Eastern District of Virginia*, 26 U.S.F. L. Rev. 445, 470 (1992) (listing statistics of burdensome caseload for Eastern District of Virginia).

7. See *infra* Part III (discussing the Eastern District case management statistics and comparing them with the other 94 federal district courts); Victor Gold, *Rocket Docket: In Northern Virginia, the O.J. Trial Would Have Been Over in a Couple of Weeks*, WASHINGTONIAN, Nov. 1995, at 49.

8. See Dayton, *supra* note 6, at 473.

9. This nickname is widely used by lawyers, but is unpopular with some judges, because "it appears to foster the incorrect notion that speed is considered more important than justice." James Myers, "Rocket Docket" for the Defense, LEGAL TIMES, Dec. 11, 1995, at 27.

10. See Dayton, *supra* note 6, at 445.

11. Pub. L. No. 101-650, 104 Stat. 5089 (codified in scattered sections of 28 U.S.C.). The Act implements some recommendations of the Federal Courts Study Committee, see generally REPORT OF THE FEDERAL COURTS STUDY COMMITTEE (Apr. 2, 1990), and recommendations resulting from the Brookings Institute's 1989 study of the alleged litigation crisis. See THE BROOKINGS INSTITUTION, JUSTICE FOR ALL: REDUCING COSTS AND DELAY IN CIVIL LITIGATION 8-29 (1989). Most importantly, the Judicial Improvements Act of 1990 authorized additional federal district and appellate judgeships, see Title II, Judicial Improvements Act of 1990, 28 U.S.C. §§ 44(a), 133 (1994), modified the federal court's subject matter jurisdiction and venue requirements, see *id.* § 1367, and required quarterly public reporting of certain judicial case management statistics, see *id.* § 476.

12. Pub. L. No. 101-650, § 102, 104 Stat. 5089 (setting forth Congress' intent).

13. 28 U.S.C. §§ 471-482 (Supp. 1990).

and inexpensive resolutions of civil disputes.<sup>14</sup> In furthering these purposes, the CJRA requires the chief judge of each federal district court to appoint an advisory group<sup>15</sup> to assess the case management procedures of each district, identify the principal causes of cost and delay, and, if necessary, to recommend to the court a plan for minimizing such judicial obstacles.<sup>16</sup>

The CJRA is predicated on the assumption that case management practices throughout the entire federal judiciary need to be significantly re-evaluated and perhaps even re-invented.<sup>17</sup> This article challenges that assumption through an extensive evaluation of the court practices, case management, and success of the Federal Eastern District of Virginia. The Eastern District has not succeeded in efficient judicial practices through unconventional or remarkably innovative case management procedures, but rather through judge-controlled dockets and strict attorney compliance with, and unconditional respect for, the local rules of the district.<sup>18</sup>

Part II of this article discusses the local rules of the Eastern District of Virginia, which serve as the backbone for the court's "legendary speed."<sup>19</sup> Part III discusses the Eastern District's reign as the most efficient federal district in the country. Part

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14. *Id.* at § 471 (1993).

15. The advisory group generally consists of practitioners, litigants and other representatives of the court's constituencies. *See id.* § 478(b) ("The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.").

16. *See id.* § 472(b).

17. *See* Pub. L. No. 101-650, 104 Stat. 5089 (1990) (setting forth Congress' findings regarding the need for addressing "the full range of demands made on the district court's resources by both civil and criminal matters"); *see also* SENATE COMM. ON JUDICIARY, JUDICIAL IMPROVEMENTS ACT OF 1990, S. REP. NO. 416, at 103 (1990), reprinted in 1990 U.S.C.A.N. 6802, 6804-05 (detailing relevant legislative history); *see generally* Jeffrey J. Peck, "Users United:" *The Civil Justice Reform Act of 1990*, 54 LAW & CONTEMP. PROBS., Summer 1991, at 105; Carl Tobias, *Civil Justice Reform Roadmap*, 142 F.R.D. 507 (1992).

18. "In the federal courts of eastern Virginia, the judges hate foot-dragging and frivolous paper wars. . . . They produce speedy justice with a combination of unforgiving rules and fierce pride in efficiency. Around here . . . the judicial philosophy is 'put up or shut up.'" Paul M. Barrett, "Rocket Docket:" *Federal Courts in Virginia Dispense Speedy Justice*, WALL ST. J., Dec. 3, 1987, at 33; *see* Carl Tobias, *Civil Justice Reform in the Fourth Circuit*, 50 WASH. & LEE L. REV. 89, 92 (1993) (discussing sanctions on litigants and lawyers in the Fourth Circuit).

19. Torrey, *supra* note 4, at 7.

IV examines the potential advantages and disadvantages of a "Rocket Docket" judiciary. Part V explores alternatives to the Eastern District's system that, while not quite as effective, could aid existing districts in becoming more efficient. Finally, this article concludes that the Eastern District of Virginia should be the model for creating a nationwide system of comprehensive, yet streamlined, justice.

## II. LOCAL RULES OF THE EASTERN DISTRICT OF VIRGINIA

The United States Eastern District of Virginia is composed of four divisions: Alexandria (a suburb of Washington, D.C.), Richmond, Newport News, and Norfolk.<sup>20</sup> The Alexandria division consists of two senior and three active district judges and four magistrate judges.<sup>21</sup> The Norfolk Division consists of two senior and four active district judges and two magistrate judges.<sup>22</sup> The Richmond Division has two senior and two active district judges and two magistrate judges.<sup>23</sup> Newport News has only one magistrate judge<sup>24</sup> and no district judges. While the Newport News and Norfolk divisions are distinct from one another under the Eastern District of Virginia's local rule 3(B), they often operate as one court. For the past few decades, the chief judge of the Eastern District has sat in Alexandria. In December, 1997, Judge Claude M. Hilton succeeded Judge James C. Cacheris as the Eastern District's chief judge.

The local rules for the entire Eastern District of Virginia were structured to eliminate docket delay and expedite the sometimes burdensome litigation process, while focusing on the

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20. See E.D. VA. LOC. R. 3; see also 28 U.S.C. § 127 (specifying the counties, cities, and towns that are included in the Eastern District of Virginia's jurisdiction).

21. Alexandria judges are: Chief Judge Claude M. Hilton; Senior Judges Albert V. Bryan, Jr. and James C. Cacheris; and District Judges T.S. Ellis, III and Leonie M. Brinkema. The Four Magistrate Judges are Theresa C. Buchanan, T. Rawles Jones, Barry R. Poretz, and Curtis W. Sewell.

22. The Senior District Judges are Judges J. Calvitt Clark and John A. MacKenzie. District Judges include Robert G. Doumar, Raymond A. Jackson, Henry C. Morgan, Jr. and Rebecca Beach Smith. Magistrate Judges are Tommy E. Miller and William T. Prince.

23. The Senior District Judges are Robert R. Merhige and Richard L. Williams. The District Judges are Robert E. Payne and James R. Spencer. The Magistrate Judges are G. Warthen Downs and David G. Lowe.

24. Judge James E. Bradberry.

interests of justice.<sup>25</sup> The local rules demand that the district judges take control of the docket—as set forth in Rule 16 of the Federal Rules of Civil Procedure<sup>26</sup>—as well as the scheduling of trials,<sup>27</sup> motions,<sup>28</sup> depositions,<sup>29</sup> and discovery.<sup>30</sup> “The judges are decisive, always prepared, and you have certainty in when a hearing is going to be held.”<sup>31</sup>

The key role that the district judge plays in early intervention in, and control over, the litigation process is considered the “hallmark” of the Eastern District’s success.<sup>32</sup> This does not

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25. Judge Walter E. Hoffman, after whom the United States District Courthouse in Norfolk is named, remembered that the Eastern District of Virginia was once as backlogged as any other federal court. See Ray McAllister, *State’s “Rocket Docket” is Fastest*, RICH. TIMES DISPATCH, Dec. 27, 1987, at E-1; *infra* Part III (comparing Eastern District to all other district courts and concluding that Eastern District is most efficient). Judge Hoffman became a judge in 1954 when, as he recalled, “there was a backlog just in Norfolk alone of about 1,300 cases. . . . In 1962, I decided I was going to do something down there in Norfolk and Newport News, and set up a system for cutting off pretrial conferences, and setting pretrial dates and trials.” McAllister, *supra*, at E-1. In August of 1962, Judge Hoffman put into effect the suggestions of Judge Alfred P. Murrah, who was the Chief Judge of the Tenth Circuit at the time. Hoffman explained that he “really didn’t get any genuine relief on the docket until 1967 when two additional judges joined me here. We rapidly brought that docket right up to date. . . . [W]e very soon hit the top and have pretty well led the nation in most instances since then.” *Id.*

26. FED. R. CIV. P. 16. Rule 16 was amended in 1983 to make clear that district judges should take control of civil litigation pending in their courtrooms. See Dayton, *supra* note 6, at 455 n.34. These amendments were intended to respond to “criticism that judges were inappropriately becoming managers of litigation, rather than remaining dispassionate and neutral arbiters of justice.” *Id.* at 491; see FED. R. CIV. P. 16 advisory committee’s note.

Rule 16 was modeled almost entirely on the pretrial scheduling practices of the Eastern District of Virginia. See Loomis, *supra* note 1, at B1. Senior Judge Hoffman explained in an interview that Rule 16, which became effective in 1983, called for pretrial conferences and scheduling management. See *id.* Judge Hoffman explained: “The rule refers here to the Eastern District of Virginia, as a matter of fact. They came down here and got every form that we had and then compiled Rule 16, which was a shock to many courts when it came out, but we didn’t have to change anything.” *Id.*

27. See E.D. VA. LOC. R. 16.

28. See *id.* R. 7.

29. See *id.* R. 30.

30. See *id.* R. 26.

31. Torry, *supra* note 4, at 7.

32. See Virginia E. Hench, *Mandatory Disclosure and Equal Access to Justice: The 1993 Federal Discovery Rules Amendments and the Just, Speedy and Inexpensive Determination of Every Action*, 67 TEMPLE L. REV. 179, 235 (1994); Torry, *supra* note 4, at 7 (explaining how judges in the EDVA have established “strict, streamlined procedures”).

mean that the federal judge becomes personally involved in the minutiae of individual cases.<sup>33</sup> Rather, the essential involvement is the judge's creating and enforcing a pretrial calendar.<sup>34</sup>

The pretrial process begins with the creation of a scheduling order for each case. Each division within the EDVA handles pretrial practices a bit differently. In the Alexandria Division, once all parties to an action have made an appearance, the parties are sent a scheduling order.<sup>35</sup> The scheduling order sets forth the date on which the pretrial conference will be held and the date by which discovery must be concluded.<sup>36</sup>

In Alexandria, pretrial conferences are held the third Thursday of every month. All counsel are required to be present. As each case is called, the attorneys assemble in the chambers of the Chief Judge for a brief meeting.<sup>37</sup> At the time of the conference, the discovery period has concluded and each party's counsel submits lists of its witnesses and exhibits.<sup>38</sup> Most importantly, a trial date that is no more than eight weeks away is set. This date is immutable and appears on the docket only once.<sup>39</sup> Local Rule 16 states, in no uncertain terms:

The parties and their counsel are bound by the dates specified . . . and no extensions or continuances thereof shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the

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33. See Hench, *supra* note 32, at 235.

34. See E.D. VA. LOC. R. 6(B) (setting forth rule for Initial Pretrial Conference and Order and Scheduling Order).

35. See *id.* R. 16(B) (setting forth rule for scheduling order for all divisions).

36. See Scheduling Order, Eastern District of Virginia, Alexandria Division (on file with Alexandria Courthouse Clerk's Office) [hereinafter EDVA Scheduling Order]. The discovery deadline is set approximately three weeks prior to the date set for the pretrial conference.

37. Pretrial conferences in Alexandria tend to be no longer than three to five minutes in length.

38. Exhibits no longer need to be brought to the pretrial conferences. Civil file exhibits must be filed with the Clerk's Office one day prior to trial. See E.D. VA. LOC. R. 79(A) (requiring the party intending to offer exhibits at trial to "place them in a binder, properly tabbed, numbered and indexed"). Criminal exhibits must be filed five days prior to trial. For the rules governing criminal exhibits, see E.D. VA. LOC. R. 55.

39. See Hench, *supra* note 32, at 235-36.

normal processes of discovery shall *not* constitute good cause for an extension or continuance.<sup>40</sup>

As one Virginia lawyer lamented, "short of bleeding to death in the courtroom, you are not going to get a continuance."<sup>41</sup>

Pretrial conferences are handled differently in the other district divisions. Each lawsuit is assigned to a particular judge and that individual judge takes control of all pretrial matters.<sup>42</sup> Scheduling orders are sent in a similar fashion as in Alexandria, and dates for discovery cutoff and motions are made binding.<sup>43</sup>

Motions in the Eastern District are governed by Local Rule 7 and oral argument is heard on only about half of the motions filed.<sup>44</sup> All motions must be accompanied by a written brief "setting forth a concise statement of the facts and supporting reasons."<sup>45</sup> Use of pre-printed "form motions" is prohibited.<sup>46</sup> Additionally, Rule 7 requires that counsel seeking a hearing on a motion certify that they have conferred with opposing counsel "in a good faith effort to narrow the areas of disagreement."<sup>47</sup> This rule was in place long before the enactment of the CJRA, which recommends district courts adopt such a practice for discovery motions.<sup>48</sup>

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40. E.D. VA. LOC. R. 16(B) (emphasis added).

41. *Rocket Docket*, *supra* note 2, at 93; see Kim Isaac Eisler, *Rating the Judges*, WASHINGTONIAN, Sept. 1996, at 80 ("In Virginia, . . . continuances are given only when attorneys truly can show cause. Trial dates are taken seriously.").

42. See E.D. VA. LOC. R. 16(B).

Not later than ninety (90) days from first appearance or one hundred and twenty (120) days after service of the complaint, the Court shall enter an order fixing the cut-off dates for the respective parties to complete the processes of discovery, the date for a final pretrial conference and, whenever practicable, the trial date . . . .

*Id.*

43. See Dayton, *supra* note 6, at 460-61.

44. See E.D. VA. LOC. R. 7(I) ("In accordance with Fed. R. Civ. P. 78, the Court may rule upon motions without an oral hearing.").

45. *Id.* R. 7(E)(1). Briefs need not accompany the following motions: (1) motion for a more definite statement; (2) motion for an extension of time to respond; or (3) motion for default judgment. See *id.* R. 7(E)(2).

46. See *id.* R. 7(C). This rule is qualified by allowing the attorney to use pre-configured forms if he has deleted all extraneous matter and certified that he carefully has reviewed the remaining portions and "in good faith believes that the contents are pertinent to the case." *Id.*

47. *Id.* R. 7(D).

48. See 28 U.S.C. § 473(a)(5). The Eastern District's rule is not limited to discov-

Local Rule 7 provides that, in divisions having a regularly scheduled motions day,<sup>49</sup> the court will schedule a hearing on the motion for the first permissible motions day.<sup>50</sup> In the Alexandria Division, all civil and criminal motions are heard on Friday mornings.<sup>51</sup> Only in extremely rare, emergency situations are motions considered at any other time.

The Alexandria Division is unique, in that it uses a "master docket," whereby motions are assigned each week by the Chief Judge of the District to individual judges. This is unusual, because one judge may rule on a motion for summary judgment on a certain case, but later the trial of that same case may be assigned to a different judge. Magistrate Judges hear all discovery motions filed in the Alexandria Division.<sup>52</sup> The motions are filed, along with memoranda in support, with the Clerk's Office. In order to have a non-dispositive motion heard on a certain Friday, that motion must be noticed for that particular Friday and must be filed by 5 p.m. on the previous Friday. Counsel opposing the motion have until 5 p.m. Wednesday—two days prior to the date on which the motion is noticed—to respond. Moving counsel then have until Friday morning to reply to opposing counsel's response.<sup>53</sup> With dispositive motions, like motions for summary judgment, parties are given more time. A moving party must notice a dispositive motion within thirty days of filing. The opposing counsel has eleven calendar days from the date of filing in which to respond, and the hearing date cannot fall within that response time. The moving party has three days after that to reply to the response.

In the divisions without a motions day, motions are heard in the morning, before trials start for the day, and during trial recesses. Contrary to Alexandria's unique master docket, cases in Norfolk and Newport News are assigned to individual judges

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ery motions. See E.D. VA. LOC. R. 7(D).

49. The Alexandria Division is the only division at this time with a regularly scheduled motions day.

50. See E.D. VA. LOC. R. 7(D).

51. Criminal motions and sentencings are heard at 9 a.m. and civil motions are scheduled for 10 a.m.

52. See E.D. VA. LOC. R. 72 (setting forth Magistrate Judge duties).

53. "Non-dispositive motions must be filed and delivered by the Friday before the Friday for which noticed, with responses due not later than the Wednesday before the hearing." EDVA Scheduling Order, *supra* note 36.



and any corresponding motions are heard by the judge to which the case is assigned. Motions are granted hearings only if the attorneys in the case call the judge's chambers and schedule them.<sup>54</sup> Judges schedule the motions hearings based upon their availability, and if no hearing is scheduled, the motions are decided on the papers.<sup>55</sup> Motions practice in the Richmond Division is handled similarly. Once motions are filed and noticed, attorneys must contact the chambers of the judge to whom the case has been assigned. "Ninety-five percent of the time, a hearing is granted."<sup>56</sup> Generally, hearings on motions are swift and uncomplicated,<sup>57</sup> and judges rule from the bench.<sup>58</sup>

Depositions in the Eastern District are governed by Local Rule 30.<sup>59</sup> Rule 30 requires that depositions of all parties, and representatives thereof, are taken, not only within the Eastern District of Virginia, but also within the appropriate division.<sup>60</sup> The party seeking the deposition must bear the costs of recording and transcribing.<sup>61</sup> If a deposition must be taken outside

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54. Telephone Interview with Cal Spencer, law clerk to Judge Morgan, Norfolk Division (Feb. 26, 1998).

55. *See id.*; Dayton, *supra* note 6, at 464.

56. Telephone Interview with Jennifer Blackwell Walke, law clerk to Judge Payne, Richmond Division (Feb. 26, 1998). Oral arguments on motions are granted "almost always." *Id.*

57. *See* Gold, *supra* note 7, at 49. Victor Gold recounts a recent motion day in Alexandria where Judge Albert V. Bryan, Jr. was hearing a motion on whether a confession should be excluded because, says the defense counsel, the arresting officer had coerced his client. Both officer and defendant take the stand:

Bryan on the bench is a study in contrasts—small in stature but imposing, soft spoken but brisk. The accent is that of a Virginia gentleman, the tone courteous. But an edge comes into his voice when, after giving the prosecutor some slack in examining a witness, the judge cuts in to say, "I don't think that goes to the question I allowed you to pursue."

PROSECUTOR: What I was trying to get at, your Honor . . .

JUDGE: I know what you were trying to get at.

PROSECUTOR: I see. . . . Well, let me get to the point then . . .

The hearing, given [another federal court's] time frame, might have gone on for five hours, with the judge taking the matter under advisement.

Before Bryan, it lasts 25 minutes. Motion overruled. Next case?

*Id.*

58. *See* Dayton, *supra* note 6, at 463.

59. *See* E.D. VA. LOC. R. 30.

60. *See id.* R. 30(A). "Exceptions to this general rule may be made on order of the Court when the party, or representative of a party, is of such age or physical condition, or special circumstances exist, as may reasonably interfere with the orderly taking of a deposition at a place within the division." *Id.*

61. *See id.* R. 30(B). Transcription costs are taxable if the prevailing party uses

the district—and such testimony cannot otherwise be readily procured—the party seeking the deposition must assume the reasonable travel expenses of the witness and one of his/her counsel.<sup>62</sup> Parties are disallowed from taking more than five depositions of non-party and non-expert witnesses.<sup>63</sup> These rigid restrictions of Rule 30 allow litigants to depose essential witnesses, but discourage parties from wasting time, resources, and escalated attorneys' fees.

Aside from the unyielding structure of the pretrial and trial calendars, the Eastern District owes most of its success to its Local Rule 26, which governs discovery.<sup>64</sup> It has been said that "the cost of litigation seems to be roughly proportional to the amount of pretrial discovery which is permitted,"<sup>65</sup> and that "over eighty percent of the cost of an average civil lawsuit consists of pretrial investigation of facts through the discovery process."<sup>66</sup> It is for this reason that the Eastern District has entirely streamlined the discovery process by limiting the process to its "bare necessities."<sup>67</sup> As one corporate litigator who

the deposition transcript during trial. *See id.*

62. *See id.* R. 30(D). The rule is qualified by the fact that "in no event shall the reasonable costs of travel exceed an amount which would reasonably be required to be paid to associate counsel in the area in which the deposition is being taken. . . ." *Id.*

63. *See id.* R. 30(I).

64. *See generally id.* R. 26.

65. Alfred Ewert, *Is IP Litigation in the U.S. Really Worth It?*, MANAGING INTELL. PROP., June 1995, available in LEXIS, Busfin Library, ABI File.

66. Dick Thornburgh, *America's Civil Justice Dilemma: The Prospects for Reform*, 55 MD. L. REV. 1074, 1089 (1996) ("In 1988, seventy-seven percent of litigators surveyed admitted to having used discovery against their opponents as an economic weapon."). For an example of the significance of discovery, see *SCM Societa Commerciale S.P.A. v. Industrial & Commercial Research Corp.*, 72 F.R.D. 110 (N.D. Tex. 1976), in which the district court judge observed:

Once again this court has been called in to arbitrate the no show and no tell discovery games engaged in by the parties to this lawsuit. I should emphasize at the outset that this is not the only game in town. The fact pattern hereinafter recited has repeatedly surfaced in other litigation during my tenure on the bench. In fact, I have often thought that if the Federal Rules of Civil Procedure were in effect in 1492, the Indians undoubtedly would have made a motion to suppress Columbus' discovery.

*Id.* at 111.

67. *More on the Mixed Acceptance of Federal Rule 26(a)(1)*, FED. DISCOVERY NEWS, June 1996, at 7 [hereinafter FED. DISCOVERY NEWS]; see Loren Kieve, *Discovery Reform: Maybe the Best Solution is No Discovery at All*, 77 A.B.A. J. 79 (1991); Terence P. Ross, *The Rocket Docket*, LITIG., Winter 1996, at 48; Torry, *supra* note 4, at 7 (giv-

practices in the Eastern District explained, "little tolerance is shown for the type of petty discovery disputes that have afflicted most civil litigation."<sup>68</sup>

Rule 26 sets forth detailed rules designed to reduce discovery delay, complication, and dispute. At the heart of the EDVA's "fast track"<sup>69</sup> discovery is the fact that certain federal rules of discovery are inapplicable in the Eastern District.<sup>70</sup> The EDVA limits the number of interrogatories that a party may file in a civil case to thirty—including parts and subparts—and counsel may not waive this requirement.<sup>71</sup> The rules also require that opposing counsel confer with each other "to decrease, in every way possible, the filing of unnecessary discovery motions."<sup>72</sup> Rule 26 also mandates that all discovery objections—as well as motions and replies thereto—must be in writing<sup>73</sup> and generally must be filed within fifteen days after service of the discovery request.<sup>74</sup> Magistrate judges often hear motions regarding discovery disputes. Once the Court has ruled on a discovery motion, the action required by the Court must be completed within eleven days.<sup>75</sup>

The reason that Rule 26 so greatly has impacted the pace of litigation is that attorneys in the Eastern District basically have no choice but to comply. Rule 30 contains explicit sanctions for the filing of frivolous discovery requests,<sup>76</sup> for unwarranted objections,<sup>77</sup> and for failure to comply with discovery orders.<sup>78</sup> Sanctions include the imposition of costs and counsel

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ing examples of how "fast track" discovery benefits attorneys). "If there's a dispute over discovery, . . . the judge rules in one week." *Id.*

68. FED. DISCOVERY NEWS, *supra* note 67, at 7 (statement by Terence Ross, partner in the Washington office of Gibson, Dunn and Crutcher).

69. Torry, *supra* note 4, at 7.

70. See E.D. VA. LOC. R. 26(A) ("Inapplicability of Certain Discovery Requirements").

71. See *id.* R. 33.

72. *Id.* R. 37(E).

73. See *id.* R. 26(B). All objections must be "specifically stated," and "the Court may allow a shorter or longer time." *Id.* R. 26(C).

74. See *id.* R. 26(C).

75. See *id.* R. 37(C) (setting forth rules for compliance).

76. See *id.* R. 37(G).

77. See *id.*

78. See *id.* R. 37(H).

fees,<sup>79</sup> and the judges in the Eastern District do not hesitate to use them. Discipline rarely is needed, however, because local attorneys are accustomed to the pace of litigation in the Eastern District and revere the district's rules and procedures.<sup>80</sup>

### III. CASE MANAGEMENT STATISTICS FOR THE EASTERN DISTRICT OF VIRGINIA

Each year the Administrative Office of the United States Courts compiles statistics from each United States district court regarding, *inter alia*: the number of cases commenced, terminated, and pending; the nature of the courts' pending law suits; the time intervals between filing and disposition; and the median length of time required to try the cases.<sup>81</sup> Such statistics are not dispositive of either proficiency or fairness; however, Congress utilizes this data when evaluating a court's need for additional judicial resources and when it seeks to legislate judicial reform.<sup>82</sup> It is clear from the legislative history of the CJRA, and from the language of the Act itself, that Congress intended district courts' advisory groups to consider individual court's case management statistics when formulating their own expense and delay reduction plans.<sup>83</sup>

Upon assessing the most current compilation of federal judicial statistics, the Eastern District of Virginia stands out as the most efficient federal court in the country. The 1997 Annual

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79. See *id.* (allowing sanctions provided by FED. R. CIV. P. 37 to be imposed).

80. See Dayton, *supra* note 6, at 450.

81. See generally LEONIDAS RALPH MECHAM, ANNUAL REPORT OF THE DIRECTOR, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS (1997) [hereinafter ANNUAL REPORT OF THE DIRECTOR].

82. See Dayton, *supra* note 6, at 469. The Administrative Office reports that the caseload and associated workload of judges has risen significantly over the last five years. From 1992-1996, the total number of "weighted" civil and criminal filings per district judgeship jumped 13%, the number of appeals filed per three-judge panel grew 11%, pending appeals increased 9%, and pending civil cases rose 16%. Despite these significant increases, no new Article III judgeships have been created in six years. See ANNUAL REPORT OF THE DIRECTOR, *supra* note 81, at 13.

83. See 28 U.S.C. § 472(c)(1)(A) ("In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall determine the condition of the civil and criminal dockets.").

Report of the Director of the Administrative Office of the United States Courts illustrates that the Eastern District is plagued by one of the heaviest criminal and civil caseloads in the nation, yet it has the third fastest turn around time from filing to disposition of civil cases.<sup>84</sup>

From September 1995 to September 1996, the Eastern District had 4273 civil filings, 4274 civil case terminations, and 2023 civil cases pending.<sup>85</sup> From September 1996 to September 1997, the respective figures were 4405, 4283, and 2145.<sup>86</sup> The EDVA had the highest number of civil cases filed in the Fourth Circuit during 1997.<sup>87</sup> It had the second highest number of terminations and the third highest number of cases pending.<sup>88</sup> The fact that the number of cases terminated in the Eastern District in 1996 exceeds by one the number of cases actually filed illustrates that the EDVA does not allow a backlog on the docket at all.

In 1996, with the exception of the United States District Court for the Southern District of California in the Ninth Circuit, there were more criminal cases filed in the Eastern District of Virginia than in any other district court in the country.<sup>89</sup> In 1997, the Eastern District of Virginia ranked third in this category.<sup>90</sup> In fact, of the nine district courts that compose the Fourth Circuit, the Eastern District's criminal docket represents 46% of the total for the entire circuit. From September 1995 to September 1996, there were 2533 criminal cases filed in the Eastern District, a 4.3% rise from the year before.<sup>91</sup> The

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84. See ANNUAL REPORT OF THE DIRECTOR, *supra* note 81, at 158, tbl. C-5 (Appendix A).

85. See *id.* at 122, tbl. C (Appendix B). The number of civil filings dropped 2.3% from 1995, in which the Eastern District had 4372 civil filings, 4155 terminations, and 2068 civil cases pending. See *id.*

86. See *id.*

87. See *id.* at 134, tbl. C-3 (Appendix C).

88. See *id.* at 122, tbl. C (Appendix B).

89. See *id.* at 178-80, tbl. D (Appendix D).

90. See *id.*

91. See *id.* at 178. Only two other federal district courts had over 2000 criminal cases filed—the Western District of Texas and the Southern District of California. See *id.* at 178-80. In fact, of the 94 district courts, only 12 had more than 1000 criminal cases filed. See *id.* During 1997, the Eastern District had 2873 criminal filings, 2632 criminal terminations, and 825 criminal cases pending. See *id.* at 178.

Eastern District also terminated 2462 criminal cases and had 584 pending.<sup>92</sup>

The Annual Report also compiles data regarding the number of civil cases terminated in each district and the action taken.<sup>93</sup> For example, the statistics divide each district's cases into those where no court action was taken, those which were terminated before, during, or after pretrial action, and those terminated during or after trial.<sup>94</sup> Again, while not dispositive, these figures give the reader some sense of how certain districts choose to run their litigation calendars and the role that the pretrial process plays in their overall litigation strategies.

Of the 4281 civil cases filed in the Eastern District in 1997, only 3.5% (148 cases) actually went to trial.<sup>95</sup> Four hundred and thirty-two of the civil cases were terminated with no court action.<sup>96</sup> Of the 3849 cases for which court action took place, 3405 were terminated before pretrial. In other words, approximately ninety percent of the cases for which the court took action were terminated before the pretrial process even began.<sup>97</sup> Another 296 cases were terminated before they reached trial.<sup>98</sup> These numbers are strong indicators that the attorneys practicing in the Eastern District are very aware of the stringent guidelines imposed as soon as the pretrial process begins. It usually is better for both sides to terminate the suit before having to subject themselves and their clients to the unyielding rules of the court.

The Annual Report also sets forth information regarding the time intervals from filing to disposition of civil cases terminated.<sup>99</sup> This data is the most telling of a district court's efficiency and is also the basis for this article's determination that the

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92. *See id.* The Eastern District increased the number of cases terminated 6.9% from 1996 to 1997. *See id.*

93. *See id.* at 155, tbl. C-4A (Appendix E).

94. *See id.*

95. *See id.* Throughout the nation, 7359 civil cases out of 249,336 filed went to trial. Thus, nationally, less than 3% of civil cases filed went to trial. *See id.*

96. *See id.*

97. *See id.* Nationally, 249,336 civil cases were filed in 1997, and 38,545 of them were terminated with no court action. *See id.* Of the 210,791 cases for which courts did take action, 182,812 (or 87%) were terminated before the pretrial process. *See id.*

98. *See id.*

99. *See id.* at 158-60, tbl. C-5 (Appendix A).

Eastern District of Virginia is, overall, one of the most efficient district courts in the country.<sup>100</sup> The median time interval from filing to termination of civil cases in the Eastern District is five months.<sup>101</sup> The median time is three months for cases terminated with no court action, five months for those terminated before pretrial, and seven months for those terminated during or after pretrial.<sup>102</sup> The median time from filing to termination for cases that went to trial was an amazing eight months—the shortest time span of all of the district courts.<sup>103</sup> The national median time interval from filing to trial disposition for district courts is eighteen months, and some districts have as long as a thirty-seven month median time interval.<sup>104</sup>

The Eastern District of Virginia is not the only efficient district court in the country. In fact, several other districts have very impressive statistics that indicate strong case management practices. Considering two of the most important factors—the time interval from filing to termination of all civil cases and of those that make it to trial—some of the most efficient courts include: the Eastern District of Oklahoma with six and eight months respectively; the Western District of Oklahoma with seven and thirteen; the Southern District of Texas with seven and eighteen; the Northern District of Ohio with two and nineteen; and the Northern District of Illinois with five and twenty-three respectively.<sup>105</sup>

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100. *See id.* The statistics show that only the Northern District of Ohio (two-month median interval from filing to termination) and the Western District of Wisconsin (four month median interval) are more efficient. Both the southern District of West Virginia and the Sixth Circuit as a whole have five-month median time intervals. *See id.*

101. *See id.* at 158. The median for the country is eight months and for the Fourth Circuit is seven months. *See id.* Ten percent of the Eastern District's cases take less than one month, while 10% take more than 11 months. *See id.*

102. *See id.*

103. *See id.* at 158-60. Only the Eastern District of Oklahoma (eight-month interval) rivals the Eastern District of Virginia. *See id.* at 160.

104. *See id.* The District of Connecticut in the Second Circuit had a median time interval for cases in trial of 32 months, with more than 10% of its cases that go to trial lasting more than 68 months. *See id.* at 158.

105. *See id.* at 158-60. The Southern District of Texas had 4102 civil cases filed in its courts during 1997. *See id.* at 159. Considering that this district has over twice as many civil filings as the Eastern District of Virginia, its numbers are very impressive. The Southern District of Texas has a median time from filing to termination for cases with no court action of seven months, for cases terminated before pretrial of six months, and for cases terminated during or after pretrial of seven months. *See id.*

The district with the most impressive numbers in these fields is the Western District of Wisconsin, where the median time from filing to termination of all civil cases is four months (one less than the Eastern District of Virginia) and the median time from filing to termination of trial is nine months (one more than the Eastern District of Virginia).<sup>106</sup> While its numbers indicate great efficiency in the Western District of Wisconsin, it should be noted that, in 1997, there were only 593 civil and 107 criminal cases filed in that district, as compared to the 2800 civil and 2866 criminal cases filed in the Eastern District of Virginia.<sup>107</sup> In essence, the Eastern District of Virginia maintains the same efficiency standards and turn-around time intervals as the Western District of Wisconsin, even though the Eastern District of Virginia has nearly eight times as many cases filed in its courts. The Eastern District is "officially the nation's speediest in handling cases . . . . No one else is even close."<sup>108</sup>

#### IV. THE PROS AND CONS OF "SPEEDY JUSTICE"

"The Rocket Docket blasts off at 9:00 a.m. every Monday at the red brick federal building in Alexandria. That's 9:00 sharp, not 9:01. This is Northern Virginia, counselor, . . . [and w]hen the bailiff cries, 'Oyez, oyez,' . . . you had better be ready."<sup>109</sup>

It is the theory that "justice delayed is justice denied" upon which the Eastern District bases its fast-paced calendar.<sup>110</sup> But does this speedy justice come at the expense of denied justice? Do parties in litigation generally prefer a quick trial with limited depositions and discovery over a more drawn-out trial that may be more comprehensive? Does the expedited

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106. See *id.* at 159. The Western District of Wisconsin also has a median time from filing to termination for cases for which no court action was taken of two months (compared to the Eastern District's three months), for cases terminated before pretrial of three months (compared to the Eastern District's five) and for cases terminated during or after pretrial of seven months (compared to the Eastern District's seven months). See *id.* at 158-59.

107. See *id.*; see also *id.* at 202, 204, tbl. D-3 (Appendix F).

108. McAllister, *supra* note 25, at E-1.

109. Gold, *supra* note 7, at 49.

110. The motto "Justice Delayed, Justice Denied" hangs above the doors of the new courthouse in the Alexandria division of the Eastern District of Virginia.



process disadvantage smaller firms, solo practitioners, or insolvent defendants? In short, do the benefits of a speedy trial or adjudicatory process outweigh the risks of justice denied? Subparts A and B discuss the relative advantages and disadvantages of parceling justice on an expedited basis.

#### A. *Advantages of a Rocket Docket*

"It's amazing how much lawyers can get done if they know that it's crash and burn next month."<sup>111</sup> Generally, the feeling among lawyers practicing in the Eastern District is that if one is given the time to continue a case, one will take the time, and that if a lawyer is not subject to strict deadlines and sanctions for disobeying those deadlines, he will not impose them on himself. A lawyer practicing in the Eastern District explained that "[t]he beauty of the Rocket Docket is that it brings things to a head. . . . [W]hen a lawyer knows he's got to fish or cut bait—settle or roll the dice in a trial—it tends to focus the mind."<sup>112</sup> The general consensus amongst the attorneys practicing in the Eastern District is that, while it is unusually difficult to comply with the grueling schedule, it serves as an incentive to keep them diligently preparing for trial. "[M]ost area attorneys—especially those representing clients with limited resources—prefer a court where cases aren't dragged out."<sup>113</sup>

Aside from providing incentive for attorneys, another advantage of the Rocket Docket is that federal drug suspects are more likely to be prosecuted and convicted in the Eastern District.<sup>114</sup> The United States Attorney's Office in the Eastern District prosecuted almost ninety percent of the suspects referred to it by the Drug Enforcement Agency ("DEA") in 1995, the most recent year for which such statistics are available.<sup>115</sup> Federal prosecutors in neighboring Maryland, on the other hand, pressed charges against only sixty percent of DEA sus-

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111. Eric Herman, *Putting the Rocket in the Docket*, 76 A.B.A. J. 32, 32 (1990) (quoting Justice Louis Ceci of the Wisconsin Supreme Court).

112. Gold, *supra* note 7, at 49 ("It's human nature not to settle unless you're up against a deadline.").

113. *Id.*

114. See Brooke A. Masters, *Federal Drug Suspects Have Harder Time in Virginia: U.S. District Court Trial, Longer Term Likelier*, WASH. POST, Mar. 30, 1997, at B-1.

115. See *id.*

pects, and the District of Columbia prosecuted only seventy percent in its federal court.<sup>116</sup> In the cases that did go to federal district court, the prosecutors in the Eastern District of Virginia secured more convictions and longer prison terms than did their counterparts in neighboring Maryland and D.C.<sup>117</sup> While not dispositive, the district's high percentage of convictions could be a result of the court's fast-paced calendar. In other words, the more suspects that are brought through the system, the more convictions the court can give.

United States prosecutors clearly have an advantage in the Eastern District. Arguments have been made that private plaintiffs also enjoy a strategic advantage in the Eastern District, because defendants must "scramble to develop and document defenses."<sup>118</sup> "Indeed, the mere filing of such an action in this court has caused many defendants to settle quickly."<sup>119</sup> The importance of pre-filing investigation is stressed to new attorneys practicing in the Eastern District.<sup>120</sup> Once they decide to bring suit, and assuming that the statute of limitations is not impending, plaintiffs can take a great amount of time collecting data and organizing their legal arguments for trial. Knowing that continuances are rarely granted, they can do the majority

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116. *See id.* The Eastern District's large percentage is due largely to the fact that the United States attorney's office with responsibility for the Virginia suburbs brings charges against a higher proportion of suspects referred to it by the DEA—even low-level street dealers, couriers, and drivers. *See id.* In Maryland and the District of Columbia, those "smaller" cases often are handed over to local courts, where sentences usually are shorter. *See id.*

117. *See id.* (citing statistics compiled by Syracuse University's Transactional Records Access Clearinghouse). The Syracuse analysts looked only at suspects investigated by the DEA, representing 50% to 65% of all federal drug suspects in the Washington area. The remaining cases are handled by the Federal Bureau of Investigation, the United States Customs Service, and other federal agencies. *See id.*; Marty Rosen, *Justice No Remedy for Family's Pain*, ST. PETERSBURG TIMES, July 26, 1995, at 1-B (discussing how black male defendants from the inner city of Washington are treated in Alexandria: "It's a long distance from the inner city in Washington, D.C., to out here. It may only be a mile, but it's a long mile.").

118. Myers, *supra* note 9, at 27; *see infra* notes 128-32 and accompanying text (discussing actions defendants can take to make the expedited trial schedule work to their advantage).

119. Myers, *supra* note 9, at 27.

120. An accomplished Eastern District attorney stresses the importance of pre-filing investigation when practicing in the Eastern District. *See* FED. DISCOVERY NEWS, *supra* note 67, at 7 (quoting Terence Ross, partner in the Washington Office of Gibson, Dunn and Crutcher). Mr. Ross also suggests that attorneys hire good local counsel and prepare their client for what may be a "grueling ordeal." *See id.*

of research and preparation before filing and simply wait for responses from the defense.<sup>121</sup>

Plaintiffs in patent or intellectual property ("IP") litigation have the most to gain from suing in the Rocket Docket.<sup>122</sup> Patent holder plaintiffs in IP suits often are suing for injunctive relief; thus, the quick time frame is essential.<sup>123</sup> It is suggested that IP plaintiffs go so far as to interview all relevant witnesses, retain and consult with technical and damage experts, and prepare discovery requests all before filing suit.<sup>124</sup> The patent holder also should anticipate all discovery requests and collect relevant information to meet those requests.<sup>125</sup> "Although the lawyers will be intensely busy for an abbreviated period of time, the client will benefit from a prompt and cost effective litigation strategy."<sup>126</sup>

"It [i]s not just plaintiffs who can benefit from the [Eastern District]'s push for speedy resolution."<sup>127</sup> James Myers, a partner in the Washington Office of Venable, Baetjer, Howard, and Civiletti, emphasizes the importance of defendants' responding "instantly" to all civil complaints filed in the Eastern District.<sup>128</sup> He affirms that as long as a defendant understands

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121. See generally *Forum: Litigation Reduction Through Reform*, THE METROPOLITAN CORP. COUNS., Jan. 1997, at 42 (analyzing how tight time schedules can encourage parties to settle) [hereinafter METROPOLITAN CORP. COUNS.].

122. See Brian T. Foley, *Catch a Ride on the Rocket Docket*, CONN. L. TRIB., Oct. 7, 1996, at 4. Given the fact that infringement of a commercially valuable patent is likely to occur in multiple jurisdictions, and that large corporate infringers often will have regularly established places of business in many jurisdictions, obtaining venue in the Eastern District of Virginia, or other expedited district courts, often is relatively easy. See *id.*

123. "The sooner the cases [are] tried, the sooner infringers [can] be stopped from copying the product." Wagenhofer, *supra* note 2, at 1. In a recent patent infringement case, the counsel for plaintiff Black & Decker could have filed the case in any federal court, because some of the defendants were foreign companies and others did business nationwide. Because of its reputation for having the fastest justice in the nation, the lawyer chose to bring the suit in the Eastern District of Virginia. See *id.*

124. See Foley, *supra* note 122, at 6.

125. Most defendants in IP cases will seek to invalidate the patent by presenting evidence of previous uses of the invention, referred to as "prior art." Such a global search for prior art can be quite time consuming. Thus, a shorter period of time from filing to trial truncates the period of time in which a defendant-infringer can search for a valid defense. See *id.* at 7.

126. *Id.* at 6.

127. Myers, *supra* note 9, at 27.

128. See *id.*

how the system works, he can develop and implement a winning defense strategy using the EDVA's practices to his advantage.<sup>129</sup> Myers suggests three tactical approaches for defense attorneys in the Rocket Docket. First, defense teams should concentrate their energies and resources on presenting substantive defenses rather than using obstructionist discovery tactics.<sup>130</sup> Second, if the defendant is able to develop an unexpected substantive defense, the very speed of the court begins to work against the plaintiff.<sup>131</sup> Moreover, as a consequence of the accelerated schedules, plaintiffs often make mistakes, and defendants should be prepared to exploit them. Finally, Myers alerts defense attorneys to the fact that, generally, judges in the Eastern District are not fearful of reversal and are quite willing to rule in the defendant's favor on liability issues when the evidence is presented; therefore, defendants should do so early, within weeks of filing.<sup>132</sup>

In general, the more active judges become in the pretrial process, the more that abuse of the judicial system will decrease. If judges let certain practices, such as obstructive discovery tactics and unchecked continuances, plague their courtrooms, no one will step up to alter the status quo. However, if judges become active participants with the scheduling of trials and if they affirmatively convey their disapproval of uncooperative litigants, attorneys ultimately will come to view judges as allies—rather than bullies—against the common enemy, the abusive opponent.<sup>133</sup>

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129. *See id.*

130. *See id.* at 28. Myers explains that "[w]hile these tactics may work in other jurisdictions, they bring nothing but trouble here." *Id.* He also cites the fact that EDVA judges are quick to sanction for such behavior and will not excuse substantive errors by the litigants or their counsel. *See id.*

131. *See id.*

132. *See id.* Myers compares this practice of the Eastern District with other districts and states that in some other jurisdictions, when a defendant presents a dispositive motion that requires a close call, the judge may defer decision until after a settlement conference or even trial. On the other hand, the judges in the Eastern District "make difficult decisions when the evidence appears to support them, without undue fear of reversal." *Id.*

133. In a *Washington Post* interview, Judge Albert V. Bryan, Jr. of the Eastern District of Virginia discussed the Eastern District's case management:

We'd probably all live longer if we just sat back and let cases go on, . . . . But judges here are brought up to move things along. If repetitive questions are asked, the judges generally don't put up with it. The

### B. *Disadvantages of a Rocket Docket*

Certain critics of the Eastern District of Virginia argue that "too much speed . . . can deny justice."<sup>134</sup> The chief criticisms of the Rocket Docket are that certain parties are disadvantaged by the speedy calendar and that judges tend to weigh the importance of rapidity over that of justice. An Alexandria attorney told *Legal Times*, "I think in some cases, when judges are overconcerned about keeping things moving, it may work against the interest of justice."<sup>135</sup>

As with any system that is successful or unique, there always will be fault finders. Some critics of the Eastern District argue that defendants are disadvantaged, because they seldom are given adequate preparation time to devise strong defenses, and they can not rely—as they can in other courts—on court continuances.<sup>136</sup> Others argue that if a defense team responds quickly enough and learns about the intricate workings of the court, it is the plaintiffs that the Rocket Docket disadvantages.<sup>137</sup> Still others contend that it is the sole practitioners who are disadvantaged the most by the abbreviated schedules, because they are forced to allocate their limited resources among several pending cases.<sup>138</sup>

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defense lawyers get in, they get out, they move on, they bill their client. If it's not to their taste, they appeal. So far, the courts have not reversed any cases because of speed. To be candid, most in the defense bar are relieved to be free of all that detail.

Marc Fisher, *A Case That Courts Criticism: Simpson Trial Brings Calls for Legal Reform*, WASH. POST, May 22, 1995, at A-1 (emphasis added); see "Rocket Docket" Upheld, NAT'L. L.J., June 19, 1995, at A10 (reporting Ninth Circuit's decision that defendant's limited discovery under Rocket Docket schedule was not unfair and could not support a reversal of the trial).

134. Howard Mintz, *Ninth Circuit Backs Off "Rocket Docket" Criticism*, RECORDER, June 2, 1995, at 2 (quoting Ninth Circuit Judge Betty Fletcher who argued that justice was sacrificed for the sake of speed).

135. Rodriguez, *supra* note 4, at 6 (statement by Lisa Kemler, criminal defense attorney and partner in Alexandria's Moffitt, Zwerling and Kemler).

136. See METROPOLITAN CORP. COUNS., *supra* note 121, at 42.

137. See *supra* notes 129-32 and accompanying text.

138. See Neal Miller, *An Empirical Study of Forum Choices in Removal Cases Under Diversity and Federal Question Jurisdiction*, 41 AM. U. L. REV. 369, 405 (1992). "[T]oo rapid a court pace can have adverse affects on solo practitioners who . . . may prefer the slower pace available in state court, without necessarily seeking delay as a tactical weapon." *Id.* at n.139.

Some attorneys claim that the prejudice is inherent in the system itself. The judges sitting in the Eastern District expect both total compliance to the time-tested local rules and shared reverence for their existence. Out of town counsel are barely tolerated and are expected to be intimately familiar with the rules of the Eastern District's game. It is for this reason that nearly all out of town parties maintain local counsel.<sup>139</sup> Another disadvantage is that, in the Norfolk division of the Eastern District of Virginia, the judges do not keep separate calendars.<sup>140</sup> As a result, litigants do not necessarily know which judge will try the case, because assignments can be changed at the last minute. If one judge becomes unavailable to try a case, another judge will try it, instead of having the case rescheduled for the first open date on the original judge's calendar.<sup>141</sup> This system allows the court's resources to be kept in full use, allows more cases to be tried and prevents one judge's calendar from delaying the operation of the court as a whole. It also, however, wreaks havoc on the nerves of attorneys in the district.

The judges of the Eastern District argue that their concentration on efficiency does not compromise the judicial process or the process by which they make their decisions.<sup>142</sup> It is for this reason that some judges in the Eastern District dislike the moniker "Rocket Docket." "It appears to foster the incorrect notion that speed is considered more important than justice."<sup>143</sup>

Yet lawyers in Virginia still voice concerns that some cases are "rushed to judgment"<sup>144</sup> and that, at times, judges' concentration on streamlining makes it impossible for the attorneys to actually try their own cases.<sup>145</sup> Critics of the Eastern District's practices simply question whether the "remarkable dispatch" with which the Eastern District disposes of cases comes at the cost of quality of justice.<sup>146</sup> They believe that "speed of the lit-

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139. See Hench, *supra* note 32, at 263; FED. DISCOVERY NEWS, *supra* note 67, at 7 (stressing the importance of hiring good local counsel).

140. See Hench, *supra* note 32, at 277.

141. See *id.*

142. See Myers, *supra* note 9, at 27.

143. *Id.*

144. Gold, *supra* note 7, at 49.

145. See Rodriguez, *supra* note 4, at 6.

146. See Paul D. Carrington, *A New Confederacy? Disunionism in the Federal*

igation process should be managed so that the truth, not the speed, determines the outcome."<sup>147</sup>

## V. ALTERNATIVE APPROACHES

This article recommends that federal districts overcome their current backlog and delay by adopting a Rocket Docket case management system similar to that in the Eastern District of Virginia.<sup>148</sup> It is unrealistic, however, to assume that a United States district court can make such a drastic overhaul of its judicial traditions in one fell swoop. If courts are anxious or hesitant to change, they should use methods of expediting justice that might aid in the necessary transition from backlogged to streamlined dockets. This article considers two such alternative approaches.

First, the Eastern District served as a model for the Federal Trade Commission ("FTC") in its recent institution of a "fast track" process.<sup>149</sup> A transformation was needed within the FTC,<sup>150</sup> and as a result the commission designed a system that allows a full administrative proceeding in thirteen months or less after the imposition of a full-stop preliminary injunction order.<sup>151</sup> The FTC utilizes certain factors to determine which of its cases are appropriate candidates for an expedited adjudication and which should proceed through the regular channels of review.<sup>152</sup> For example, if it is likely that an agency action

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*Courts*, 45 DUKE L.J. 929, 954 (1996).

147. Mintz, *supra* note 134, at 2; see also Rodriguez, *supra* note 4, at 7. "Some practitioners say the quality of justice cannot and should not be measured solely by how fast a court rushes through a case." *Id.*

148. See *infra* Part VI.

149. See Robert W. Doyle, Jr., *Modeled in Part on Expedited Federal Court Procedure, the FTC's New "Rocket Docket" Allows for the Completion of Administrative Proceedings in 13 Months*, NAT'L. L.J., Jan. 6, 1997, at B5.

150. In defending an FTC preliminary injunction challenge to a proposed merger or acquisition, antitrust lawyers often would tell the federal judge that a full-stop injunction forcing the parties into never-ending administrative litigation with the FTC was not in the private interest of the merging firms. See *id.* Such a course of action is costly and would take years before final agency resolution. The attorneys would then argue that the private "equities" of the merging parties weigh in favor of consummation of the deal and it should proceed smoothly with no commission interference. See *id.* Such arguments of equity have received some success in the courts. See *id.*

151. See *id.*

152. See *id.* at B6. The following factors are considered when determining whether

will raise new, untested, or novel theories of antitrust liability, the commission may not designate the speediest alternative.<sup>153</sup> Factual complexity of the case also may limit expedited track availability. Once a case is designated as a Rocket Docket case, the respondent is advised of its opportunity to elect the fast track option at the time the injunction action is authorized by the commission. Once elected by the respondent, all cases must be completed within thirteen months of the triggered event.<sup>154</sup>

A plan similar to that of the FTC could be designed for use in federal district courts that are not yet prepared to revamp their entire docket system. Using the FTC as a model, a district court clerk or magistrate judge could summarily analyze the pending cases in the district and determine—using customized factors—which cases are suitable for expedited adjudication. Factors to be considered could include: the factual complexity of the case; the number of parties to the dispute; whether there exists a clear and unambiguous precedent on the matter; and whether the case is one of first impression. In this manner, the court could gradually diminish docket backlog while simultaneously easing judges, many of whom have been on the bench for years, into a new ideology.

A second alternative strategy is one that currently is being used in the courthouse in Johnson County, Indiana.<sup>155</sup> In order to decrease the backlog of divorce cases on their docket, the county judges asked that litigants be ready for trial on a one or two-day notice. Assuming that both parties agree, if a morning or afternoon is free on a judge's calendar, his staff will notify the parties of the first case on the expedited list that they must prepare for their hearing the following day.<sup>156</sup> The only draw-

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a case is ripe for an expedited judicial proceeding: the perceived quality or significance of the case; the confidence the agency places in the evidence established during the investigative stages; the likelihood of immediate and ongoing competitive harm resulting from a proposed merger transaction; and the overall litigation risks perceived by the FTC. *See id.*

153. *See id.*

154. *See id.*

155. *See generally* Mike Magan, *Johnson County Judges Launch "Rocket Docket" to Blast Backlog of Divorce Cases*, IND. LAW., Apr. 17, 1996, at 11.

156. *See id.* Judge James Coachys of the Johnson County Superior Court explained, "I have found that the most frustrated litigants usually are the ones who can't get their divorces heard because their case gets knocked off by a long jury trial—especially in cases involving kids. . . . [T]hose litigants are desperate to move on



back to this scheme seems to be a circuit court judge's concern: "In some ways this . . . [is] a disadvantage to us because when we get a free half-day we don't go play golf, we read cases or make rulings."<sup>157</sup>

A similar scenario could aid district courts in their attempts to eradicate docket backlog. Without the radical changes required for establishing a full Rocket Docket, a court could simply create a "call list" of parties willing to have their cases heard on short notice. This alternative requires no evaluating of factors to determine whether a case is best suited for an accelerated review. The sole factor for consideration is whether the parties to the dispute wish to participate.

While the above two suggestions may serve to ease certain established courts into a new method of accelerated justice, they are inadequate surrogates for the implementation of Rocket Dockets into every federal district court.

## VI. CONCLUSION

In enacting the CJRA, Congress found that in order to identify, develop, and implement solutions to problems of cost and delay in civil litigation, "it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system."<sup>158</sup> This exercise is unnecessary. The federal judiciary need only look to one of its own and adopt the Eastern District of Virginia's techniques to eradicate, once and for all, the existence of judicial inefficiency and backlogged dockets.<sup>159</sup>

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with their lives." *Id.*

157. See *id.* (statement by Judge James Coachys of the Johnson County Superior Court).

158. Pub. L. 101-650, § 102(4), 104 Stat. 5089 (1990).

159. See Thornburgh, *supra* note 66, at 1088 (concluding that federal reform measures should "look to the rigorous case-management techniques employed by judges in the Eastern District of Virginia and their 'rocket-docket' approach that moves cases along at a very rapid rate and tolerates little delay").

The civil justice plan that the Eastern District adopted, in compliance with the CJRA, made no changes whatsoever to its existing procedures.<sup>160</sup> The introduction to the plan devised by the Eastern District's advisory group states that the court's existing procedures "have been most effective in controlling not only litigation expenses but also in reducing delays in our civil docket."<sup>161</sup> The report also concluded that the EDVA had no problem with undue expense or delay.<sup>162</sup> Consequently, the advisory group unanimously recommended that the Eastern District simply retain its current case management requirements encompassed in its local procedures.<sup>163</sup>

The path to federal court reform may not necessarily be that suggested by the CJRA, but instead may be simply to recognize and activate the role of judge as manager of civil litigation. The case management statistics of the EDVA<sup>164</sup> illustrate that, despite the growing burden of federal district caseloads, existing judicial resources *can* efficiently and effectively manage federal district dockets. The Eastern District of Virginia, with one of the heaviest civil and criminal caseloads in the nation, has no undue expense or delay with regard to the processing of those claims. Thus, it is difficult to conceive why so many federal

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160. See U.S. DIST. COURT FOR THE E. DIST. OF VA., CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN (1991) [hereinafter ADVISORY GROUP'S REPORT]; Tobias, *supra* note 18, at 98 (describing implementation of CJRA by Eastern District).

161. ADVISORY GROUP'S REPORT, *supra* note 160, at 1.

162. See *id.* at 2.

163. See *id.* The Eastern District's Advisory Group outright rejected the incorporation of any of the principles and guidelines prescribed by the CJRA. See 28 U.S.C. § 473 (outlining CJRA's recommended content of civil justice expense and delay reduction plans); ADVISORY GROUP'S REPORT, *supra* note 160, at 2. The group found the recommendations unnecessary because most already were embodied in the Eastern District's local rules of procedure. See *id.* Also, the group concluded that adopting the recommended alternative dispute resolution ("ADR") mechanisms, see 28 U.S.C. § 473(a)(6), would be counterproductive in the sense that they would increase cost or delay. See *id.* But see Tobias, *supra* note 18, at 99 (describing Eastern District's rejection of ADR techniques as "typical" and scrutinizing court's decision to institute none of the recommended changes because "it is difficult to believe that no beneficial modification could be instituted"). The advisory group found no "convincing evidence" that the use of ADR mechanisms would reduce expense or improve the quality of justice dispensed by the court. See ADVISORY GROUP'S REPORT, *supra* note 160, at 6-7. Additionally, the group determined that ADR rarely affects the time devoted to discovery—which the Eastern District felt is the major source of delay and cost—and affirmed that the availability of early, firm trial dates before Article III judges diminished the need for ADR. See *id.*

164. See *supra* Part III.

district dockets are hopelessly backlogged.<sup>165</sup> It is also curious why Congress did not look more towards the practices of the Eastern District and its progeny when crafting remedies for the national judicial "crisis."<sup>166</sup>

The Eastern District of Virginia is the perfect model for other federal districts because, in many respects, it is an "average" federal district. Although the Federal Judicial Center historically has treated it as a metropolitan court,<sup>167</sup> it has characteristics of both large metropolitan and small rural courts due to its divisional structure. The Eastern District has managed to keep to its system of firm trial dates for more than thirty years, despite the fact that it encompasses the port city of Norfolk, the Washington, D.C. suburbs, and the Interstate 95 corridor cities of Richmond and Petersburg, which result in an abundance of drug cases as well as shipyard-related asbestos cases.<sup>168</sup> In short, aside from its extraordinary case management practices, and the fact that it has a very heavy caseload—including the third most criminal case filings in the nation<sup>169</sup>—the Eastern District is an average federal district court and, thus, an ideal archetype for all other district courts.

The Eastern District of Virginia employs vital practices that set it apart and above the rest. Foremost, the judges in the EDVA are committed to handling the district's caseload fairly and expeditiously, and they have developed procedures—codified in their local rules—that reflect these essential objectives.<sup>170</sup> These include standing orders and procedures that specifically aim at reducing abuse of litigation tools and that encourage all parties to a suit to work together towards a common goal, justice. All of these practices depend on the judge's early and continuous monitoring and intervening in civil cases, no matter

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165. See Appendix A (illustrating the time intervals required for federal courts to handle a case from filing to disposition).

166. See Dayton, *supra* note 6, at 488.

167. See *id.* at 451 (referencing STEVEN FLANDERS, FEDERAL JUDICIAL CENTER, CASE MANAGEMENT AND COURT MANAGEMENT IN UNITED STATES DISTRICT COURTS 2 (1977)).

168. See *id.* at 235 (discussing the broad range of demographics included in the Eastern District's jurisdiction).

169. See *supra* Part III and notes 89-92.

170. See *supra* notes 44-88 and accompanying text (explaining local rules regarding motions, depositions, discovery, and sanctions).

how simple or complex.<sup>171</sup> The judges, rather than the lawyers, control the docket. Attorneys practicing in the Eastern District respect the court's doctrines and priorities and follow the rules with reverence. "The Eastern District, after all, does things the old-fashioned way—with justice, not the lawyers, center stage."<sup>172</sup>

In conclusion, the solution to the federal "crisis" is not in alternative dispute resolution or in other esoteric case management devices. The statistics speak for themselves. The key to reduced expense and delay in federal litigation is firm judicial control of the docket, as envisioned in Rule 16 of the Federal Rules of Civil Procedure and as carried out in the Eastern District of Virginia. The federal judiciary should stop "assessing" the conditions of their dockets and "identify[ing] trends in case filings,"<sup>173</sup> and they simply should begin developing local rules such as those of the Eastern District of Virginia and putting them into effect immediately.

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171. See *supra* notes 32-34 and accompanying text (discussing judge's role in pre-trial activities).

172. Gold, *supra* note 7, at 52.

173. 28 U.S.C. § 472(c)(1) (outlining the duties of advisory groups so that they may make expense and delay reduction plan recommendations).

## APPENDIX A



Table C-5.  
U.S. District Courts—Time Intervals From Filing to Disposition of Civil Cases  
Terminated, by District and Method of Disposition,  
During the Twelve-Month Period Ended September 30, 1997

Circuit and District	Total Cases						No Court Action						Court Action						Trial					
	Time Intervals In Months			Time Intervals In Months			Time Intervals In Months			Time Intervals In Months			Time Intervals In Months			Time Intervals In Months			Time Intervals In Months			Time Intervals In Months		
	Number of Cases	10 Pct. Less Than	Median	10 Pct. More Than	Number of Cases	10 Pct. Less Than	Median	10 Pct. More Than	Number of Cases	10 Pct. Less Than	Median	10 Pct. More Than	Number of Cases	10 Pct. Less Than	Median	10 Pct. More Than	Number of Cases	10 Pct. Less Than	Median	10 Pct. More Than	Number of Cases	10 Pct. Less Than	Median	10 Pct. More Than
TOTAL	187,185	2	0	23	34,397	1	6	20	123,767	1	7	21	19,376	6	13	23	6,235	8	18	39				
DC	2,114	1	7	25	588	1	6	25	1,380	1	6	24	69	3	12	27	71	9	17	50				
1ST																								
ME	6,391	2	8	27	1,533	1	6	20	3,404	2	8	27	1,171	4	13	20	273	9	20	39				
MA	613	2	7	14	247	1	5	11	240	2	6	13	70	7	12	16	47	0	12	20				
NH	3,070	2	9	27	899	1	7	23	1,503	2	8	25	549	3	14	23	110	0	22	42				
RI	545	1	10	28	44	1	3	7	160	1	2	12	206	7	16	32	19	13	20	36				
PR	613	2	7	18	201	1	4	11	178	2	7	19	204	4	9	23	32	8	15	27				
FR	1,540	2	9	33	142	1	5	21	1,299	2	9	34	43	9	20	28	56	12	24	43				
2ND																								
CT	19,093	2	10	35	4,892	2	9	32	10,534	1	7	32	3,498	5	15	41	618	9	25	53				
NY,N	2,323	3	12	39	1,499	2	12	36	763	3	12	38	16	9	17	23	103	13	32	81				
NY,E	1,203	3	14	37	187	2	7	21	592	2	11	35	294	9	20	52	60	13	24	51				
NY,S	6,371	2	9	33	1,195	2	6	26	3,165	2	8	31	863	6	16	39	148	15	28	55				
NY,W	6,957	2	9	35	1,595	3	11	35	4,604	1	8	31	1,230	5	14	40	259	8	19	47				
VT	1,026	2	11	35	235	1	1	6	395	2	10	32	110	7	22	54	25	16	31	60				
VT	353	1	9	24	59	1	6	21	280	1	9	23	5				18	13	20	29				
3RD																								
DE	16,859	1	7	22	2,659	1	5	15	10,619	1	6	20	2,951	5	12	30	629	7	17	39				
MD	4,853	2	11	24	74	1	3	16	412	2	11	24	7				30	2	12	25				
PA,E	8,893	1	7	25	609	1	4	10	2,817	1	5	17	2,145	5	13	32	157	4	24	44				
PA,E	1,212	1	6	19	921	1	4	8	4,855	1	6	20	519	5	9	16	259	7	13	30				
PA,W	2,505	2	8	21	60	1	2	10	695	1	7	21	68	10	14	23	60	9	15	29				
VI	387	2	15	44	183	2	14	49	1,260	1	7	18	173	8	18	35	108	11	23	48				
4TH																								
MD	14,798	2	7	19	2,765	1	6	15	9,007	2	6	18	1,524	5	11	23	600	7	14	28				
NC,E	3,099	1	6	19	585	2	6	15	2,135	1	5	17	272	6	13	26	100	9	19	32				
NC,M	929	1	7	19	259	1	4	12	641	2	8	19	11	9	20	29	27	9	16	26				
NC,W	611	2	9	20	167	1	5	15	281	2	8	20	149	7	12	20	14	5	18	26				
SC	820	2	8	25	209	2	8	23	528	2	8	24	60	6	10	32	24	7	17	32				
VA,E	3,060	2	8	20	709	2	6	15	1,459	2	7	19	608	5	12	23	194	9	16	28				
VA,E	2,000	1	5	11	384	1	3	7	1,699	1	5	12	208	3	7	11	138	5	8	14				
VA,W	1,039	2	8	23	305	2	7	22	618	2	9	23	110	9	13	23	58	8	13	24				
WA,N	544	2	8	23	18	1	3	16	507	2	8	23	7				14	1	12	28				
WA,S	1,827	3	5	14	51	1	6	11	1,739	3	5	13	12	1	8	33	25	5	14	27				

Table C-5. (Continued)

Circuit and District	Total Cases				No Court Action				Before Prolit				Court Action During or After Prolit				Trial			
	Time Intervals In Months				Time Intervals In Months				Time Intervals In Months				Time Intervals In Months				Time Intervals In Months			
	10 Pet. Less Than	Median	10 Pet. More Than	Number of Cases	10 Pet. Less Than	Median	10 Pet. More Than	Number of Cases	10 Pet. Less Than	Median	10 Pet. More Than	Number of Cases	10 Pet. Less Than	Median	10 Pet. More Than	Number of Cases	10 Pet. Less Than	Median	10 Pet. More Than	Number of Cases
5TH																				
LA.E	19,364	2	8	22	2,678	1	6	19	14,301	2	7	21	1,595	5	12	28	790	9	17	32
LAM	3,010	2	8	20	87	1	2	8	2,125	1	7	16	653	8	13	28	145	9	17	33
LAW	997	1	12	33	17	1	11	28	953	1	12	30	-	-	-	-	17	14	20	29
MA.N	1,914	3	10	24	306	2	8	23	1,395	2	9	21	110	9	18	29	103	9	18	38
ME.S	678	2	10	23	52	1	4	9	357	2	8	22	210	5	11	19	59	12	19	37
MO.S	1,496	2	8	20	789	1	7	18	852	2	8	19	22	11	16	37	63	11	16	32
TX.N	3,378	1	7	19	9	-	-	-	3,282	1	7	18	15	4	14	42	92	7	15	36
TX.E	1,527	2	8	22	244	2	7	20	955	2	8	22	248	5	9	20	80	4	15	23
TX.S	4,102	2	7	20	415	1	6	18	3,273	2	7	19	287	2	10	21	127	9	16	30
TX.W	2,272	1	7	20	785	1	5	16	1,329	1	7	20	50	6	12	32	104	7	14	23
6TH																				
KY.E	22,260	1	5	20	3,572	1	4	16	16,165	1	4	18	3,032	6	13	23	490	9	18	40
KY.W	1,328	2	8	21	155	1	7	20	1,232	1	8	17	80	13	20	37	43	8	15	26
MI.E	1,088	1	8	27	136	1	4	15	942	1	6	20	288	5	14	32	43	8	22	43
MI.W	4,586	2	7	18	1,853	1	3	13	1,236	2	7	15	1,339	7	13	23	53	9	16	31
OH.N	1,031	2	6	20	97	1	8	18	838	2	2	2	10	14	14	25	33	8	16	31
OH.S	9,395	1	2	17	544	2	8	16	8,150	1	2	2	533	10	14	34	78	10	19	44
TX.E	2,105	2	10	25	242	2	5	23	1,747	1	8	23	409	4	12	28	43	6	24	43
TX.E	1,437	2	9	22	565	2	7	18	1,171	2	8	17	281	7	13	20	95	8	16	27
TX.W	1,032	1	7	24	77	2	7	20	892	1	7	23	20	6	12	33	33	8	21	34
TN.W	955	1	6	23	116	1	2	10	836	1	8	22	1	-	-	-	42	12	23	50
7TH																				
IL.N	14,201	1	5	21	2,743	1	5	18	9,439	1	5	19	2,011	4	11	25	408	8	20	46
IL.C	7,693	1	5	20	1,584	1	6	20	5,942	1	4	17	882	4	10	23	175	8	23	52
IL.S	854	2	7	28	176	1	10	25	624	2	5	23	15	22	40	64	37	13	30	61
IN.N	924	2	8	21	87	1	4	14	781	2	7	19	25	12	21	39	31	16	23	40
IN.S	1,327	2	9	20	89	1	4	12	537	1	5	14	653	5	12	23	39	11	10	25
IN.S	1,882	2	9	23	332	1	6	19	1,314	2	8	23	182	8	15	27	34	10	18	35
WI.E	1,048	1	7	24	384	1	3	14	820	1	9	9	11	3	21	30	53	13	21	44
WI.W	533	1	4	11	90	1	2	3	221	1	3	10	333	3	7	11	40	5	9	13
8TH																				
AR.E	11,550	2	9	25	2,316	1	6	10	7,459	2	8	24	1,107	6	14	27	618	9	18	35
AR.W	1,444	2	10	19	335	2	10	18	984	2	9	18	7	-	-	-	107	9	16	29
IA.N	714	2	7	17	14	1	4	15	633	2	7	16	1	-	-	-	65	4	12	20
IA.S	529	2	8	28	35	1	2	8	458	2	8	28	4	-	-	-	32	1	17	35
MN	718	2	9	25	82	2	4	8	358	1	6	18	239	9	17	28	39	7	20	32
MO.E	2,704	2	8	35	573	1	3	13	1,308	2	6	37	751	6	12	25	72	11	20	49
MO.W	2,249	2	10	24	538	2	11	23	1,582	2	9	21	14	3	15	21	127	11	19	43
NE	1,643	2	9	21	420	3	9	19	1,160	2	9	21	2	-	-	-	61	6	17	29
NE	632	1	9	23	139	1	3	12	553	1	7	17	91	10	18	34	69	13	21	32
ND	313	2	9	20	103	2	0	14	107	2	0	18	27	9	16	25	18	15	20	30
SD	354	2	10	24	88	2	7	17	206	3	9	21	31	13	19	27	29	4	21	27



Table C-5. (Continued)

Circuit and District	Total Cases										No Court Action										Court Action During or After Pendency										Total																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								
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	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than	Number of Cases	Median	More Than	10 Pct. Less Than	10 Pct. More Than																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
9TH	26,985	1	7	21	7,144	2	7	20	10,779	1	7	20	454	8	17	34	610	10	20	41																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			</

NOTE: TIME INTERVALS COMPUTED ONLY IF 10 OR MORE CASES. THIS TABLE EXCLUDES: LAND CONDEMNATIONS, PRISONER PETITIONS, AND DEPORTATION REVIEWS. INTERVALS SHOWN ARE FOR MEDIAN TIME AND FOR 10 PERCENT OF THE SLOWEST AND THE FASTEST CASES. FOR EXAMPLE, THE TIME INTERVAL OF THE FASTEST 10 PERCENT OF TOTAL CASES TERMINATED FOR THE NATION WAS LESS THAN 2 MONTHS; THE SLOWEST 10 PERCENT EXCEEDED 23 MONTHS.



## **APPENDIX B**



Table C.  
U.S. District Courts—Civil Cases Commenced, Terminated, and Pending  
During the Twelve-Month Periods Ended September 30, 1996 and 1997

Circuit	Filings			Terminations			Pending		
	1996	1997	Percent Change	1996	1997	Percent Change	1996 <sup>1</sup>	1997	Percent Change
TOTAL	289,132	272,927	1.1	250,397	249,641	-0.3	250,834	275,220	9.9
DC	2,050	3,003	1.3	2,334	2,784	6.7	2,664	2,893	9.2
1ST									
ME	7,689	7,684	0.5	7,084	7,295	-5.1	7,311	7,710	5.5
MA	731	750	2.5	719	712	-1.0	404	442	9.4
RA	3,323	3,542	6.5	3,593	3,454	-4.9	3,467	3,555	2.5
RH	899	655	-8.3	890	678	-1.8	670	648	-3.6
RI	722	767	6.2	770	691	-11.0	543	628	15.8
PR	1,610	1,980	23.0	1,872	1,789	-5.5	2,227	2,438	9.5
2ND									
CT	23,801	24,480	2.9	24,409	23,230	-4.9	29,251	30,001	4.3
NYN	2,820	2,661	1.5	2,810	2,877	2.4	3,089	3,973	-0.4
NYE	2,102	1,910	-9.1	1,959	1,969	1.5	3,052	3,003	-1.9
NYE	5,358	7,397	18.4	6,183	6,183	3.1	7,872	9,089	15.4
NYS	10,542	10,271	-2.6	11,572	10,231	-11.9	11,783	11,823	0.3
NYW	1,546	1,595	3.2	1,582	1,529	-3.5	2,212	2,278	3.0
VT	435	448	2.5	441	441	0.0	433	438	1.2
3RD									
DE	22,279	22,402	0.6	21,895	20,782	-5.1	17,463	19,403	8.4
NJ	780	774	-0.8	817	793	-2.9	768	777	10.1
PAE	6,399	6,514	1.8	6,093	6,521	7.0	5,755	5,748	-0.1
PAL	8,128	9,400	3.0	8,631	8,083	-6.4	5,844	7,101	22.5
PALW	2,997	2,940	-1.9	2,459	2,079	-15.4	1,632	1,593	-2.4
PALW	3,173	3,240	2.1	2,699	2,584	-4.3	2,748	3,024	10.0
VI	405	424	4.7	299	412	37.8	788	810	2.8
4TH									
MD	20,189	20,784	2.9	20,920	20,589	-1.6	14,819	14,234	-4.6
NCE	4,353	4,443	1.1	4,376	4,337	-0.9	3,249	3,384	4.2
NCM	1,537	1,549	0.8	1,509	1,591	5.4	832	880	5.8
NCW	1,657	1,274	-19.4	1,099	1,099	0.0	749	935	24.9
SC	1,053	1,234	17.2	1,095	1,091	-0.4	840	1,083	15.2
SC	3,908	4,045	3.5	4,332	3,905	-11.1	3,168	3,306	4.4
VAE	4,273	4,405	3.1	4,274	4,283	0.2	2,023	2,145	6.0
VALW	2,112	1,951	-7.6	2,101	1,828	-13.5	1,392	1,407	1.1
WVA	652	710	9.0	647	789	21.9	613	634	3.4
WVW	1,184	1,273	7.5	1,298	2,079	61.7	1,766	860	-45.6

Table C. (Continued)

Circuit	Filings		Terminations		Pending	
	1995	1997	Percent Change	1995	1997	Percent Change
6TH						
LA.E	35,054	34,032	-12.9	35,328	31,160	-11.2
LA.M	4,050	3,895	-3.8	4,220	3,739	-11.4
LA.W	7,643	1,256	-83.6	1,210	1,659	37.1
MS.N	2,928	2,650	-9.2	2,831	2,841	0.0
MS.S	1,271	1,181	-7.1	1,210	1,118	-7.6
TX.N	2,439	2,431	-0.3	2,330	1,553	-33.8
TX.E	6,088	5,739	-5.7	5,801	2,029	-65.4
TX.S	4,185	8,183	47.4	4,330	4,188	-3.3
TX.W	6,951	7,009	0.8	6,297	6,038	-4.1
	3,501	3,676	5.1	3,227	2,494	-23.3
6TH						
KY.E	29,177	40,388	38.4	29,709	28,569	-3.7
KY.W	2,093	2,313	10.5	2,064	1,883	-8.8
MI.E	1,544	1,635	5.8	1,585	1,528	-3.6
MI.W	5,866	19,590	161.3	5,070	5,609	10.4
OH.N	1,913	1,871	-2.2	1,794	1,731	-3.5
OH.S	3,197	9,585	4.2	7,668	3,623	-52.8
TX.E	3,078	3,137	2.0	2,550	2,712	6.1
TX.E	2,278	2,193	-3.7	2,000	1,649	-17.5
TN.W	1,632	1,650	1.1	1,589	1,640	3.2
TN.W	1,685	1,594	-5.4	1,599	1,597	-0.1
7TH						
IL.N	18,683	19,657	5.2	17,860	16,914	-5.3
IL.C	8,701	9,580	10.1	7,992	8,630	8.0
IL.S	1,395	1,408	0.9	1,369	1,393	1.7
IN.N	1,469	1,511	2.9	1,426	1,529	7.2
IN.S	2,489	1,982	-19.6	1,967	1,918	-2.5
WI.E	2,693	2,988	11.2	2,554	2,550	-0.2
WI.W	1,507	1,408	-6.5	1,483	1,438	-3.0
WI.W	1,059	879	-17.0	1,059	659	-38.2
8TH						
AR.E	16,470	10,212	-37.7	15,983	16,247	1.7
AR.W	2,613	2,505	-4.1	2,390	2,459	2.9
IA.N	1,083	1,088	0.5	1,004	941	-6.3
IA.S	868	728	-16.1	875	781	-10.7
MN	1,203	1,164	-3.3	1,215	1,190	-2.1
MO.E	2,810	2,890	2.8	2,358	3,093	31.3
MO.W	3,084	2,929	-5.0	3,130	3,108	-0.7
NE	2,730	3,068	12.4	2,831	2,728	-3.6
NE	1,263	1,105	-12.5	1,215	1,174	-3.4
ND	329	332	0.9	338	281	-16.9
SD	587	483	-17.7	518	489	-5.6

Table C. (Continued)

Circuit	Filings			Terminations			Pending		
	1996	1997	Percent Change	1996	1997	Percent Change	1996 <sup>1</sup>	1997	Percent Change
<b>9TH</b>									
AK	30,808	38,934	-2.2	37,422	39,653	-2.9	35,164	35,435	6.6
AZ	53	635	12.6	762	595	-23.9	870	710	-18.0
CAN	3,989	3,522	-11.7	3,767	3,383	-10.2	3,884	4,023	3.6
CAN	5,833	5,900	1.1	5,425	5,870	8.4	5,240	5,261	0.4
CAG	3,578	3,544	-1.0	3,278	3,194	-2.6	3,367	4,277	26.7
CAS	10,599	11,029	4.1	10,318	10,037	-2.8	7,381	8,363	13.3
HI	3,499	2,550	-27.1	2,900	2,677	-7.7	2,938	2,771	-5.7
HI	1,117	1,840	64.7	1,073	1,297	20.9	987	1,510	53.2
ID	614	627	2.1	587	663	12.9	694	733	5.6
MT	758	660	-13.1	714	774	8.4	920	828	-10.2
NV	2,128	2,461	15.6	2,128	2,103	-1.2	1,876	2,258	20.1
OR	2,545	2,399	-5.7	2,637	2,405	-8.8	1,898	1,893	-0.3
WAE	1,031	950	-7.8	860	789	-8.2	950	922	-3.0
WAW	3,337	2,922	-12.4	3,347	2,872	-14.2	2,112	2,162	2.4
GUAM	114	82	-28.1	127	83	-35.4	84	73	-13.1
NH	54	65	20.4	59	55	-6.8	40	50	25.0
<b>10TH</b>									
CO	12,821	12,533	-2.3	12,548	12,941	3.1	11,513	11,105	-3.6
KS	3,157	2,921	-7.5	3,021	3,056	1.2	2,912	2,765	-5.1
NM	2,012	2,032	1.0	2,041	2,033	-0.4	1,744	1,743	-0.1
OKN	1,839	1,822	-0.9	1,784	1,690	-5.3	1,801	1,643	-8.8
OKL	1,238	1,258	1.6	1,337	1,155	-13.6	1,007	1,108	10.0
OKW	691	765	10.7	583	751	28.8	501	515	2.8
UT	2,310	2,174	-5.9	2,279	2,199	-3.5	1,453	1,448	-0.4
UT	1,143	1,171	2.4	1,147	1,335	16.4	1,616	1,452	-10.2
WY	432	392	-9.3	350	493	41.1	474	433	-8.7
<b>11TH</b>									
ALN	38,502	31,009	-19.5	26,005	30,207	16.2	45,976	47,678	3.7
ALM	12,228	4,978	-59.3	4,131	6,044	46.3	23,168	23,102	-0.3
ALS	1,929	1,971	2.1	1,721	1,833	6.5	1,433	1,471	2.7
FLN	1,274	1,251	-1.8	1,197	1,214	1.4	1,037	1,134	9.4
FLM	1,978	1,821	-8.1	1,737	1,691	-3.2	1,738	1,878	8.1
FLS	5,975	7,125	19.2	5,491	6,397	16.7	5,757	6,465	12.3
FLS	6,293	7,361	17.0	6,257	6,297	0.6	5,972	6,465	8.3
GAN	4,184	4,877	16.6	3,880	4,243	9.5	3,429	4,063	18.5
GAM	1,398	1,570	12.3	1,193	1,274	6.8	1,784	2,080	16.6
GAS	1,245	1,248	0.2	1,368	1,234	-9.7	1,784	1,011	-43.4

NOTE: PENDING CASES EXCLUDE ASBESTOS CASES TRANSFERRED TO PALE UNDER ORDER 875 OF THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION. FIGURES ARE IN THOUSANDS.





## APPENDIX C



Table C-3.  
U.S. District Courts—Civil Cases Commenced, by Nature of Suit and District,  
During the Twelve-Month Period Ended September 30, 1997

Circuit and District	Total Civil Cases	U.S. Cases										Tax Suits	Social Security	Labor Suits	Forfeitures and Penalties	Prisoner Petitions				All Other
		Total U.S. Civil	Contract	Property	Real Estate	Total Actions	Antitrust	Civil Rights	Motions to Vacate Sentence	Habeas Corpus	Civil Rights	Hamman and Other								
TOTAL	272,027	60,004	12,764	2,760	3,324	20	2,917	11,079	1,892	974	401	5,384	624	13,005	2,272	4,364				
DC	3,003	1,597	382	11	84	12	267	128	33	189	32	23	14	14	15	412				
1ST																				
ME	7,694	2,176	330	347	143		101	412	54	23	6	89	37	373	43	215				
MA	750	181	17	51	8		7	39				14	4	28	6	8				
NH	3,642	899	225	43	61		59	149	37	13	2	32	29	84	19	141				
RI	655	166	14	1	16		8	31	2	1		4	1	47	13	14				
PR	767	156	15	2	11		9	55	5	4	2	10		19	4	21				
	1,890	790	59	250	40		20	137	10	5	2	29	3	107	1	31				
2ND																				
CT	24,480	4,972	1,379	177	322	4	213	787	133	66	94	228	76	997	169	337				
NY,NJ	2,681	538	169	41	48		23	72	5	1		9	14	78	23	34				
NV,E	1,910	330	57	3	31		14	47	2	2	2	32	10	104	6	20				
NV,S	7,397	2,037	723	53	129	1	61	255	35	12	81	79	17	427	71	94				
NY,W	10,271	1,414	189	20	80	1	89	337	63	47	10	46	25	268	46	157				
NY,W	1,555	427	111	40	24	2	15	41	8	4	1	55	8	87	9	22				
VT	448	128	11	20	4		1	35				8	2	33	4	10				
3RD																				
DE	22,402	3,974	688	168	303	1	184	724	168	108	15	105	51	1,057	126	261				
NJ	774	120	22		15		3	33				7	7	13	17	10				
PA,E	6,514	1,009	501	25	120		88	168	40	7	2	65	14	341	61	103				
PAM	8,460	1,033	183	25	101		59	289	4	1	4	13	18	237	20	71				
PA,W	2,040	577	41	35	27		17	102	104	89	9	10	6	105	12	21				
VI	3,240	855	145	69	23	1	31	101	8	10		30	12	571	14	32				
	434	80	6	4	9		1	23	10			2			1	24				
4TH																				
MD	20,764	5,605	685	447	465		234	1,553	95	67	32	205	34	1,489	146	352				
NC,E	4,443	889	32	9	278		71	179	10	6	3	48	9	129	50	79				
NC,M	1,549	572	107	6	22		15	168	22	16	19	48	5	90	21	33				
NC,W	1,274	574	74	1	7		10	302		2	1	18	3	133	10	13				
SC	1,234	404	43	1	11		13	164	4	1	1	20	3	108	7	8				
VA,E	4,045	1,103	243	403	40		22	146	6	3		22	2	259	10	28				
VA,W	4,405	744	69	14	88		69	309	5	8	4	28	4	49	33	67				
WA,W	1,851	613	30	3	7		11	100	25	2		13	6	945	8	53				
WV,N	710	225	37	8	10		6	50	21	24	3	13		46	3	13				
WV,S	1,273	552	51	2	15		17	125	2	7	1	6	2	333	4	18				

Table C-3. (Continued)

Circuit and District	Total Pfrato	Contract	Real Property	FELA**	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Pivotal Cases					Prisoner/Pollitons			Copyright Patent Trademark	Labor Suits	All Other
									Civil Rights	Antitrust	Habeas Corpus	Civil Rights	Mandamus	Other					
TOTAL	212,023	26,082	2,683	1,825	2,271	4,889	41,986	4,094	570	40,361	18,956	27,951	937	7,638	14,884	14,016			
DC	1,405	180	10	4	-	40	181	28	2	420	35	172	1	57	163	133			
1ST	5,516	1,085	112	18	108	203	988	103	22	1,038	222	289	5	205	443	597			
ME	589	80	0	4	14	30	164	16	-	114	21	45	-	14	20	25			
MA	2,643	558	30	10	57	74	282	50	12	444	124	145	4	174	288	383			
NH	505	81	6	1	1	20	82	17	5	122	33	48	-	22	25	35			
RI	609	123	8	3	7	18	121	8	1	129	20	13	-	40	51	67			
PR	1,190	207	81	-	27	55	339	10	4	229	24	50	1	35	61	67			
2ND	19,658	3,488	154	225	165	673	1,692	461	63	3,787	1,708	1,757	24	1,145	2,055	2,041			
CT	2,925	439	25	40	8	57	183	178	3	589	58	311	1	79	140	214			
NY/N	1,580	120	11	41	3	36	99	17	4	335	186	438	2	43	135	100			
NY/E	5,360	846	48	73	33	302	889	59	25	991	680	140	17	234	719	706			
NY/S	8,857	2,087	55	64	118	233	732	171	24	1,557	579	678	3	748	651	857			
NY/W	1,168	119	0	0	3	22	120	15	4	282	170	169	1	32	98	130			
VT	319	57	0	1	-	23	69	11	3	53	16	21	-	9	12	34			
3RD	18,428	3,134	160	586	139	755	3,593	395	69	3,327	1,237	1,770	9	826	1,403	1,325			
DE	654	88	1	1	2	25	31	6	1	132	62	147	3	88	31	54			
NJ	5,205	1,110	38	63	60	289	636	248	19	947	252	275	-	289	531	489			
PA/E	8,397	1,381	62	328	40	353	2,484	83	24	1,350	485	697	3	160	498	429			
PALM	1,463	201	8	27	1	82	174	20	3	287	175	316	2	29	79	79			
PALW	2,385	320	16	146	32	57	205	29	22	502	243	329	-	60	281	183			
VI	354	74	35	1	4	10	63	7	-	29	10	6	1	-	3	111			
4TH	14,979	2,006	70	74	92	598	2,156	244	55	2,572	1,481	2,813	65	478	1,181	935			
MO	3,645	487	19	34	16	161	350	65	5	834	397	576	32	98	359	312			
NC/E	877	158	1	1	12	21	98	13	3	200	123	201	-	50	28	71			
NC/M	700	75	3	2	-	9	80	7	1	154	108	108	-	61	38	43			
NC/W	830	112	3	1	-	12	108	10	1	233	59	113	-	45	68	77			
SC	2,852	430	17	8	28	198	544	42	4	533	291	444	8	41	171	95			
VA/E	3,681	468	16	3	35	82	524	53	39	489	341	788	14	148	371	278			
VA/W	1,238	99	8	15	-	42	243	16	2	153	100	399	-	20	76	85			
WA/W	485	92	4	-	1	35	84	7	-	68	20	117	1	6	28	24			
WV/S	691	174	8	10	2	38	117	41	-	100	29	88	1	8	70	29			

Table C-3. (Continued)

Circuit and District	Total Civil Cases	U.S. Cases											Social Security	Tax Suits	All Other	
		Total U.S. Civil	Contract	Real Property	Tort	Antitrust	Civil Rights	Prisoner/Petitions			Mandamus and Other	Forfeitures and Penalties				
								Motion/Vacate Sentence	Habeas Corpus	Civil Rights						
5TH	34,032	5,684	1,203	170	329	3	274	1,474	324	93	26	255	39	982	162	389
LAE	3,895	581	139	9	59		34	109	10	1	6	23	4	104	10	53
LAM	1,259	152	37	28	12		7	8	3	1		2		30	5	13
LAW	2,660	629	161	47	40		17	54	75	22	5	1		175	9	22
MS.N	1,181	164	30	25	9		4	44	2			8		90	4	15
MS.S	2,431	409	151	25	30		13	60	2			28		75	37	7
TX.N	5,739	1,094	109	8	29	2	85	391	127	30	8	39	14	159	37	57
TX.E	6,163	982	99	2	14		7	137	10	3		17	2	119	6	45
TX.S	7,009	1,311	310	7	42		51	391	35	14	7	24	8	132	39	93
TX.W	3,678	1,163	239	19	87	1	56	370	69	22		55	4	132	39	60
6TH	40,388	7,717	2,515	262	225		248	1,011	100	50	2	241	69	2,499	160	311
KY.E	2,310	1,354	52	129	10		12	74	52	30	2	7		932	8	40
KY.W	1,635	404	59	59	23		12	62	2			4		3	158	7
MI.E	16,500	2,634	1,740	15	42		59	249	13			55	18	316	41	89
MI.W	1,071	412	80	0	19		16	88				17	4	144	9	29
OH.N	9,685	1,024	205	15	53		62	191	4	4		30	21	378	30	43
OH.S	3,137	624	104	14	30		39	78	5	1		37	9	239	29	44
TX.E	2,183	682	92	8	18		29	105	3			28	5	348	12	18
TX.N	1,650	302	81	11	13		10	53				29	7	52	39	10
TX.W	1,504	401	103	7	12		24	119	21	15	2	39	1	86	11	14
7TH	18,657	3,314	705	252	162	1	145	734	120	80	20	143	55	591	101	255
IL.N	9,590	1,121	269	21	81		80	229	39	14	11	44	28	107	45	157
IL.C	1,408	395	80	52	14		8	94	21			22	5	70	11	18
IL.S	1,511	364	51	42	17		6	132	15	22	1	12	4	42	5	15
IN.N	1,882	308	78	55	7		11	53				1		3	71	18
IN.S	2,988	621	114	53	21	1	25	91	22	10	8	24	12	189	12	31
WI.E	1,409	323	74	9	16		9	100	1			20	2	69	9	11
WI.W	879	194	42	20	6		9	30	22	6		20	1	13	8	7
8TH	16,212	4,785	891	301	173		143	788	99	35	3	145	56	1,812	97	228
AR.E	2,505	802	59	110	18		23	56	1	1	1	10	2	592	4	23
AR.W	1,068	401	42	39	5		9	29				8	2	235	5	8
LA.N	1,725	332	54	14	3		4	53				17	6	182	8	9
LA.S	1,164	381	47	23	14		45	112	31	1		25		117	22	38
MO.N	2,850	733	260	11	20		16	162	6	6	1	43	7	147	12	32
MO.E	3,058	877	163	2	23		22	193	49	18	8	21	7	390	18	73
MO.W	1,005	302	105	19	14		19	66	4			9	4	27	15	21
NE	1,105	302	105	19	14		19	66	4			9	4	27	15	21
ND	332	155	33	41	12		3	11	1			2	1	35	4	12
ND	463	141	21	18	20		7	31				2	1	24	3	10

Table C-3. (Continued)

Circuit and District	Private Cases															All Other
	Total Private Civil Cases	Contract	Real Property	FELA**	Maritime Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Antitrust	Civil Rights	Prisoner Petitions			Copyright Patent Trademark	Labor Suits	
											Habeas Corpus	Civil Rights*	Mandamus and Other			
5TH	28,348	3,666	184	74	850	629	5,652	612	42	4,091	3,235	6,095	45	570	1,117	1,593
LAE	3,334	594	20	10	462	193	528	144	3	398	311	398	7	46	112	205
LAM	1,104	94	10	1	32	22	163	21		149	85	309	4	15	53	148
LAW	2,031	211	14	1	166	88	330	46	6	320	215	410	1	19	102	102
MS,N	1,017	127	9		2	55	115	10	1	280	00	255		7	34	23
MS,S	2,023	269	32		9	110	322	50	2	339	145	441		10	69	111
TX,N	4,735	692	32	5	1	47	357	57	6	730	793	1,278	12	167	225	342
TX,E	5,781	226	16	12	16	59	2,936	27	4	304	480	1,459	11	26	87	71
TX,S	5,789	1,034	39	40	181	65	684	111	15	947	735	1,062	9	184	293	418
TX,W	2,515	377	12	5	1	48	159	39	5	534	381	512	1	78	141	185
6TH	32,671	2,425	124	294	52	497	16,032	316	27	3,755	1,610	2,315	22	562	1,609	1,482
KYE	1,059	163	13	35	5	72	200	19		180	89	130	2	21	62	68
KY,W	1,231	179	6	11	9	41	212	19	2	242	105	226	5	16	69	69
MI,E	13,668	688	31	46	16	32	10,075	43	8	657	460	925	4	172	486	532
MI,W	1,459	120	5	7	1	7	108	15	3	255	251	438		55	102	85
OH,N	8,561	392	29	91	9	122	5,957	68	3	768	286	116	3	120	371	218
OH,S	2,513	251	10	23	4	83	319	71	5	723	311	259	2	67	239	166
TX,E	1,331	168	20	67	1	81	309	28	2	298	99	240		55	92	82
TX,N	1,346	142	7		2	35	105	37	3	324	117	323	2	41	110	98
TX,W	1,103	139	3	3	2	44	117	18	1	328	64	258		15	46	43
7TH	16,343	1,802	1,318	213	50	271	1,181	217	45	3,843	1,452	1,983	23	612	2,030	1,282
IL,N	8,459	1,011	1,264	131	21	72	400	131	23	1,620	406	614	13	394	1,338	821
IL,C	1,013	85	9	7	1	17	55	11	3	232	100	258	2	17	89	139
IL,S	1,477	84	11	32	22	44	166	12		181	101	272	2	10	122	59
IN,N	1,576	139	10	10		58	132	8		497	244	201		26	183	67
IN,S	2,387	240	15	30	4	51	271	29	5	645	350	413	6	50	160	99
WI,E	1,089	131	6	2	1	14	80	17	9	316	162	109	1	68	67	75
WI,W	685	122	3	1	1	15	61	9	5	150	69	118		47	41	53
8TH	11,446	1,281	62	79	20	324	1,147	282	31	3,113	1,488	1,710	79	343	791	892
AR,E	1,603	129	4	8	1	55	120	37	1	510	168	374	51	17	51	47
AR,W	687	93	5	8	1	40	94	11		170	27	147		9	52	30
IA,N	466	65	4	2		12	30	7	1	118	64	112		9	36	34
IA,S	753	78	2	10	1	18	47	13	1	190	101	213	3	13	44	46
MN	2,155	317	12	25	4	23	300	118	10	647	114	32	4	145	210	194
MO,E	2,289	213	7		14	76	243	39	6	610	467	219	4	62	195	134
MO,N	2,131	158	6	1	3	39	194	34	8	475	471	435	8	51	144	103
MO,W	603	135	8	10	2	25	40	14	1	300	30	109	1	25	20	54
NE	177	47		4		9	30	1	1	27	4	5	1	6	15	21
ND	322	48				27	43	8	2	66	14	63	1	4	13	29

Table C-3. (Continued)

U.S. Cases																		
Circuit and District	Total Civil Cases	Total U.S. Civil	Contract	Real Property	Tort Actions	Antitrust	Civil Rights	Prisoner Petitions			Forfeitures and Penalties		Labor Disputes	Social Security	Tax Suits	All Other		
								Motions to Vacate Sentence	Habeas Corpus	Civil Rights*	Mandamus and Other	Forfeitures					Penalties	
9TH	AK	38,934	9,066	1,742	241	720	2	527	1,465	199	49	104	460	138	1,376	999	1,046	
	AL	635	151	32	11	19	-	9	29	4	1	-	10	3	91	7	24	
	AZ	3,522	439	139	11	70	-	37	131	-	2	-	45	8	9	38	73	
	CA	5,960	1,149	303	15	97	-	99	101	23	10	6	38	26	159	30	233	
	CO	3,544	605	161	39	177	-	16	271	5	10	-	129	7	182	43	303	
	CT	2,520	3,322	179	15	167	-	10	373	123	10	6	161	52	482	650	303	
	GA	2,550	3,322	179	15	167	-	10	373	123	10	6	161	52	482	650	303	
	HI	1,840	244	87	17	25	-	163	183	163	10	21	74	9	72	47	69	
	ID	827	147	41	17	12	-	10	30	3	2	1	4	3	1	5	17	28
	IL	627	147	41	17	12	-	10	30	3	2	1	4	3	1	5	17	28
	MT	850	234	21	39	24	-	10	34	3	1	1	5	1	5	6	25	31
	ND	359	54	21	39	24	-	22	77	12	1	1	25	4	9	41	82	53
	OR	2,359	564	34	13	51	2	35	132	8	4	65	19	3	133	28	53	13
	WA	658	182	23	10	25	-	9	37	3	-	-	13	-	53	9	13	9
WY	2,922	509	30	10	61	-	39	89	3	3	-	25	13	121	39	77	7	
10TH	UT	82	37	9	1	1	-	2	14	1	1	1	2	2	5	1	1	
	GUAM	65	20	9	3	2	-	3	-	-	-	1	2	6	-	-	1	
	VI	352	75	3	-	-	-	5	24	-	-	-	-	-	-	-	-	
	PR	1,171	268	35	15	17	-	18	61	1	1	-	8	2	31	37	42	
	NC	1,392	322	75	3	-	-	5	24	-	-	-	-	-	4	-	-	
11TH	AK	31,808	7,467	1,613	167	253	4	334	2,054	349	106	45	345	53	1,496	110	359	
	AL	1,978	512	64	9	32	-	39	4	12	5	1	39	11	274	9	23	
	AR	1,871	271	54	3	12	-	16	52	2	-	-	19	1	104	1	5	
	CA	1,251	391	68	2	6	-	6	140	40	-	-	17	2	137	2	21	
	FL	1,621	555	63	63	20	1	13	201	45	12	-	16	2	89	5	11	
	GA	1,725	1,637	334	13	63	1	89	459	55	9	8	83	10	394	41	75	
	HI	7,351	2,385	816	39	69	2	82	770	177	35	13	84	17	95	40	149	
	IL	4,877	1,031	270	20	33	-	21	222	44	37	16	65	6	210	9	48	
	IN	1,576	366	88	1	12	-	15	83	-	-	-	19	2	123	2	10	
	IO	308	88	12	-	-	-	21	113	14	8	1	20	2	69	1	10	
	LA	1,248	318	88	1	15	-	15	83	-	-	-	19	2	123	2	10	
	MA	1,248	318	88	1	15	-	15	83	-	-	-	19	2	123	2	10	
	MD	1,248	318	88	1	15	-	15	83	-	-	-	19	2	123	2	10	
	ME	1,248	318	88	1	15	-	15	83	-	-	-	19	2	123	2	10	

Table C-3. (Continued)

Circuit and District	Private Cases																All Other
	Total Private Civil Cases	Contract	Real Property	FELA**	Marine Personal Injury	Motor Vehicle Personal Injury	Other Personal Injury	Other Tort Actions	Antitrust	Civil Rights	Habeas Corpus	Prisoner Petitions Civil Rights, Habeas Corpus, Mandamus and Other	Copyright Patent Trademark	Labor Suits			
9TH	29,868	4,504	225	113	877	253	1,803	448	116	6,326	3,613	4,385	68	1,955	2,435	2,747	
AK	484	88	11		44	5	74	7	4	48	88	38	1	1	28	37	
AZ	2,877	337	7	3	3	24	168	33	5	384	477	728	11	113	102	284	
CA.N	4,751	661	22	2	35	19	218	78	9	1,048	519	684	11	437	512	475	
CA.E	2,739	248	15	11	3	13	101	23	5	563	431	953	1	54	144	174	
CAC	7,737	1,513	77	48	29	33	414	113	38	1,087	1,285	497	5	910	848	844	
CAS	1,837	324	15	1	15	5	154	18	8	368	235	271	8	149	73	183	
HI	1,598	147	18		186	10	83	24	1	868	25	60		17	80	67	
ID	489	81	6	1	2	15	43	16	2	79	79	76		17	24	39	
MT	446	76	6			28	96	17	1	83	34	23		12	28	38	
NV	2,123	283	18		3	24	115	35	4	429	179	614	4	58	94	253	
OR	1,835	283	15	2	21	44	153	38	6	537	214	172	24	62	184	100	
WAE	488	84	4	6	1	11	56	5		56	67	102	1	11	26	26	
WAW	2,413	394	10	35	333	23	124	38	5	316	184	161	1	111	271	207	
GUAM	45	8			2		3	3		7	2	8		2		8	
NMI	39	7	1				1	2		13				1	11	3	
10TH	8,899	1,285	117	83	3	242	1,097	180	30	2,462	1,010	975	20	275	489	731	
CO	2,227	259	27	46		24	193	28	10	692	130	244	0	117	144	287	
KS	1,440	168	16	7		49	224	26	5	387	125	217	1	37	91	67	
MA	1,237	145	7	14	2	31	141	23	1	472	130	98		19	47	107	
OK.N	805	161	10			11	90	11	1	195	138	71	1	12	44	60	
OK.E	479	44	5	9		36	60	9	1	85	113	78		4	14	21	
OK.W	1,551	228	43			48	189	31	2	327	316	160	11	27	64	105	
UT	503	165	6	2	1	22	138	16	8	218	27	77	1	55	71	84	
WY	317	55	3	5		21	52	4	2	86	31	30		4	14	10	
11TH	24,441	3,444	188	73	111	355	4,304	868	68	5,747	2,454	3,387	45	627	1,159	1,320	
AL.N	4,466	477	79	8	1	48	1,716	208	2	850	173	489		19	210	136	
AL.M	1,690	383	3	2		48	109	167	5	368	138	280	1	5	54	89	
AL.S	650	193	11	2	28	14	98	68	3	181	51	115	1	4	29	54	
FL.N	1,085	112	4	3	6	10	70	13	23	200	206	320	2	8	32	46	
FL.M	5,488	778	18	7	23	44	765	51	10	1,340	897	718	20	158	253	403	
FL.S	4,976	980	14		50	32	422	98	18	1,316	428	450	8	267	350	535	
GA.N	3,846	380	9	3		110	514	229	7	1,684	322	581	11	147	177	282	
GA.M	1,210	68	10	2		43	456	10		268	142	202	2	12	18	37	
GA.S	520	92	10	46	5	37	173	16		162	97	201		7	38	58	

\* THIS CATEGORY INCLUDES PRISON CONDITION CASES

\*\* FELA = FEDERAL EMPLOYERS' LIABILITY ACT



## APPENDIX D



Table D.  
U.S. District Courts—Criminal Cases Commenced, Terminated, and Pending  
During the Twelve-Month Periods Ended September 30, 1996 and 1997

Circuit and District	Filings			Terminations			Pending		
	1996	1997	Percent Change	1996	1997	Percent Change	1996*	1997	Percent Change
<b>TOTAL</b>	47,598	50,303	5.2	45,498	46,887	3.1	32,155	35,932	10.8
<b>DC</b>	646	662	21.2	440	552	27.7	508	608	19.7
<b>1ST</b>									
ME	1,159	1,034	-10.8	1,140	1,024	-10.2	1,193	1,193	.8
MA	155	138	-11.0	134	154	14.9	88	72	-18.2
RI	384	352	-8.3	345	357	3.5	416	411	-1.2
NY	136	145	6.6	134	140	4.5	181	186	2.8
RI	95	99	3.1	104	104	-3.7	200	195	-2.5
PR	386	300	-22.7	419	209	-50.6	299	329	10.4
<b>2ND</b>									
CT	3,400	3,541	4.1	3,003	3,130	4.2	5,245	5,556	7.6
NY	229	222	-3.0	190	222	16.8	208	219	5.3
NY	494	501	1.4	459	451	-1.7	260	310	19.2
NY	1,103	1,108	.5	1,078	1,143	6.0	1,456	1,421	-2.4
NY	1,151	1,252	8.8	888	900	1.4	2,911	3,283	12.1
NY	322	362	12.4	289	323	11.4	308	347	12.7
VT	101	69	-31.7	89	91	2.2	104	102	-1.9
<b>3RD</b>									
DE	2,020	2,450	21.3	2,380	2,300	-3.4	1,530	2,099	37.2
MD	39	120	205.1	78	89	14.1	71	102	43.7
PA	636	622	-2.2	841	870	3.4	741	783	5.7
PA	825	838	1.6	597	594	0.5	576	622	7.9
PA	320	300	-6.3	328	282	-14.0	215	233	8.4
PA	258	254	-1.5	238	219	-7.6	157	162	3.2
VI	373	226	-39.4	288	219	-23.9	168	170	1.2
<b>4TH</b>									
MD	5,494	6,103	11.1	5,526	5,657	2.5	2,604	3,043	16.9
MD	488	548	12.3	457	489	7.0	439	527	20.0
MD	812	787	-3.1	766	759	-0.9	241	219	-9.1
MD	260	291	11.9	284	277	-2.5	188	162	-13.8
MD	311	354	13.8	392	318	-18.6	314	350	11.5
MD	548	648	18.4	560	640	14.3	448	457	2.0
MD	2,593	2,873	10.8	2,482	2,632	6.0	584	625	7.0
MD	230	285	23.9	252	240	-4.8	202	247	22.3
MD	107	132	23.4	124	128	3.2	97	91	-6.2
MD	205	207	1.0	211	194	-8.1	132	135	2.3

Table D. Cases (Continued)

Circuit and District	Filings			Terminations			Pending		
	1996	1997	Percent Change	1996	1997	Percent Change	1996*	1997	Percent Change
<b>5TH</b>									
LA.E	5,889	6,941	18.2	5,616	6,457	14.9	3,225	3,709	15.0
LA.M	295	276	-6.5	292	241	-17.5	168	205	22.0
LA.W	103	118	14.6	80	113	41.3	53	66	24.5
MS.N	313	289	-7.7	280	248	-12.1	198	251	26.8
MS.S	119	127	6.7	130	141	8.5	81	67	-17.3
TX.H	224	227	1.3	228	188	-17.5	122	161	32.0
TX.N	699	772	10.9	684	750	9.6	510	482	-5.5
TX.E	394	401	1.8	370	348	-6.2	218	271	24.3
TX.S	1,649	1,814	10.0	1,687	1,776	5.3	941	979	4.0
TX.W	2,693	2,905	7.9	1,904	2,614	37.3	924	1,215	31.5
<b>6TH</b>									
KY.E	3,294	3,232	-1.9	3,256	3,121	-4.1	2,276	2,439	7.2
KY.W	322	316	-1.9	300	309	3.0	201	210	4.5
MA.E	545	541	-0.7	514	579	12.7	271	234	-13.7
MA.W	673	623	-7.4	606	545	-10.1	584	682	16.8
MI.W	242	208	-14.0	224	231	3.1	123	123	0.0
OH.N	435	421	-3.2	456	445	-2.4	287	263	-8.4
OH.S	359	328	-8.6	341	322	-5.6	248	252	1.6
TN.E	271	265	-2.2	239	239	0.0	185	221	19.5
TN.M	152	168	10.5	128	149	16.4	123	130	5.7
TN.W	295	342	15.9	308	303	-1.6	305	344	12.8
<b>7TH</b>									
IL.N	1,666	1,829	9.8	1,742	1,568	-10.0	1,133	1,194	5.4
IL.S	499	473	-5.2	469	463	-1.3	453	453	0.0
IL.W	244	241	-1.2	251	246	-2.0	140	145	3.6
IN.N	195	173	-11.3	216	207	-4.2	145	111	-23.4
IN.S	189	219	15.9	235	175	-25.5	138	182	31.9
IN.W	230	193	-16.1	250	170	-31.6	88	111	26.1
WI.E	238	223	-6.3	221	216	-2.3	124	131	5.6
WI.W	71	107	50.7	90	71	-21.1	27	63	133.3
<b>8TH</b>									
AR.E	2,693	2,645	-1.8	2,571	2,468	-4.3	1,501	1,737	15.7
AR.W	293	242	-17.4	249	238	-4.4	174	176	1.2
IA.N	147	119	-19.0	142	125	-12.0	51	45	-11.8
IA.S	259	160	-38.2	248	155	-37.5	125	130	4.0
MN	161	160	-0.6	178	152	-14.6	104	112	7.7
MO.E	259	314	21.7	232	277	19.4	171	209	22.2
MO.W	409	454	10.9	433	434	0.2	210	270	28.6
NE	301	273	-9.3	291	291	0.0	119	238	99.1
NE.W	246	304	23.6	253	222	-12.3	154	236	53.2
ND	208	164	-21.2	193	153	-20.7	73	84	15.1
SD	401	415	3.5	303	362	19.5	185	236	28.0

Table D. Cases (Continued)

Circuit and District	Filings			Terminations			Pending		
	1998	1997	Percent Change	1998	1997	Percent Change	1998*	1997	Percent Change
<b>9TH</b>									
AK	12,071	12,584	4.2	11,325	11,853	4.7	8,881	7,912	10.6
AZ	138	180	30.4	149	125	-18.1	60	115	91.7
CA.N	1,085	2,028	20.4	1,505	1,385	30.0	823	888	7.7
CA.E	788	732	-8.3	789	718	-10.1	823	637	22.2
CA.S	803	840	8.9	743	766	3.1	599	742	30.6
CA.C	1,348	1,264	-6.2	1,168	1,018	-12.8	1,216	1,402	19.7
CA.S	2,608	3,312	27.0	2,665	3,337	25.2	888	981	10.5
HI	1,148	1,292	12.7	915	1,032	12.8	635	895	40.9
ID	114	104	-8.8	103	108	5.8	70	65	-7.1
MT	421	434	3.1	364	376	3.8	248	304	22.6
NV	343	285	-14.0	349	231	-33.5	274	288	5.1
OR	641	590	-8.0	604	624	3.3	351	347	-1.2
WA.E	491	503	2.4	330	318	-3.8	209	194	-7.2
WA.W	1,496	1,023	-32.3	1,495	1,030	-30.5	680	584	-16.1
GUAM	87	165	89.7	100	112	12.0	62	105	69.4
NIH	32	32	0.0	30	31	3.3	16	17	6.3
<b>10TH</b>									
CO	3,010	3,072	2.1	2,539	2,407	-4.8	1,855	2,130	14.2
KS	687	642	-6.5	480	472	-1.7	309	370	22.7
NM	289	349	20.8	301	302	0.3	202	249	23.3
OK.N	988	882	-10.6	757	879	16.1	749	852	13.6
OK.E	170	100	-41.2	169	165	-2.4	98	101	3.1
OK.W	60	67	11.7	60	70	16.7	35	32	-8.6
UT	485	487	0.4	493	440	-10.3	157	184	17.2
WY	320	377	17.9	257	389	51.4	253	271	7.0
	111	120	8.1	105	110	4.8	52	82	57.7
<b>11TH</b>									
AL.N	6,077	6,457	6.3	5,957	5,089	-14.4	3,753	4,221	12.5
AL.M	381	348	-8.7	385	323	-16.2	117	140	19.7
AL.S	183	231	26.2	169	195	15.4	139	175	25.9
FL.N	226	235	4.0	220	216	-1.8	224	223	-0.5
FL.M	276	295	6.9	256	264	3.1	189	220	16.4
FL.S	805	1,090	35.3	782	941	20.5	746	905	21.0
GA.N	1,540	1,371	-11.0	1,469	1,386	-5.9	1,884	1,700	-10.3
GA.S	787	880	11.8	795	795	0.0	339	424	25.1
GA.S	1,478	1,640	11.0	1,448	1,578	9.1	202	284	30.7
	331	301	-9.1	401	322	-19.7	131	170	29.8

NOTE: PERCENT CHANGE COMPUTED ON 100 MORE CASES PERIOD TOTALS EXCLUDE EACH CASE IN WHICH THE DEFENDANT HAS BEEN A FUGITIVE SINCE BEFORE APRIL 1, 1998. HOWEVER, NO CASE WITH A FUGITIVE DEFENDANT WAS INCLUDED UNLESS ALL DEFENDANTS IN THE CASE HAVE BEEN FUGITIVES SINCE BEFORE APRIL 1, 1998.

\*PENDING CASE TOTALS INCLUDE SOME CASES IN WHICH ALL DEFENDANTS HAVE BEEN FUGITIVES SINCE BEFORE APRIL 1, 1998.

Table D.  
U.S. District Courts—Criminal Defendants Commenced, Terminated, and Pending  
During the Twelve-Month Periods Ended September 30, 1996 and 1997

Circuit and District	Filings			Terminations			Pending		
	1996	1997	Percent Change	1996	1997	Percent Change	1996	1997	Percent Change
<b>TOTAL</b>	<b>67,700</b>	<b>70,201</b>	<b>3.7</b>	<b>52,316</b>	<b>65,515</b>	<b>4.1</b>	<b>50,098</b>	<b>54,784</b>	<b>9.4</b>
<b>DC</b>	697	607	17.5	553	710	28.4	654	751	14.0
<b>1ST</b>									
ME	1,050	1,015	-1.3	1,410	1,430	1.4	2,334	2,334	0.0
MA	179	160	-10.6	189	179	-5.3	113	94	-16.8
MA	895	853	-4.6	544	545	0.2	728	816	12.1
NH	215	211	-1.9	178	212	19.1	292	291	-0.3
RI	124	135	8.9	137	137	0.0	251	249	-0.8
PR	767	778	1.2	785	566	-27.9	874	884	1.2
<b>2ND</b>									
CT	5,188	5,321	2.5	4,558	4,792	5.1	8,410	8,839	5.1
NY/N	316	353	11.7	308	371	20.5	375	357	-4.8
NY/E	758	720	-5.0	617	685	11.0	527	582	10.4
NY/S	1,888	1,694	-10.3	1,697	1,231	-27.6	2,326	2,239	-3.8
NY/W	1,753	1,945	11.0	1,397	1,401	0.3	4,472	5,016	12.2
VT	441	495	12.2	417	497	19.2	563	551	-2.1
<b>3RD</b>									
DE	152	124	-18.4	122	127	4.1	147	144	-2.0
DE	3,459	3,434	-0.7	3,316	3,184	-3.7	2,819	3,049	8.2
MD	130	157	20.8	108	132	21.3	63	118	42.2
PA/E	1,212	1,183	-2.4	1,077	1,415	29.5	1,042	1,089	4.5
PA/M	873	1,012	15.8	1,019	840	-17.6	887	1,059	19.3
PA/W	424	402	-5.2	428	372	-13.1	295	329	11.5
VI	325	428	31.7	354	382	7.9	214	259	20.6
<b>4TH</b>									
MD	405	244	-39.8	332	233	-29.8	194	205	5.7
MD	7,526	6,339	-15.8	7,449	7,771	4.3	4,276	4,885	14.3
NCE	693	701	1.1	610	641	5.1	685	785	14.6
NCM	1,073	855	-20.3	1,050	1,035	-1.4	397	327	-17.6
NCW	387	417	7.8	442	382	-13.6	238	261	9.7
SC	630	759	20.5	753	634	-15.8	640	705	10.2
VA/E	1,044	1,124	7.7	993	1,146	15.6	857	833	-2.8
VA/W	2,836	3,240	14.2	2,683	2,981	11.4	778	1,055	35.7
VA/W	398	567	42.5	402	492	22.4	398	473	18.8
WV/N	211	209	-0.9	205	208	1.5	151	152	0.7
WV/S	264	316	19.3	302	270	-10.6	158	214	35.4

Table D. Defendants (Continued)

Circuit and District	Filings		Percent Change	Terminations		Percent Change	Pending		Percent Change
	1998	1997		1998	1997		1998*	1997	
<b>5TH</b>									
LA.E	8,935	10,056	12.5	8,588	9,530	11.0	5,247	5,773	10.0
LA.M	532	488	-8.0	481	483	-0.2	379	382	3.4
LA.W	112	128	14.3	85	110	29.2	65	75	15.4
MS.N	488	453	-7.2	359	381	6.4	340	420	20.7
MS.S	177	174	-1.7	163	201	23.2	115	88	-23.5
TX.N	351	383	9.0	369	273	-24.2	180	230	27.8
TX.E	1,215	1,288	5.9	1,299	1,299	0.0	656	843	27.8
TX.S	633	683	7.7	630	584	-7.3	358	435	22.2
TX.W	2,648	2,870	8.5	2,725	2,897	6.0	1,578	1,641	4.0
	2,801	3,683	30.3	2,533	3,384	33.6	1,370	1,649	20.4
<b>6TH</b>									
KY.E	4,884	4,912	-0.5	4,741	4,837	2.0	3,782	4,007	6.5
KY.W	430	393	-9.2	398	398	0.0	270	285	5.5
MO.E	865	949	9.6	823	716	-14.8	380	314	-17.4
MO.W	1,143	1,051	-8.0	1,031	925	-10.3	1,032	1,170	12.0
OH.N	400	370	-8.0	371	371	0.0	230	235	2.5
OH.S	717	682	-4.8	663	706	6.5	407	473	16.2
OH.W	538	459	-14.9	488	488	0.0	397	397	0.0
TN.E	411	535	29.2	507	388	-23.5	258	405	57.0
TN.W	227	282	24.2	177	223	25.4	178	214	20.2
TX.W	480	588	22.5	485	470	-3.1	510	540	5.9
<b>7TH</b>									
IL.N	2,562	2,409	-5.7	2,372	2,222	-6.3	1,739	1,948	12.5
IL.S	845	820	-3.0	720	719	-0.1	680	680	0.0
IL.W	317	291	-8.2	323	304	-6.2	181	181	0.0
IN.N	325	278	-14.2	308	317	2.9	225	187	-16.9
IN.S	259	312	20.5	345	219	-36.0	193	207	6.7
IN.W	275	288	4.0	335	245	-26.9	127	168	32.3
WI.E	378	235	-38.5	320	309	-3.4	188	162	-15.5
WI.W	183	156	-17.5	122	110	-10.7	45	91	102.2
<b>8TH</b>									
AR.E	3,779	3,737	-1.1	3,576	3,465	-3.1	2,222	2,493	12.2
AR.W	441	391	-11.3	350	390	11.4	284	285	0.4
IA.N	181	138	-23.8	171	143	-16.4	61	58	-5.2
IA.S	322	233	-27.6	300	224	-25.3	174	183	5.2
IA.W	254	241	-5.1	260	229	-11.9	162	174	7.4
MO.E	412	493	19.7	387	431	11.4	263	325	23.6
MO.W	533	678	25.9	616	593	-3.7	297	392	32.0
MO.W	647	443	-31.2	444	539	21.4	470	374	-20.4
NE	323	410	25.9	328	305	-7.0	214	319	49.1
NO	276	195	-29.0	259	189	-26.2	80	108	35.3
SD	484	514	6.2	463	430	-7.5	221	299	35.8

Table D. Defendants (Continued)

Circuit and District	Filing			Terminations			Pending		
	1998	1997	Percent Change	1998	1997	Percent Change	1998*	1997	Percent Change
9TH	15,646	15,684	1.6	14,004	14,615	5.8	9,738	10,817	11.1
AK	172	223	29.7	176	157	-10.8	79	145	83.5
AZ	2,239	2,579	15.7	1,832	2,470	27.8	1,199	1,307	9.0
CAN	1,216	1,008	-10.7	1,028	975	-5.2	1,071	1,182	10.4
CAN.E	1,231	1,244	0.2	778	1,066	8.2	864	884	2.2
CAN.C	1,970	1,695	-3.8	1,698	1,575	-7.2	1,978	2,108	17.0
CAN.S	3,228	3,910	21.2	3,173	3,912	23.3	1,324	1,322	-0.2
HI	1,228	1,392	13.4	881	1,122	14.4	713	893	37.8
ID	181	148	-18.2	148	155	4.7	111	104	-6.3
MT	590	609	3.1	400	538	8.4	378	448	18.1
NV	672	407	-39.4	530	478	-9.8	594	523	-12.0
OR	750	728	-2.9	717	725	1.1	474	477	.6
WALE	401	306	-23.7	335	316	-5.4	209	187	-5.7
WAW	1,314	1,032	-21.1	1,363	1,151	-15.6	759	640	-15.7
GUAM	128	193	57.1	119	139	16.8	68	127	86.8
RHI	40	39	-2.5	37	38	2.7	18	22	15.6
10TH	3,987	4,127	3.3	3,241	3,789	16.3	2,547	2,888	13.4
CO	816	788	-3.4	601	664	10.5	425	549	28.2
KS	427	500	17.1	394	442	12.2	286	344	20.3
NM	1,200	1,282	6.8	987	1,180	23.1	982	1,084	10.4
OK.N	244	248	1.6	235	231	-1.7	429	146	13.2
OK.E	82	117	42.7	89	102	14.6	42	57	35.7
OK.W	570	575	.9	469	538	14.5	222	259	16.7
UT	418	450	7.7	335	458	36.7	379	371	-2.1
WY	160	157	-1.9	133	181	36.1	82	78	-4.8
11TH	9,107	9,241	1.5	8,527	8,923	4.6	6,504	6,922	6.4
AL.N	596	514	-13.6	545	534	-2.0	242	222	-9.1
AL.M	305	316	3.6	260	317	21.5	224	223	-0.4
AL.S	469	463	-1.3	471	462	-2.0	380	401	5.5
FL.N	437	473	8.2	411	425	3.4	282	342	17.1
FL.M	1,472	1,670	13.5	1,332	1,510	13.3	1,284	1,418	12.2
FL.S	2,059	2,153	4.6	2,065	2,304	11.5	2,897	2,897	0.0
GA.N	1,148	1,250	8.9	1,108	1,152	4.0	611	709	16.0
GA.M	1,599	1,616	1.0	1,523	1,722	13.1	327	424	29.7
GAS	428	581	35.7	504	491	-2.6	216	285	32.4

NOTE: PERCENT CHANGE COMPUTED ON 19 OR MORE CASES. PENDING TOTALS EXCLUDE DEFENDANTS WHO HAVE BEEN FUGITIVES SINCE BEFORE APRIL 1, 1998.

\*REVISOR

\* PENDING DEFENDANT TOTALS INCLUDE SOME DEFENDANTS WHO HAVE BEEN FUGITIVES SINCE BEFORE APRIL 1, 1998.



**APPENDIX E**



Table C-4A.  
U.S. District Courts—Civil Cases Terminated, by District and Action Taken,  
During the Twelve-Month Period Ended September 30, 1997

Circuit and District	Total	No Court Action	Court Action					During or After Trial			Percent Reaching Trial
			Total	Before Pretrial	After Pretrial	Total	Nonjury	Jury			
TOTAL	248,338	38,545	210,791	182,812	20,620	7,359	2,802	4,557	3.0		
DC	2,778	728	2,050	1,801	72	77	36	41	2.8		
1ST	7,393	1,878	5,515	4,128	1,210	281	85	188	3.9		
ME	711	287	424	318	81	47	13	34	6.6		
MA	3,454	884	2,570	1,782	565	123	52	71	3.6		
NH	679	51	628	403	20	8	8	74	2.9		
RI	880	208	672	474	200	33	12	21	4.9		
PR	1,769	168	1,601	1,502	43	59	12	46	3.3		
2ND	23,225	6,397	17,828	15,918	3,229	681	200	481	2.9		
CT	2,875	1,842	1,033	801	19	113	29	84	3.9		
NY/N	1,689	213	1,476	1,366	308	82	21	81	4.2		
NY/E	6,183	1,302	4,881	3,789	941	151	52	89	2.4		
NY/S	10,228	1,953	8,275	6,469	1,828	278	83	185	2.7		
NY/W	1,529	30	1,499	1,332	128	39	16	24	2.6		
VT	441	57	384	381	6	18	.	18	4.1		
3RD	20,752	2,783	17,969	14,273	3,025	701	209	492	3.4		
DE	703	34	669	623	9	37	11	26	5.3		
NJ	6,520	703	5,817	5,438	2,214	165	80	85	2.5		
PA/E	8,080	825	7,255	6,351	520	284	65	219	3.5		
PA/M	2,078	90	1,988	1,807	88	83	18	65	4.0		
PA/W	2,959	807	2,152	1,854	175	123	33	90	4.2		
VI	412	184	228	200	9	9	2	7	2.2		
4TH	20,828	3,242	17,587	15,385	1,557	645	215	430	2.1		
MD	4,295	871	3,424	3,225	284	115	48	67	2.7		
NCE	1,501	284	1,217	1,188	12	29	9	20	1.9		
NC/M	1,088	188	920	787	149	14	4	10	1.3		
NC/W	1,035	213	822	787	60	25	5	20	2.3		
SC	3,993	824	3,078	2,258	918	205	57	148	5.3		
VA/E	4,291	432	3,859	3,405	288	148	62	86	3.5		
VA/W	1,822	559	1,263	1,075	118	70	22	48	3.8		
WV/W	778	46	732	711	7	14	.	14	1.8		
WV/S	2,078	85	2,011	1,873	13	25	8	17	1.2		

Table C-4A. (Continued)

Circuit and District	Total	No Court Action	Court Action				During or After Trial			Percent Reaching Trial
			Total	Before Pretrial	During or After Pretrial	Total	Total	Nonjury	Jury	
<b>5TH</b>										
LA.E	31,105	3,513	27,592	24,025	1,692	1,897	1,897	592	585	3.5
L.A.W.	3,724	103	3,621	2,427	584	190	190	13	53	5.1
LA.N	1,859	51	1,808	1,388	113	20	20	4	18	1.2
MS.N	2,850	440	2,350	2,173	113	104	104	42	62	3.7
MS.S	1,207	76	1,131	819	215	30	30	30	55	7.7
TX.N	2,355	937	1,388	1,362	34	92	92	40	52	4.0
TX.S	5,898	13	5,885	5,725	17	143	143	99	74	2.4
TX.E	3,927	496	3,491	3,060	287	164	164	73	89	4.2
TX.S	6,042	504	5,538	5,037	506	165	165	53	112	2.7
TX.W	3,493	953	2,540	2,364	50	128	128	44	82	3.6
<b>6TH</b>										
KY.E	26,509	3,391	24,608	20,866	3,145	674	674	192	302	2.0
KY.W	1,876	164	1,712	1,569	100	49	49	13	33	2.5
KY.W	1,524	143	1,381	1,052	284	45	45	6	39	3.0
MI.E	5,605	2,002	3,603	2,698	1,415	90	90	26	64	1.8
MI.W	1,729	119	1,611	1,547	23	41	41	19	23	2.4
OH.N	6,917	555	6,381	6,709	569	84	84	52	32	0.8
OH.S	2,709	249	2,460	1,972	439	49	49	16	33	1.8
TNE	1,634	385	1,549	1,154	289	107	107	29	78	5.5
TNE	1,627	87	1,540	1,462	26	52	52	15	37	3.2
TN.W	1,588	197	1,391	1,329	2	60	60	17	43	3.8
<b>7TH</b>										
IL.N	16,903	3,120	15,783	13,189	2,005	505	505	193	312	2.7
IL.C	8,920	1,884	7,245	6,132	916	197	197	86	111	2.2
IL.C	1,353	204	1,183	1,124	18	47	47	13	34	3.4
IL.S	1,523	93	1,430	1,337	32	61	61	20	41	4.0
IN.N	1,915	98	1,919	1,080	679	60	60	28	34	3.1
IN.S	2,849	486	2,353	2,109	204	40	40	12	28	1.4
WLE	1,438	437	1,001	931	11	59	59	25	34	4.1
W.W	856	110	746	470	235	41	41	11	30	4.8
<b>8TH</b>										
AR.E	16,228	2,516	13,713	11,591	1,203	929	929	448	481	5.7
AR.W	2,429	319	2,050	1,900	7	237	237	159	78	9.8
IA.N	941	14	927	786	4	130	130	78	52	13.8
IA.S	781	37	744	698	4	74	74	49	25	9.5
MO.E	1,187	91	1,096	784	253	79	79	47	32	6.7
MO.E	2,683	580	2,497	1,691	784	72	72	17	55	2.3
MO.W	2,104	582	2,454	2,334	16	142	142	36	106	4.6
MO.W	2,726	506	2,220	2,148	2	69	69	11	58	2.5
NE	1,174	139	1,035	956	95	81	81	40	41	6.8
ND	336	104	232	169	27	16	16	4	12	4.3
SD	468	98	370	310	31	29	29	8	21	6.2

Table C-4A. (Continued)

Circuit and District	Total	No Court Action	Court Action					During or After Trial			Percent Reaching Trial
			Total	Before Pretrial	During or After Pretrial	Total	Nonjury	Jury			
9TH											
AK	36,631	7,707	28,924	27,776	475	673	300	373	1.8		
AZ	595	50	545	529	8	8	6	2	1.3		
CAN	5,878	543	2,829	2,738	30	83	25	38	1.8		
CAE	3,133	754	2,379	2,322	12	103	46	57	1.8		
CAC	10,022	2,657	7,465	7,243	68	159	84	72	1.6		
CAS	2,877	68	2,809	2,588	8	33	19	14	1.2		
HI	1,287	814	483	471	-	12	8	4	0.9		
ID	581	35	548	414	109	23	6	17	4.0		
MT	771	160	611	437	130	14	9	5	1.8		
NV	2,103	257	1,846	1,754	47	45	21	24	2.1		
OR	2,402	262	2,140	2,058	10	72	14	58	3.0		
WAE	782	64	718	701	7	10	9	1	1.3		
WAW	2,870	117	2,753	2,640	27	77	37	40	2.7		
GUAM	93	8	85	83	-	2	1	1	2.2		
NMI	55	17	38	19	17	2	-	2	3.6		
10TH											
CO	12,912	1,259	11,653	9,659	1,544	450	96	354	3.5		
KS	2,033	350	1,643	1,414	157	72	18	78	3.7		
NM	1,977	169	1,808	1,489	252	57	13	54	3.5		
OKN	1,162	80	1,072	1,000	30	42	8	44	2.8		
OKE	742	154	588	495	65	28	2	34	3.6		
OKW	2,184	219	1,965	1,228	645	92	7	85	3.6		
UT	1,335	22	1,313	1,289	7	20	7	13	4.2		
WY	423	140	277	92	159	28	6	20	1.5		
11TH											
ALN	39,170	2,735	27,435	25,315	1,374	746	310	430	6.1		
ALM	6,030	1,008	5,022	4,757	153	107	86	21	2.6		
ALS	1,831	31	1,800	1,624	93	78	39	39	1.8		
FLN	1,680	113	1,567	1,077	17	23	8	15	4.3		
FLM	6,394	354	6,010	5,691	147	172	51	22	1.9		
FLS	6,277	307	5,970	5,894	7	89	31	39	2.1		
GANN	4,236	476	3,760	2,729	688	149	53	67	2.7		
GAH	1,274	201	1,073	1,018	8	47	16	31	1.1		
GAJ	1,234	118	1,116	939	47	70	14	56	3.4		
NOTE: LAND CONDEMNATION CASES OMITTED											

NOTE: LAND CONDEMNATION CASES OMITTED



**APPENDIX F**





Table D-3.  
U.S. District Courts—Criminal Cases Commenced, by Offense and District (Excludes Transfers),  
During the Twelve-Month Period Ended September 30, 1997

Circuit and District	Total	General Offenses							Weapons and Firearms
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	
<b>TOTAL</b>	<b>49,655</b>	<b>348</b>	<b>1,453</b>	<b>527</b>	<b>70</b>	<b>5,209</b>	<b>1,172</b>	<b>7,874</b>	<b>3,184</b>
<b>DC</b>	<b>682</b>	<b>2</b>	<b>6</b>	<b>4</b>	<b>•</b>	<b>55</b>	<b>14</b>	<b>139</b>	<b>114</b>
<b>1ST</b>									
ME	1,001	6	17	14	•	54	25	161	63
MA	137	•	1	2	•	5	5	19	33
MA	347	2	12	7	•	30	12	80	25
NH	143	•	1	2	•	7	•	23	7
RI	99	•	•	1	•	6	2	17	10
PR	275	4	3	2	•	6	6	34	11
<b>2ND</b>									
CT	3,464	8	50	29	•	160	87	984	219
CT	222	1	5	•	•	8	9	64	33
NH	499	•	5	8	•	24	15	120	14
NH	1,093	6	11	6	•	37	13	260	53
NH	1,232	1	9	13	•	53	38	418	81
NH	357	•	19	2	•	35	10	103	20
VT	89	•	2	•	•	3	2	18	13
<b>3RD</b>									
DE	2,417	23	69	24	1	255	89	598	163
DE	120	•	3	2	•	15	5	37	17
NJ	911	2	25	4	•	149	27	227	43
PAE	620	2	17	7	•	40	32	162	70
PAM	292	2	11	7	•	29	9	76	18
PAW	242	•	8	1	1	15	15	76	12
VI	225	17	2	3	•	7	1	19	9
<b>4TH</b>									
MD	6,044	36	159	79	9	609	115	725	494
MD	540	2	41	9	•	44	13	80	109
NCE	753	3	15	13	5	108	8	52	23
NCE	283	2	42	1	•	11	11	46	25
NCW	350	4	19	5	•	20	15	61	29
SC	631	1	25	•	2	38	31	167	58
VAE	2,669	23	6	40	1	334	23	204	167
VAW	281	1	4	6	•	17	7	59	36
WVN	132	•	2	1	•	5	1	19	17
WVS	205	•	2	4	1	6	0	31	31

Table D-3. Cases (Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws*	Other
TOTAL	1,155	13,556	4,974	537	2,520	6,577	267	165	1,726
DC	84	185	.	3	18	10	.	6	19
1ST									
ME	19	355	4	11	60	91	9	8	81
NH	.	50	.	5	9	4	.	.	7
MA	9	81	1	5	16	27	1	8	23
RI	4	72	.	.	19	2	.	.	6
PR	.	37	.	.	5	16	.	.	5
	5	115	3	1	11	32	2	.	40
2ND									
CT	75	1,014	67	31	248	317	1	30	164
NY,N	2	47	.	1	16	10	.	.	21
NY,E	6	83	65	3	20	116	1	2	14
NY,S	29	471	.	6	75	53	.	5	84
NY,W	30	282	2	18	110	117	.	21	39
VT	4	103	.	1	22	18	.	2	21
	4	28	.	2	5	5	.	.	5
3RD									
DE	62	941	3	27	138	174	8	15	125
NJ	6	22	.	.	4	4	1	.	4
PA,E	25	278	.	8	51	11	4	6	51
PAM	18	162	2	8	46	24	2	3	31
PA,W	5	79	1	8	17	6	1	3	18
VI	6	69	.	3	12	1	.	3	18
	.	31	.	.	8	128	.	.	3
4TH									
MD	132	1,585	1,318	59	359	80	40	11	237
NCE	13	89	51	2	30	14	5	.	29
NCM	7	177	214	4	39	2	19	.	40
NCW	14	84	.	7	14	4	.	3	7
SC	16	128	3	8	31	1	1	.	9
VA,E	41	221	7	9	18	2	2	2	9
VA,W	23	618	1,040	15	201	31	10	3	125
WA,N	12	104	2	2	11	6	3	1	13
WV,N	.	64	.	2	7	.	.	2	15
WV,S	6	90	1	9	9	.	.	.	9

Table D-3. Cases (Continued)

Circuit and District	Total	General Offenses							Weapons and Firearms
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	
5TH	8,840	0	108	42	4	347	105	1,382	319
LAE	271	0	12	3	0	21	10	53	26
LAM	116	1	0	0	0	9	9	47	9
LAW	284	0	1	2	1	85	15	45	14
MSN	128	0	3	1	0	3	3	22	11
MSJ	221	1	9	2	1	31	12	45	11
TAN	748	2	20	5	1	74	21	185	76
TXE	393	1	7	3	0	15	2	50	54
TXS	1,785	2	15	17	0	14	14	185	51
TXW	2,889	1	24	9	1	115	19	640	87
6TH	3,184	9	160	20	5	309	180	579	310
KYE	311	0	11	1	2	9	15	82	19
KYW	532	1	11	3	0	245	14	35	25
MIE	612	0	35	5	1	22	38	103	101
MILW	203	3	9	3	0	9	19	50	24
OHN	418	0	32	1	0	25	50	129	38
CHS	321	0	6	1	0	48	18	64	15
TSE	234	2	20	1	1	14	9	32	30
TRM	154	2	17	3	0	11	6	22	18
TRW	339	1	19	2	1	16	13	52	42
7TH	1,699	1	84	13	1	85	60	374	178
ILN	470	0	45	3	0	27	37	163	30
ILC	238	0	9	2	0	4	7	17	23
ILS	171	0	4	0	0	4	4	15	18
INN	219	0	6	1	0	12	9	68	39
INS	189	0	2	2	0	8	5	43	28
WJE	220	0	15	4	0	27	9	54	31
WIW	107	1	3	1	1	6	9	24	9
8TH	2,614	60	98	63	22	103	88	444	233
ARE	239	0	5	0	1	6	9	55	39
ARW	111	2	5	2	2	5	6	22	7
IAS	169	0	4	1	0	2	3	20	25
IN	159	0	7	1	0	4	4	19	21
INN	308	6	29	3	1	6	10	60	31
MOE	483	1	19	4	0	16	14	100	82
MDW	270	2	7	1	0	17	12	63	33
NE	301	1	10	4	0	23	6	32	16
ND	153	13	4	14	1	6	3	23	19
SD	413	35	6	34	17	19	14	43	19