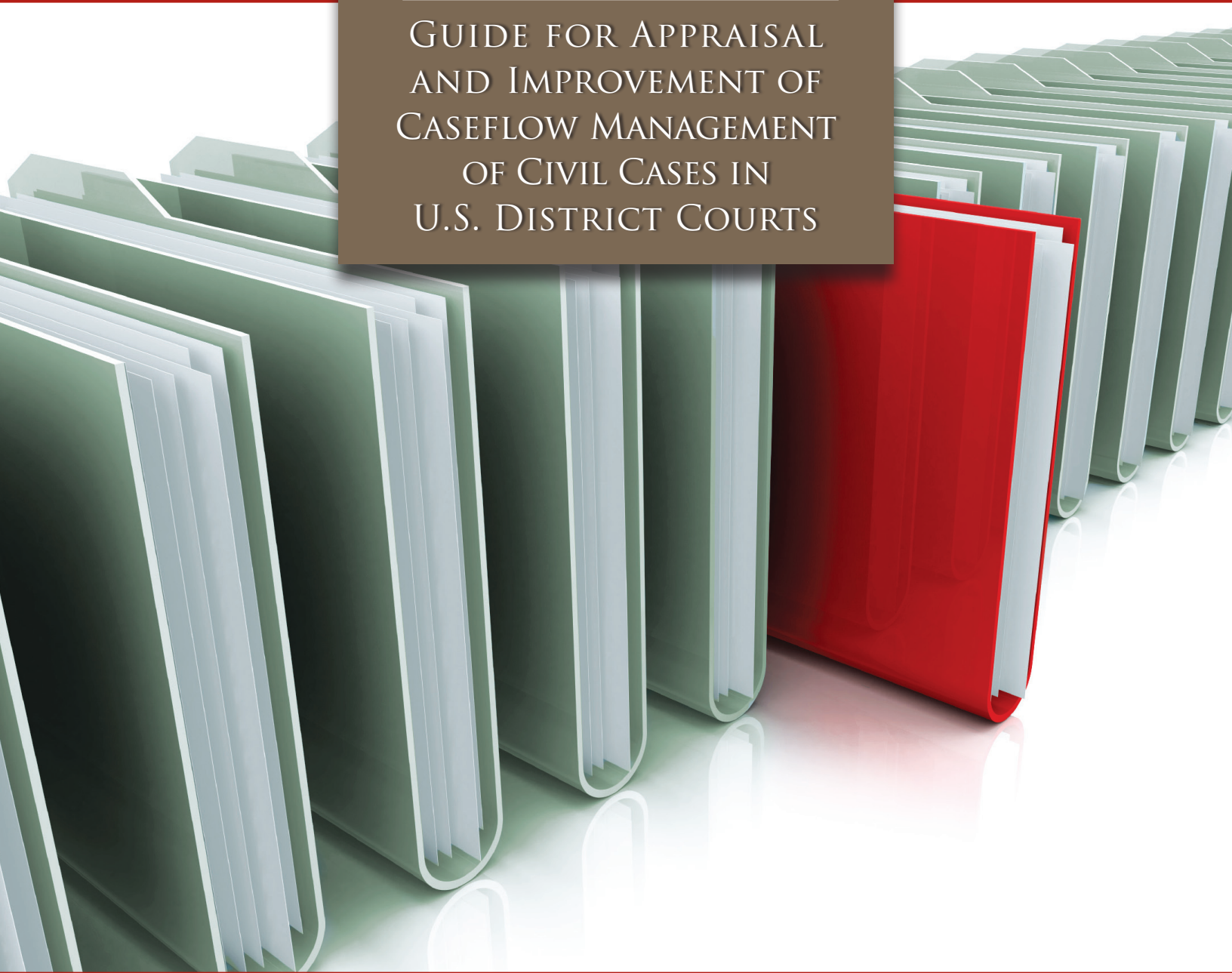


A ROADMAP FOR REVIEW:

GUIDE FOR APPRAISAL
AND IMPROVEMENT OF
CASEFLOW MANAGEMENT
OF CIVIL CASES IN
U.S. DISTRICT COURTS



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INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



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IAALS, the Institute for the Advancement of the American Legal System, is a national independent research center at the University of Denver dedicated to continuous improvement of the process and culture of the civil justice system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable civil justice system.

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Rule One is an initiative of IAALS dedicated to advancing empirically informed models to promote greater accessibility, efficiency, and accountability in the civil justice system. Through comprehensive analysis of existing practices and the collaborative development of recommended models, *Rule One Initiative* empowers, encourages, and enables continuous improvement in the civil justice process.

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PREFACE

IAALS, the Institute for the Advancement of the American Legal System, produces this Guide as part of its ongoing commitment and efforts to provide research, recommendations, and tools to promote the just, speedy, and inexpensive determination of civil actions. The Guide builds on two prior IAALS publications: *A Roadmap for Reform—Civil Caseflow Management Guidelines* and *Civil Case Processing in the Federal District Courts—A 21st Century Analysis*.

IAALS developed the protocols and methodologies in this Guide following an in-depth analysis of a federal judge's civil docket. The judge and the court provided IAALS with complete access to staff and records. The lessons learned from this study are ones we share to encourage others to improve the administration of the civil justice system in the federal courts. It is our hope that chief judges, judges, court administrators, and those interested in improving the delivery of justice in civil cases will use this Guide as a tool to achieve this result.

The Guide provides any interested judge with tools to make a quick, initial assessment of the status of his or her civil case docket to measure how it compares to his or her colleagues, as well as to courts across the nation. If further analysis and appraisal are deemed appropriate or desirable, this Guide provides the user with the tools to do so. It also provides recommendations for better practices based on the IAALS Civil Caseflow Management Guidelines and data from studies to date.

This Guide is prepared for those who wish to fulfill the promise of Rule One of the Federal Rules of Civil Procedure and hold themselves accountable in pursuit of caseflow management excellence.

I. CASEFLOW MANAGEMENT DEFINED

Caseflow management is central to the court's mission. The term caseflow management denotes management of the continuum of processes and resources necessary to move a case from the point of initiation through disposition. It is focused on the active attention by the court to the progress of each case once it has been filed with the court.

Effective caseflow management involves much more than reducing time to disposition; it involves timeliness throughout the life of the case. Maureen Solomon defines caseflow management as “management of the continuum of process and resources necessary to move a case from filing to disposition, whether that disposition is by settlement, quality plea, dismissal, trial or other method.”¹

According to Maureen Solomon and Douglas Somerlot:

In a sense, the term “caseflow” may be misleading in connection with the movement of cases through the court. Cases do not flow steadily and smoothly from filing to termination. In terms of court involvement, the life of a case, in reality, may be characterized as a series of events separated by times during which there is no court activity. A goal of active case management is to make the sequence and timing of these events more predictable and timely.²

Another goal of caseflow management is to ensure that each event is meaningful, in that “the activity and preparation required for the event to take place on the scheduled date is completed before that date by all involved stakeholders.”³ A corollary goal is to ensure that effort is not duplicated. When the parties, counsel, and the court prepare for an event, that event should occur. Otherwise, the preparation will have to be repeated. Additionally, the event itself should advance the resolution of the case in some way.

II. COMMON ELEMENTS OF CASEFLOW MANAGEMENT

National research on the pace of criminal and civil litigation in American trial jurisdictions has shown that there is no single way to reduce or avoid delay, and that successful jurisdictions have used different techniques to achieve success. Despite this variety of techniques, there are common elements that can be found wherever courts and court-related agencies have had success in their efforts to prevent and reduce delays. Of these essential elements, there are four that stand out:

- 1) Exercising effective leadership;
- 2) Developing and meeting appropriate time expectations;

¹ AMERICAN BAR ASSOCIATION TASK FORCE ON REDUCTION OF LITIGATION COST AND DELAY, *DEFEATING DELAY: DEVELOPING AND IMPLEMENTING A COURT DELAY REDUCTION PROGRAM* 24 (1986) (citing MAUREEN SOLOMON, *CASEFLOW MANAGEMENT IN THE TRIAL COURTS* 1 (1973)) [hereinafter *Defeating Delay*].

² MAUREEN SOLOMON & DOUGLAS SOMERLOT, *CASEFLOW MANAGEMENT IN THE TRIAL COURT: NOW AND FOR THE FUTURE* (1987).

³ Giuseppe M. Fazari, *Caseflow Management, A Review of the Literature*, 24 CT MANAGER 48, 49 (2009).

- 3) Exercising early and continuous court control of case progress; and
- 4) Providing firm and credible trial dates.

III. GENERAL RULES OF THE ROAD

- **Judicial leadership—you need a champion.** A judge, judges, or the entire bench must have a sincere interest in objectively looking at their data to compare how they are doing vis-à-vis others on their bench and other courts similarly situated, and a desire to then act upon those findings. At least one judge must be committed to the project and willing to lead. Absent judicial leadership there is no reason to embark on an appraisal program. While many may express interest, a judicial officer must lead the way, push the process, and hold himself or herself and others accountable. A court administrator or other interested party can strongly encourage a judge, judges, or a court to embark upon an appraisal, but you need at least one judge to say “let’s do it.”
- **You must commit time and resources to the process.** While any appraisal process will take the time and effort of judges and staff, the process outlined in this Guide is designed to give a judge, judges, or courts the ability to take a quick look at how they are doing, and if they deem it appropriate, to take the necessary steps for a more detailed analysis, primarily using reports that exist or can fairly easily be developed within the Case Management/Electronic Case Filing (CM/ECF) system. Furthermore, in these times where we are asked to do more with less, it is even more important to critically evaluate our present practices to find more effective ways to improve the delivery of justice.
- **You must be willing to be more transparent.** Whether this appraisal involves one judge or more, inherent in this process is that judge-specific data must be collected, evaluated, and shared. This has the potential for some exposure and potential embarrassment, but it is a small price to pay for the ability to objectively analyze areas of strength and weakness in one’s caseload management process as a precondition to improvement.
- **You must be prepared to give change a chance.** If the data shows areas in need of improvement, you must be prepared to make changes and give them enough time to allow you to measure their impact. There is no best practice. There are better practices. Experimentation should be encouraged.
- **Willingness to admit and commit.** The data will show the results of the current caseload management process. It is what it is. While there will always be additional factors that impact those results, leadership must be willing to say “we have some areas where we can improve the delivery of justice and let us resolve to try to do better.”
- **Understanding that perfect is the enemy of very good and better.** While careful analysis and consideration of options is necessary, this process need not go on for an inordinate amount of time. Make informed decisions, implement them, and then measure outcomes.
- **Very good data is good enough.** You will never have enough or perfect data. This is the way it is. Get as much good data as you can given limitations on time and resources.
- **Judicial staff and clerk’s office support, commitment, and accountability.** Although staff will be responsive to a judge’s request, it is essential that you get staff buy-in. Experience has shown that support staff members are usually excited to get involved in projects to improve case management statistics. They

just need to know that there is judicial leadership and commitment to change. Furthermore, whether the program involves one judge or more, each judge must be willing to hold themselves and all other players in the process accountable.

- **Listening, and listening some more.** No judge or court is an island. A key element of a successful appraisal program is listening. We need to hear candid opinions from internal and external stakeholders on the present process, what changes they would like to see implemented, and why. In these economic times, this cannot be an exhaustive process, but one necessary to the program's success.
- **Communicate, and then communicate some more.** All players need to know about the whys, whens, and hows of any program. They need to be informed and then kept in the loop.
- **Goals.** While the Judicial Conference of the United States Courts has yet to establish goals for the processing of civil cases, others have, including some federal district courts. They should be SMART goals:

Specific
Measurable
Attainable
Realistic
Timely

- **Collect, evaluate, consider, decide, embark, and evaluate.**
 - 1) Collect data;
 - 2) Evaluate the data;
 - 3) Consider your options/better practices;
 - 4) Decide which one/ones to try;
 - 5) Embark—start using them; and
 - 6) Evaluate—continuously measure outcomes; modify as appropriate.
- **Backwards and Forwards.** Any program to improve caseflow management must recognize that it has to address reduction of backlogs while implementing new processes on cases entering the system. The ability to burn the candle at both ends is essential.

A. RESOURCES

- INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM, CIVIL CASE PROCESSING IN THE FEDERAL DISTRICT COURTS: A 21ST CENTURY ANALYSIS (2009), *available at* <http://iaals.du.edu/library/publications/civil-case-processing-in-the-federal-district-courts>.
- INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM, A ROADMAP FOR REFORM: CIVIL CASEFLOW MANAGEMENT GUIDELINES (2009), *available at* <http://iaals.du.edu/library/publications/a-roadmap-for-reform-civil-caseflow-management-guidelines>. *See also* Attachment A.
- THE JUDICIAL CONFERENCE OF THE UNITED STATES COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT, CIVIL LITIGATION MANAGEMENT MANUAL (2010), *available at* [http://www.fjc.gov/public/pdf.nsf/lookup/CivLit2D.pdf/\\$file/CivLit2D.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/CivLit2D.pdf/$file/CivLit2D.pdf).

- DAVID C. STEELMAN, NATIONAL CENTER FOR STATE COURTS, IMPROVING CASEFLOW MANAGEMENT: A BRIEF GUIDE (2008), available at <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1022>.

IV. HERE'S HOW! GETTING STARTED

A. THE QUICK LOOK ANALYSIS

Before embarking on a full-blown caseflow management appraisal, it is best to take a *quick look* at the data available to decide whether a more detailed appraisal is warranted. Below is a listing of what data needs to be collected as part of this *Quick Look Analysis*.

First, review this essential data:

- 1) **Federal Court Management Statistics** for your district.⁴

Even better, contact the Office of Human Resources and Statistics⁵ and ask them to run a copy of the most current Federal Court Management Statistics for each judge in your district. Yes, they can do this! Unfortunately, individual courts do not have the ability to do so.

See Sample Federal Court Management Statistics, included as Attachment B.

- 2) **Clearance rate by year** or the number of outgoing (disposed) cases as a percentage of incoming (filed) cases.

Data to be used in this calculation can be found in the Federal Judicial Caseload Statistics.⁶ Refer to the data on your district.

Your court may already have reports generating this data. If not, you may wish to contact your IT Department about creating a report showing the clearance rate for each individual judge and the entire court.

See U.S. District Courts—Civil Cases Commenced, Terminated, and Pending During the 12-Month Period Ending December 31, 2011, included as Attachment C.

- 3) **Age of active pending caseload.** This report provides a breakdown of the number and percentage of cases pending in six month periods of time since the date of filing. This report provides greater detail and complements the report showing civil cases over three years old. See the Federal Court Management

⁴ *Federal Court Management Statistics*, UNITED STATES COURTS, <http://www.uscourts.gov/Statistics/FederalCourtManagementStatistics.aspx>.

⁵ One Columbus Circle NE, Washington, DC 20544; phone (202) 502–2600.

⁶ *Caseload Statistics 2011, U.S. District Courts—Civil, Table C-1, Civil Cases Commenced, Terminated, and Pending*, UNITED STATES COURTS, <http://www.uscourts.gov/Statistics/FederalJudicialCaseloadStatistics/FederalJudicialCaseloadStatistics2011.aspx>.

Statistics⁷ as well as the Civil Justice Reform Act report.⁸

See Sample Federal Court Management Statistics, included as Attachment D.

The report will show all civil cases pending in six-month increments indicating the number of cases in each increment based on the number of days pending and the percentage of the cases in each increment based on the total pending caseload.

Days pending	Number of cases	Percentage of pending caseload
1-183		
184-365		
365-548		
549-730		
730-913		
913-1095		
1095-1459		
1460 and older		

Your IT Department should be able to create this report from your CM/ECF system.

Review this additional data if possible:

- 1) **Trial date certainty.** This is a court's ability to hold firm to a trial date. Trial date certainty is closely associated with timely case disposition. This measure provides a tool to evaluate the effectiveness of calendaring and continuance practices. For this measure, "trials" includes jury trials, bench trials (also known as non-jury trials or court trials), and adjudicatory hearings in juvenile cases. This measure can be ascertained by printing a report of all civil cases tried in a recent twelve-month period of time, then reviewing the docket sheets of these cases to see if the cases were tried on the date on which they were initially set. Then, query via Deadlines and Hearings to determine if the initial date was continued. This can be done for the entire court or by individual judge for the twelve-month period of time. It may be possible for your IT Department to create a report showing all cases that went to trial, the initial date the case was scheduled for trial, and the date on which the trial commenced.⁹

- 2) **Time between events.** These reports allow a judge to ascertain the time between events. Examples include:
 - The time between the filing of the complaint and service;
 - The time between service and the filing of a responsive pleading;
 - The time between filing and the Rule 16 scheduling conference; and

⁷ *Federal Court Management Statistics*, *supra* note 4.

⁸ *Civil Justice Reform Act Report*, UNITED STATES COURTS,
<http://www.uscourts.gov/Statistics/civilJusticeReformActReport.aspx>.

⁹ For example, see Table 25 of IAALS's *Civil Case Processing in the Federal District Courts: A 21st Century Analysis*, available at <http://iaals.du.edu/library/publications/civil-case-processing-in-the-federal-district-courts>.

- The time between the filing of a motion for summary judgment and ruling.

Your IT Department may be able to create reports from your CM/ECF system. The data should be collected from either all cases closed within a twelve-month period of time, or another statistically valid sample range.¹⁰

- 3) **Motions for extension of time and continuances.** These reports should set forth the rate of filing and percentage of these motions granted to assist the judge in ascertaining whether a culture of continuance exists.¹¹

Your IT Department may be able to create reports from your CM/ECF system. The data should be collected from either all cases closed within a twelve-month period of time, or a statistically valid sample.

- 4) **Age of cases when cases terminated.** This data is found in the Federal Judicial Caseload Statistics—Table C from the U.S. District Courts—Civil Cases Commenced, Terminated, and Pending.¹²

Your IT department can generate this report. The report should show all civil cases pending in six-month increments from date of filing to date of termination. It should be run for all cases terminated in the last twelve months:

Days pending	Number of cases	Percentages of termination
1-183		
184-365		
365- 548		
549-730		
730-913		
913-1095		
1095-1459		
1460 and older		

B. TRIGGERS FOR ACTION

Once you have the data, see if any of the results trigger the need for further analysis. If you are able to acquire this report by individual judge, you should determine if any of the results trigger the need for further analysis of an individual judge’s case management processes. Use the following benchmarks for comparison:

¹⁰ See INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM, CIVIL CASE PROCESSING IN THE FEDERAL DISTRICT COURTS: A 21ST CENTURY ANALYSIS, Tables 7, 8, 9, 11, 20, 28, 29, and 32 (2009) [hereinafter CIVIL CASE PROCESSING IN THE FEDERAL DISTRICT COURTS], available at <http://iaals.du.edu/library/publications/civil-case-processing-in-the-federal-district-courts>.

¹¹ See *id.* at Tables 15, 16, 17, 18, and 19.

¹² *Statistical Tables December 2011*, UNITED STATES COURTS, <http://www.uscourts.gov/Statistics/StatisticalTablesForTheFederalJudiciary/December-2011.aspx>.

- 1) Your district's federal court management statistics¹³ show that:
 - Your district's filing to disposition average in civil cases is above the national average or has been trending longer for the past three years. As of December 31, 2011, the national average is 7 months.
 - Your district's filing to trial average in civil cases is above the national average. As of December 31, 2011, the national average is 25 months.
 - Your district's percentage of civil cases over three years old is above the national average or has been trending upwards for the past three years. As of December 31, 2011, the national average is 14.0%.
- 2) Your district's clearance rate by year is less than 100%. This is an indication that more civil cases are being filed than disposed of during each year.
- 3) Your district's age of active pending caseload—more than 30% of the active pending caseload is older than your most recent filings time to disposition time period as found in the Federal Court Management Statistics.
- 4) Trial date certainty—if more than 70% of civil cases are tried on the date they were initially scheduled, your trial date certainty is excellent. Below 45% is cause for further analysis.
- 5) Time between events—if you have gathered this data you should compare your results with those of the courts in IAALS's *Civil Case Processing in the Federal District Courts: A 21st Century Analysis*.¹⁴ For examples, see Tables 7, 8, 9, 11, 20, 28, 29, and 32. If any of your time between events is slower than the three fastest courts in each of these tables, this is cause for further analysis.
- 6) Motions for extension of time and continuances—if you have gathered this data you should compare your results with those of the courts in IAALS's *Civil Case Processing in the Federal District Courts: A 21st Century Analysis*.¹⁵ For examples, see Tables 15, 16, 17, 18 and 19. Consider further analysis if the percentage of motions filed is higher than the three courts in each of these tables with the lowest filing percentages for the various types of motions to continue or extend.
- 7) Age of Terminated Caseload—if more than 30% of the cases were terminated after 548 days, consider further analysis.

C. PLANNING FOR THE APPRAISAL

Preparation and planning should include:

- 1) Initial discussions based on the *Quick Look Analysis* as to the scope of the appraisal. The data may or may not highlight specific area(s) that warrant further study. You may decide to make the appraisal a staged effort focusing on one or two areas for further appraisal. For the selected areas, prepare a report and

¹³ The federal court management statistics and information on the national average may be found at <http://www.uscourts.gov/Statistics/FederalCourtManagementStatistics/DistrictCourtsDec2011.aspx>.

¹⁴ CIVIL CASE PROCESSING IN THE FEDERAL DISTRICT COURTS, *supra* note 10.

¹⁵ *Id.*

recommendations and implement those recommendations before deciding if further appraisal is warranted in other areas.

- 2) Set measurable goals for the appraisal.
- 3) Select a project coordinator and/or team members.
- 4) Hold an orientation meeting with the team, if you plan to use the team approach. Prior to the meeting, ask team members to review the following resources:

- *A Roadmap for Reform: Civil Caseflow Management Guidelines*¹⁶;
- *Civil Case Processing in the Federal Courts: A 21st Century Analysis*¹⁷; and
- *Civil Litigation Management Manual*.¹⁸

D. WRITTEN INFORMATION TO COLLECT

- Civil Justice Reform Act Plan.
- Court's Local Rules.
- Any general orders dealing with civil case management including the process for assignment of cases and utilization of magistrate judges.
- Copies of all standard orders used by the judge for the setting of conferences, trials, the preparation of orders, etc.
- Any special instructions used by the judge.

E. CONDUCT INTERVIEWS

The Project Coordinator should interview:

- The judge.
- The judge's judicial assistant.
- The judge's law clerks.
- The courtroom deputy.
- The case manager.
- The court reporter/recorder.
- An IT staff member who deals with CM/ECF matters.
- At least one magistrate judge.
- The clerk.
- The chief deputy clerk and/or operation manager and/or divisional office manager.
- Anyone else identified by the court as having a role in the management, movement or record keeping for civil cases.

¹⁶ INSTITUTE FOR THE ADVANCEMENT OF THE AMERICAN LEGAL SYSTEM, *A ROADMAP FOR REFORM: CIVIL CASEFLOW MANAGEMENT GUIDELINES* (2009) [hereinafter *A ROADMAP FOR REFORM*], available at <http://iaals.du.edu/library/publications/a-roadmap-for-reform-civil-caseflow-management-guidelines>.

¹⁷ *CIVIL CASE PROCESSING IN THE FEDERAL DISTRICT COURTS*, *supra* note 10.

¹⁸ THE JUDICIAL CONFERENCE OF THE UNITED STATES COMMITTEE ON COURT ADMINISTRATION AND CASE MANAGEMENT, *CIVIL LITIGATION MANAGEMENT MANUAL* (2010), available at [http://www.fjc.gov/public/pdf.nsf/lookup/CivLit2D.pdf/\\$file/CivLit2D.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/CivLit2D.pdf/$file/CivLit2D.pdf).

See Sample Questions for Interviews, included as Attachment E.

F. THE INITIAL PROCESS

- 1) Have all key players attend an initial interview where the Project Coordinator asks questions to gain an understanding on a macro level of the movement of a civil case through the court or individual judge's system starting with the filing of the complaint in the Clerk's Office.
- 2) At this session, schedule individual interview appointments with all persons listed above.
- 3) During individual interviews, ask additional questions to gain a micro understanding of the flow of civil cases.
- 4) Upon completion of the interviews, the Project Coordinator should complete an initial report explaining the present process.
- 5) The draft initial report should be circulated to all parties asking for any additions, deletions, corrections, and comments.
- 6) Prepare a final report explaining the present process.

V. THE CASEFLOW MANAGEMENT APPRAISAL

In *Caseflow Management Is Truly the Heart of Court Management*, Chris Crawford states:

Judges and court management must pursue effective case management as an organizational priority; engage stakeholder agencies in practical program adjustments; supervise cases from filing to disposition (and beyond); set and adhere to disposition time goals; control continuances as a means of reducing delay; achieve early case disposition in order to render the remaining caseload more manageable; and gather and track meaningful management information to hold participants accountable for optimal performance.¹⁹

A. THE STEP-BY-STEP APPROACH

ANALYSIS METHODOLOGY

Caseflow management is the management of time between events. Hence, we offer a Step-by-Step Approach for you and your team to use in analyzing your processes. Hopefully it will help you to identify specific areas on which you wish to focus your attention. In each segment we have provided the caseflow management guidelines that may apply from IAALS' *A Roadmap for Reform: Civil Caseflow Management Guidelines*. There is also a "What Do You Plan to Do" section. You are encouraged to list those changes that you wish to explore and implement.

THE STEPS:

- 1) Filing to service.
- 2) Service to joinder of issues.
- 3) Filing to initial pretrial conference.

¹⁹ Chris Crawford, *Caseflow Management Is Truly the Heart of Court Management*, COURT EXPRESS (Nat'l Ass'n for Trial Mgmt., Williamsburg, Va.) Fall 2010.

- 4) Initial pretrial conference to completion of discovery.
- 5) Completion of discovery and the filing of dispositive motions.
- 6) Filing of dispositive motions and the issuance of a ruling.
- 7) Completion of discovery to final pretrial conference.
- 8) Final pretrial conference to trial.
- 9) Commencement of trial to completion of trial.
- 10) Trial to judgment.

1. FILING TO SERVICE

Pursuant to Federal Rule of Civil Procedure 4, a complaint shall be served within 120 days from the filing of the complaint. While this is the maximum allowable timeframe, much can be done to reduce this time and facilitate a quicker setting of the initial pretrial conference.

WHAT TO MEASURE

The time from filing the complaint to service upon all parties. The Service and Answer Report in CM/ECF can provide you with this data or your IT Department should be able to develop a report to provide you with this information.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) Who monitors service?
- 2) What, if any, expectations are communicated to counsel about prompt service?
- 3) What tools do you use to encourage prompt service?
- 4) Is service on all parties taking longer than 30 days?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

BETTER PRACTICES TO CONSIDER

- When a civil action is filed, the appropriate parties should be notified in writing of the court's expectation that service and proof of service will be filed within 30 days. Explain that while the Federal Rules of Civil Procedure allow for 120 days, more prompt service will enable the court to timely establish a date for the Rule 16 pretrial conference and move the case forward towards a just, speedy, and inexpensive determination in the spirit of Rule 1.
- Designate a staff member to personally contact counsel or the self-represented party on or about day 30 to inquire about the status of service if it has not yet been made. Staff should ascertain when service is expected. Follow-up calls should be made on a monthly basis. The staff member should file a report with the judge each month providing the status of service in all cases older than 30 days.

- At 120 days, the staff member should prepare an Order to Show Cause for failure to prosecute for the judge's signature. If no response is timely filed or the judge deems it inadequate, an order of dismissal should be prepared and issued by the judge.
- In order for this more aggressive approach to be credible, it is essential that the Rule 16 pretrial conference be held as early as possible.

HELPFUL DATA

In *Civil Case Processing in the Federal Courts: A 21st Century Analysis*, the average time from filing to Rule 16 pretrial conference was 138 days (mean) and 104 days (median). The three fastest courts in this table had mean averages of 59, 105, and 105 days. The slowest court had a mean average of 211 days. While the study did not analyze the cause, it is not hard to imagine that faster courts have created a culture that expects prompt service.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE THE IMPACT OF ANY CHANGES

Four months (120 days) after initiating new protocols, you will be able to measure the effectiveness by comparing the time from filing-to-service on cases filed within the last four months (120 days) to those filed between four months (121 days) and eight months (240 days) prior to the implementation of new protocols.

2. SERVICE TO JOINDER OF ISSUES

Pursuant to Federal Rule of Civil Procedure 12, parties have between 20 and 60 days to answer or otherwise plead. This time may be enlarged through the use of service by mail. While the practice of service by mail may reduce costs, in cases with few defendants the cost savings may not be a net gain due to the likelihood that the additional time to respond will increase the time from filing to disposition. Time is money.

WHAT TO MEASURE

The time from filing to joinder of issues (all answers have been filed). The Service and Answer Report in CM/ECF can provide you with this data or your IT Department should be able to develop a report to provide you with this information.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) Who monitors the filing of answers?
- 2) What tools are used to do so?
- 3) What are the court's and individual judge's policies and practice on extending the time to file an answer or otherwise plead?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

Guideline Eight: Judges should rule promptly on all motions.

BETTER PRACTICES TO CONSIDER

- Designate a specific staff member to monitor the time to filing of an answer.
- When parties fail to answer or otherwise plead in a timely manner, issue a Show Cause Order directing the filing of a motion for default judgment, and state that the party/case will be dismissed for failure to do so.
- Deny requests for extension of time to answer or otherwise plead absent a showing of good cause or, in lieu thereof, dramatically reduce the requested amount of time.
- Review local rules and standing orders. Eliminate any local rule or practice that allows parties automatic or clerk-granted initial extensions of time to answer or otherwise plead.
- Screen Rule 12 motions upon filing and summarily deny those without merit.
- Establish internal goals for the issuance of rulings on Rule 12 motions. Consider a system that will allow for briefing and ruling on Rule 12 motions within 80 days from filing. Review Local Rules and Standing Orders to make certain that the time for filing responses and replies is adequate and then establish internal performance standards to ensure that rulings with or without a hearing are made within 80 days.
- If a hearing is scheduled on a Rule 12 motion, issue questions for counsel to address prior to the hearing.
- If a hearing is held, issue an oral ruling at the conclusion of the hearing, if possible.
- Resolve Rule 12 motions prior to the initial pretrial conference.

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 56, Table 15. While the percentage of motions to extend time to answer or otherwise plead are granted 88% to 99% of the time, the more striking figure in this table is that the fastest court only has motions filed in 13.9 of 100 cases, while the slower courts have motions filed in over 40% of cases. Furthermore, the court that allows counsel an automatic extension of the first request has the motions filed in over 53% of cases. When one of the faster courts in this table was asked why it has fewer motions for extension filed, the response indicated a conscious effort over a period of time by all judges to deny motions not showing good cause. After initiating this practice, the rate of filing was significantly reduced and remains low to this day.

See also Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 48 Table 9. The three fastest courts in this table, on average, had a median ruling time on Rule 12 motions of 61 days from the date the motion was filed. There was no one common process or factor found that facilitated this result. See the report for further data and analysis.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE THE IMPACT OF ANY CHANGES

Six months (180 days) after initiating new protocols, you will be able to measure their effectiveness by comparing the time from filing to joinder of issues on cases filed within the last six months (180 days) to those cases filed between six months (181 days) and twelve months (365 days) prior to the implementation of the new protocols.

3. FILING TO INITIAL PRETRIAL CONFERENCE

Pursuant to Federal Rule of Civil Procedure Rule 16, a judge must issue the scheduling order as soon as practicable, but in any event within the earlier of 120 days after the defendant has been served with the complaint or 90 days after a defendant has appeared.

WHAT TO MEASURE

The time from filing to the date the initial scheduling order was issued. Your IT Department should be able to develop such a report from data in CM/ECF.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) Who monitors and establishes the date for the Rule 16 pretrial conference?
- 2) What tools are used to do so?
- 3) Is the initial pretrial conference being held more than 90 days after filing?
- 4) Does the court have a uniform scheduling order?
- 5) Who conducts the Rule 16 pretrial conference?
- 6) Does the court or the individual judge have time goals for the processing of civil cases using a Differentiated Case Management approach? If so, are they adhered to when issuing the Scheduling Order?
- 7) Is the trial date set at the initial pretrial conference—and what type of setting—firm, multiple, trailing calendar, etc.?
- 8) Does the setting of an early, firm trial date lead to fewer requests for continuance of the trial and earlier disposition of cases?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline One: Caseflow management should be tailored to the specific circumstances of the case and the parties. Judges should manage civil cases so as to ensure that the overall volume and type of discovery and pretrial events are proportionate and appropriate to the specific circumstances of the case.

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

Guideline Four: Unless requested sooner by any party, the court should set an initial pretrial conference as soon as practicable after appearance of all parties.

Guideline Five: Additional pretrial conferences should be held on request by one or more parties or on the court's own initiative.

BETTER PRACTICES TO CONSIDER

- As soon as the case is filed, establish a date and time for the Rule 16 pretrial conference and have this served by the filing party along with all necessary papers. This lets all parties know that service should be promptly made and that an answer or Rule 12 motion should also be filed in a timely fashion. Alternatively, as soon as an answer is filed, schedule a Rule 16 pretrial conference to take place within 45 days. If better practices are instituted to bring about prompt service of the summons and complaint and the filing of an answer, it should be possible to set the Rule 16 pretrial conference within 100 days of the filing of the complaint.
- Do not delay the pretrial conference because a Rule 12 motion has been filed.
- Rarely continue the pretrial conference and, if so, for as short a period of time as possible.
- Develop a uniform scheduling order for the court.
- The judicial officer who will decide the case should hold the Rule 16 pretrial conference.
- The court or the individual judge should establish goals for the timely disposition of civil cases using a diversified case management (DCM) approach.
- Establish all dates in the scheduling order to ensure disposition of the case in accordance with the goal.
- If trials are not set for a date certain, inform the parties of the month the case will go to trial and that they will be given a firm trial date no later than 60-90 days before trial.

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 43, Table 7. On median average, the three fastest courts in this table held their Rule 16 pretrial conference within 80 days after the filing of the complaint.

See also Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 58, Table 18. The fastest court in this table grants nearly 20% fewer of motions to continue hearings than the slowest court.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE THE IMPACT OF ANY CHANGES

Six months (180 days) after initiating new protocols, you will be able to measure their effectiveness by comparing the time from filing to issuance of the scheduling order on cases filed within the last six months (180 days) to those

cases filed between six months (181 days) and twelve months (365 days) prior to the implementation of new protocols.

4. INITIAL PRETRIAL CONFERENCE TO COMPLETION OF DISCOVERY

This is the time from the issuance of the scheduling order to the completion of discovery.

See Federal Rules of Civil Procedure 26-37.

WHAT TO MEASURE

- 1) The time from the issuance of the scheduling order to the completion of discovery.
- 2) How often is this period extended? If it is, for how long?
- 3) Did the extensions cause other key dates—such as the date for filing dispositive motions or the trial date—to be extended?
- 4) How many additional conferences were held, at the court's direction or upon a party's requests?

Your IT Department should be able to develop such reports from data in CM/ECF.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) When is the discovery cut-off established?
- 2) How much time is allowed to complete discovery by case type?
- 3) What is the basis for extending this time period?
- 4) If an extension is granted, does it cause other key dates to be extended?
- 5) Who manages discovery?
- 6) How do you handle discovery disputes?
- 7) Are hearings scheduled prior to ruling?
- 8) How often are there oral versus written rulings?
- 9) Who monitors the status of discovery motions?
- 10) Does the court have internal performance standards for the time in which discovery motions should be ruled upon?
- 11) Do additional pretrial conferences delay case disposition?
- 12) Does the court discuss the proportionality of costs of discovery, including not only attorney fees and costs, but time and costs for individuals and/or companies?
- 13) Does the court discuss electronic discovery issues?
- 14) How often do parties request discovery over the default numbers established by the Federal Rules of Civil Procedure?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline One: Caseflow management should be tailored to the specific circumstances of the case and the parties. Judges should manage civil cases so as to ensure that the overall volume and type of discovery and pretrial events are proportionate and appropriate to the specific circumstances of the case.

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

Guideline Five: Additional pretrial conferences should be held on request by one or more parties or on the court's own initiative.

Guideline Six: In the initial pretrial order, or at the earliest practicable time thereafter, the court should set a trial date, and this date should not be changed absent extraordinary circumstances.

Guideline Seven: Judges should play an active role in supervising the discovery process and should work to assure that the discovery costs are proportional to the dispute.

Guideline Eight: Judges should rule promptly on all motions.

Guideline Nine: When appropriate, the court should raise the possibility of mediation or other form of alternative dispute resolution early in the case. The court should have the discretion to order mediation or other form of alternative dispute resolution at the appropriate time, unless all parties agree otherwise. However, the judge should *not* view trials as a failure of the system.

BETTER PRACTICES TO CONSIDER

- Use Differentiated Case Management (DCM) techniques.²⁰
- Establish goals not only for the disposition of cases based on their track assignments, but have pre-determined default time periods for the completion of discovery. These can be modified as necessary by the judicial officer based on the needs of the individual case. Such modifications should be the exception and not the rule, and for as short a period of time as possible. Extensions of time to complete discovery should not impact the trial setting or the track goal for disposition.
- Require a careful case-by-case analysis of the scope, cost, and length of discovery to ensure it is proportionate and appropriate. This may include a staged approach allowing a certain amount of discovery with an additional conference to determine what, if any, further discovery is necessary.
- Require the initial pretrial order to include a statement by both counsel as to their position on whether anticipated discovery costs appear proportional to the demand. This might include a separate signed statement by the clients that counsel have discussed the potential cost of discovery in the case.
- Encourage informal resolution among parties or with the court, before filing a discovery motion. This is one Judge's Directive:

²⁰ See *Differentiated Case Management*, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, <http://www.ohnd.uscourts.gov/home/attorney-information/differentiated-case-management/>. See also *DCM Tracks*, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, <http://www.ohnd.uscourts.gov/home/attorney-information/differentiated-case-management/dcm-tracks>. See also *Key DCM Events*, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, <http://www.ohnd.uscourts.gov/home/attorney-information/differentiated-case-management/key-dcm-events/>. See also *Civil Track Information Statement*, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, <http://forms.lp.findlaw.com/form/courtforms/fed/cir/c8/d/moed/moed000023.pdf>.

Discovery Disputes:

If counsel cannot resolve a discovery dispute, they should call chambers [phone number] to schedule a telephone conference and fax [fax number] a joint letter summarizing the nature of the dispute and the efforts to resolve it.

- Promptly screen discovery motions upon filing to see those which may be ruled on summarily.
- Establish internal goals for the issuance of rulings on discovery motions.
- Promptly rule on discovery disputes so that the parties will be able to complete discovery within the initial established time period.
- If discovery issues are referred to a magistrate judge, make certain that s/he understands that s/he may not enlarge the period of time necessary to complete discovery without the permission of the district judge, and that any extension should not impact other future dates.
- If a hearing is to be held, issue questions that you wish counsel to address prior to the hearing.
- If a hearing is held, issue an oral ruling at that time, if possible.
- Establish a practice and culture where all parties understand that you will not, but for exceptional circumstances, change the trial date or time for filing dispositive motions, even if there is a joint request for additional time to complete discovery.
- A trial date shall be established for a date certain or during a certain period of time within the goals established by the court or if there are no established goals, within the district’s average time from filing to trial minus 10% (if the district’s average is above the national average).

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, at page 61, Table 20. The three fastest courts in this table averaged 7 requests per 100 cases for extensions of time to complete discovery. The slowest court in this table had 144 requests per 100 cases, and the next two slowest courts had approximately 40 requests per 100 cases. The average extension granted by the fastest court in this table was 12 days and by the slowest court was 186 days.

See also Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 45, Table 8. On average, courts in this table took 48 days to rule on discovery-related motions. The mean average for the fastest courts in this table was 22 days and the mean average for the slowest court was 116 days. The median for the fastest court was 7 days and for the slowest court was 74 days.

See also Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 53, Table 12 (for time to disposition based on hearing type) *and page 57, Table 16* (for information on requests for additional time to respond to discovery requests).

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE IMPACT OF ANY CHANGES

Twelve months (365 days) after initiating new protocols, you will be able to measure their effectiveness by comparing the time from issuance of the scheduling order to the completion of discovery on cases filed within the

last twelve months (365 days), to those cases filed between twelve months (366 days) and twenty-four months (730 days) prior to the implementation of new protocols.

5. COMPLETION OF DISCOVERY AND THE FILING OF DISPOSITIVE MOTIONS

See Federal Rules of Civil Procedure 26-37.

WHAT TO MEASURE

- 1) The period of time between the discovery cut-off date and the date for filing dispositive motions.
- 2) How often the date for filing dispositive motions is extended.
- 3) How many dispositive motions are filed on average.

Your IT Department should be able to develop such reports from data in CM/ECF.

PRESENT PRACTICES - WHAT TO LOOK AT

- 1) How do you decide how long parties should have, by case type, to file dispositive motions?
- 2) Do you encourage parties to carefully consider whether to file a dispositive motion?
- 3) How do you handle motions to extend this period of time?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline One: Caseflow management should be tailored to the specific circumstances of the case and the parties. Judges should manage civil cases so as to ensure that the overall volume and type of discovery and pretrial events are proportionate and appropriate to the specific circumstances of the case.

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

BETTER PRACTICES TO CONSIDER

- Establish a default period of time between the discovery cut-off date and the filing of dispositive motions.
- Discourage extensions of this period and, if filed and granted, the extension should not impact other established dates, in particular the trial date.

HELPFUL DATA

See *Civil Case Processing in the Federal District Courts: A 21st Century Analysis*, page 62, Table 21. The fastest court in this table had less than one request to extend the dispositive motions deadline and in the fastest court only 50% of those requests were granted. The slowest court had 82 requests per 100 cases, and over 99% of those requests were granted.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE IMPACT OF ANY CHANGE

Twelve months (365 days) after initiating new protocols, you will be able to measure their effectiveness by comparing the time from the discovery cut-off date through the time for filing dispositive motions date on cases filed within the last twelve months (365 days) to the cases filed between twelve months (366 days) and twenty four months (730) days prior to the implementation of new protocols.

6. THE FILING OF DISPOSITIVE MOTIONS AND THE ISSUANCE OF A RULING

See Federal Rule of Civil Procedure 56.

WHAT TO MEASURE

- 1) The time from filing of a dispositive motion to ruling on the motion.
- 2) The number of extensions to file briefs.
- 3) The length of those extensions.
- 4) If extensions are granted, the impact on the trial date.

Your IT Department should be able to develop such reports from data in CM/ECF.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) Have you established internal performance goals for ruling on dispositive motions?
- 2) Does someone monitor the filing of briefs?
- 3) What criteria are used in deciding motions for extensions of time to file dispositive motions and briefs?
- 4) What criteria are used to decide if a hearing is needed?
- 5) If hearings are held, are oral rulings issued at their conclusion?
- 6) Who monitors the status of dispositive motions?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline One: Caseflow management should be tailored to the specific circumstances of the case and the parties. Judges should manage civil cases so as to ensure that the overall volume and type of discovery and pretrial events are proportionate and appropriate to the specific circumstances of the case.

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Eight: Judges should rule promptly on all motions.

BETTER PRACTICES TO CONSIDER

- Promptly review dispositive motions to determine those that may be ruled on without the need for further briefing and/or oral argument.
- Establish internal goals for rulings on dispositive motions.
- Consider the impact of extensions of time to file motions and briefs on the amount of time you will have to rule so as to not impact the trial date. If granted, the extensions should not impact established dates for future actions.
- Promptly rule on dispositive motions so that the parties have adequate time to consider the ruling and their position on settlement.
- Issue an oral ruling at the conclusion of oral arguments, if possible, or alternatively decide the motion stating that a written order will follow within x number of days.

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 51, Table 11. The fastest court in this table issued rulings within 63 days (mean) and 53 days (median). On average the eight courts studied issued their ruling within 166 days (mean) and 126 days (median). The slowest court issued rulings in 254 days on average (mean) and 191 days on average (median). Other information can be found regarding hearings and summary judgments in Table 14 at page 54, showing that for the eight courts studied having a hearing resulted in a faster time to disposition.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE THE IMPACT OF ANY CHANGE

Twelve months (365 days) after initiating new protocols, you will be able to measure the effectiveness by comparing the time from filing of dispositive motions to the time of ruling on the motions in cases filed within the last twelve months (365 days) to those cases filed between twelve months (366 days) and twenty four months (730 days) prior to the implementation of the new protocols.

7. COMPLETION OF DISCOVERY TO FINAL PRETRIAL CONFERENCE

See Federal Rule of Civil Procedure 16.

WHAT TO MEASURE

The time from the final discovery cut-off date to the issuance of the final pretrial order.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) When is the final pretrial conference scheduled in relationship to the discovery cut-off date?
- 2) The percentage of cases with motions to continue the final pretrial conference.

- 3) The percentage of cases that had the final pretrial conference continued on the court's own motion. If continued, for how many days?
- 4) If continued, did it cause the trial date to be continued also?
- 5) Does the court have a uniform final pretrial order format?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline One: Caseflow management should be tailored to the specific circumstances of the case and the parties. Judges should manage civil cases so as to ensure that the overall volume and type of discovery and pretrial events are proportionate and appropriate to the specific circumstances of the case.

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

Guideline Five: Additional pretrial conferences should be held on request by one or more parties or on the court's own initiative.

Guideline Six: In the initial pretrial order, or at the earliest practicable time thereafter, the court should set a trial date, and this date should not be changed absent extraordinary circumstances.

BETTER PRACTICES TO CONSIDER

- Promptly rule on all dispositive motions prior to the final pretrial conference, so that:
 - a. The pretrial conference can be held as scheduled;
 - b. The final pretrial order reflects all rulings; and
 - c. The parties may continue to consider settlement based on all of the court's rulings.
- If an extension of time to hold the final pretrial conference is granted, it should not impact the trial setting.
- The court should use a standardized final pretrial order.

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 62, Table 22. Faster courts in this table had far fewer motions to continue the final pre-trial conference: two per 100 cases compared to 27 per 100 cases for the slowest courts. The average length of the extension of time for the fastest court was 11 days, and 224 days for the slowest court.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE IMPACT OF ANY CHANGES

Twelve months (365 days) after initiating new protocols, you will be able to measure the effectiveness by comparing the time from the discovery cut-off date to the time of the issuance of the final pretrial order in cases filed within the last twelve months (365 days) to those cases filed between twelve months (366 days) and twenty-four months (730 days) prior to the implementation of new protocols.

8. FINAL PRETRIAL CONFERENCE TO TRIAL

WHAT TO MEASURE

- 1) The time between the issuance of the final pretrial order and the commencement of trial.
- 2) The number/percentage of motions to continue the trial date. If granted, for how long?
- 3) The number/percentage of continuances of the trial dates on the court's own motion.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) Does the time between issuance of the final pretrial order and the commencement of trial differ depending on the case type?
- 2) Does the court encourage or direct further settlement discussions at this point in the process?
- 3) What does the courtroom deputy do to make certain that the parties understand the court's practices and courtroom technology prior to trial?
- 4) Does the court hold a trial preparation conference prior to trial?
- 5) How does the court handle motions *in limine*?
- 6) Does the court have instructions for counsel on trial practice?

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

BETTER PRACTICES TO CONSIDER

- Set the final pretrial conference at the appropriate time based on the discovery cut-off date, the date by which the judge should have ruled on dispositive motions and the case type.
- Conduct a trial preparation conference seven to ten days prior to trial.
- Counsel and their support staff should meet with the courtroom deputy to ensure they understand the court's trial practice and how the courtroom technology works.
- Establish a policy on when motions *in limine* must be filed and whether the court will rule on those motions in advance or during trial.
- Establish a uniform final pretrial order for the court.
- The court should issue instructions explaining such things as jury selection, submission of jury instructions, the trial order, exhibits and stipulations on their admission, and witness lists.

- Encourage ongoing settlement negotiations.

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 63, Table 23. The fastest court in this table had 7 motions to continue trial per 100 cases. The slowest courts had 21 motions to continue trial per 100 cases. The faster courts average extension of time was 46 days compared to 242 days for the slowest court.

See also Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 64, Table 25. The court with the highest percentage of trials commencing on the day originally set had 66.7% starting trial as scheduled. The court with the lowest percentage of trials commencing on the day originally set had 35% starting trial as scheduled. For those cases that had the trials continued, the fastest court commenced trial within 51 days of the original setting and the slowest court commenced trial within 182 days of the original setting.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE THE IMPACT OF ANY CHANGES

Eighteen months (550 days) after initiating new protocols, you will be able to measure the effectiveness of any changes. Compare the time from issuance of the final pretrial order through the time the trial is commenced in cases filed within the eighteen months (550 days) after the change to those cases filed between eighteen months (551 days) and thirty-six months (1100 days) prior to the implementation of new protocols.

9. START OF TRIAL TO COMPLETION OF TRIAL

WHAT TO MEASURE

- 1) The length of trial—the time from the commencement of the trial to the verdict in a jury trial, or the issuance of findings of fact and conclusions of law in a bench trial.
- 2) The time of an average trial day.
- 3) The number of days that trial was not held between its commencement and conclusion.
- 4) The number of days it actually took to try the case compared to the projected length of trial in the final pretrial order.
- 5) When findings of fact and conclusion of law are entered in a bench trial.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) How much time is devoted to trial each day?
- 2) What, if any, time restraints are placed on counsel?
- 3) What is done to ensure maximum productivity while in trial?
- 4) At the final trial preparation conference, is there a discussion as to the time projections and limits for the case?

- 5) What is done at the end of each trial day to ensure that things are proceeding as planned or that the necessary changes are being made, given what has taken place?
- 6) How are jury instructions handled?
- 7) What, if any, goals are set for the issuance of findings of fact and conclusions of law after a bench trial.

CASEFLOW MANAGEMENT GUIDELINES THAT APPLY

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

BETTER PRACTICES TO CONSIDER

- Spend time at the trial preparation conference reviewing the time projection for trial to make sure it is appropriate and realistic.
- Schedule as long a trial day as possible—six to eight hours.
- At the end of each trial day, the judge and counsel discuss how the case is proceeding and what if anything needs to be done to make sure it will be completed within the time allotted.
- Decide jury instruction as early as possible including issuance of preliminary jury instructions prior to commencement of the trial.
- Establish internal goals to ensure the prompt issuance of findings of fact and conclusions of law in bench trials.

HELPFUL DATA

See Civil Case Processing in the Federal District Courts: A 21st Century Analysis, page 64, Table 24. The fastest court in this table had an average trial length of 2.55 days, and the slowest courts averaged 5.58 days.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE IMPACT OF ANY CHANGES

Eighteen months (550 days) after initiating new protocols, you will be able to measure the effectiveness of any changes by comparing the time from the commencement of the case through the time the trial is concluded for cases filed within the last eighteen months (550 days) to those cases filed between eighteen months (551 days) and thirty-six months (1100 days) prior to the implementation of new protocols.

10. TRIAL TO JUDGMENT

See Federal Rules of Civil Procedure 54 and 58.

WHAT TO MEASURE

The time between the return of the verdict in a jury trial, or the issuance of findings of fact and conclusions of law in a bench trial, and the date the judgment is entered.

PRESENT PRACTICES—WHAT TO LOOK AT

- 1) Who is responsible for preparation and issuance of the judgment?
- 2) Who monitors this to ensure that all cases requiring judgments have judgments entered?

BETTER PRACTICES TO CONSIDER

- Assign a specific staff member, most likely the courtroom deputy clerk, the responsibility to prepare judgments.
- Establish a protocol for the issuance of judgment when a judicial officer is involved.
- Assign a case manager or other designated person the responsibility to monitor the issuance of judgments.

WHAT DO YOU PLAN TO DO?

- 1)
- 2)
- 3)

HOW AND WHEN TO MEASURE IMPACT OF ANY CHANGES

Eighteen months (550 days) after initiating new protocols, you will be able to measure the effectiveness by comparing the time the trial concluded through the time that judgment was entered for cases filed within the eighteen months (550 days) to those cases filed between eighteen months (551days) and thirty-six months (1100 days) prior to the implementation of new protocols.

B. OTHER CONSIDERATIONS

MOTIONS PRACTICE

- 1) Direct counsel to meet and confer before filing most motions.
- 2) Direct counsel to contact the court before filing any discovery motions so as to allow an informal conference prior to the filing.
- 3) Carefully monitor the filing of all briefs.
- 4) Rarely grant motions to extend time to file briefs.
- 5) Establish internal performance standards for law clerks and judicial officers regarding the preparation of drafts once briefing has been completed and the issuance of a final order. (Note: This should also be done on cases not requiring a trial such as bankruptcy appeals, social security cases, and other administrative review type cases.)
- 6) Any hearings on motions should be set in line with the court's internal performance standards.

INTERNAL PERFORMANCE STANDARDS

Having internal goals for staff members is crucial in meeting the court's overall goals. Time should be taken to establish these goals with input from the impacted staff members. The goals should be evaluated annually and modified as necessary.

Example: Summary Judgment motions—once all briefs are filed, the law clerk assigned has 30 days to submit a draft to the judge. The judge shall issue his/her ruling within 15 days thereafter.

TRAINING

The training of support staff, including law clerks, is an important condition precedent to effective and consistent caseload management. Some chambers have created *How-To Manuals* that explain the operation of their courtroom. This practice is highly recommended. It is important that there be a clear, written explanation of the roles and responsibilities of all members of the judge's team.

STAFF MEETINGS

Monthly meetings with staff to review all cases are essential to a high-performing courtroom. Regular meetings between the law clerk and judge on motions ready for drafting is helpful to provide guidance for the law clerks before they start their work. The judge should meet at least monthly with the assigned personnel to ensure time targets for each step are being met.

ASSIGNMENT PROTOCOLS

It is helpful as part of this evaluation to review the court's judge assignment protocols:

- 1) Whether the court's judge assignment is consistent with federal rules and statutes, especially 28 U.S.C. 636; and,
- 2) How cases are reassigned when there is a recusal or changes in judicial staffing based on a judge taking senior status or a new judge joining the bench.

The court should also determine whether cases are being referred to magistrate judges and, if so, for what purposes. Are cases being assigned to magistrate judges for all pre-trial matters? Are magistrate judges used only for settlement purposes?

ALTERNATIVE DISPUTE RESOLUTION

Collect data on the number and types of cases using alternative dispute resolution (ADR). Does the ADR process add unnecessary time and cost to the case? Determine which forms of ADR are most successful, factoring in time and costs.

LOCAL RULES AND INDIVIDUAL JUDGE RULES

Determine whether any of these rules grant exceptions to established rules, protocols, and policies. Look for inconsistencies between local rules and individual judges' practices. Do variances between courtrooms create challenges for counsel and parties.

C. REPORT AND RECOMMENDATIONS

The final report should be data driven and factual with a discussion of the findings. It is helpful to attach examples of existing forms, orders, and reports.

Use the Step-by-Step Approach to evaluate the present process, consider better practices, and recommend implementation of new protocols. Recommendations should be focused and offer options for changes to improve caseload management.

Prior to releasing the report and recommendations, the Project Coordinator should meet with key players including members of the bar, and ask for their feedback on recommended changes. Based on that feedback, a final draft of the report and recommendations should be circulated to all involved parties asking for their comments and suggestions. Once these are received and considered, a final report and recommendation can be issued.

D. IMPLEMENTATION PLAN FOR AGREED UPON RECOMMENDATIONS

Once the report and recommendations have been finalized, the team needs to decide which recommendations will be implemented as well as when and how this will be done. A meeting should be held to decide how to proceed on the recommendations. Based on direction from the judge, judges, or the court, plans should be made for the implementation of the recommendations.

Depending on the scope of the changes, it may be necessary to inform and involve counsel who regularly practice before the court to obtain their input prior to implementation.

Baseline information will need to be gathered to facilitate measurement of results of the changes at a later date.

Specific people must be tasked with these responsibilities, and the establishment of timeframes for completion of tasks is essential. It is desirable to create a Recommendations Grid showing what recommendations will be adopted, who the key person responsible is, when it will be implemented, and how you will measure effectiveness.

See Sample Recommendations Grid, included as Attachment F.

E. COMMUNICATION

Whether changes are being made by individual judges or by the entire court, communication with the bar and their support staff is essential. They are partners in this process. Their understanding of the goals of these changes and what is expected of them will go a long way in ensuring that changes make a difference.

Consideration should be given to the scope of circulation of the report and recommendations, and the outcomes of implementation of any recommendations.

- Will you share this information with other judges and staff on your bench?
- Will you share this information with other judicial officers in the Federal System and the Administrative Office of the United States Court?
- Will you make it publicly available?

Circulation of any report and recommendations to all judicial officers is strongly encouraged. It will serve not only as an educational tool for others, but hopefully as an impetus for further study and improvements. Sharing the information with the Administrative Office of the U.S. Courts, the Federal Judicial Center, and the appropriate Judicial Conference committees is also highly encouraged to assist them in their efforts to improve the administration of justice. Dissemination to the public is also encouraged; the court's business is the public's business. Sharing more details about the administration of justice will promote a greater understanding of the judicial system and encourage more partnerships for process improvement.

F. MEASUREMENT PROTOCOLS

Develop protocols to analyze the impact of the changes that are adopted. As part of the decision-making process on the implementation of any recommendations, the team must decide on the measurement(s) of success/improvement. Once these decisions are made, you must ensure you have adequate baseline data to compare to the new data.

Furthermore, it is helpful if your IT Department can develop tools within CM/ECF to make future data collection as easy as possible. It is also important to realize that this measurement process must be ongoing. Interim analysis may be helpful, but it may take up to two years to properly measure the results of implemented changes.

VI. CONCLUSION

The IAALS study and others have shown that judges and courts have improved their caseload management practices. In these economic times, implementation of improvements is no longer an option—it is a necessity. Delay reduction is desirable for all concerned in our quest to fulfill the mandate of Rule 1.

David Steeleman, in *Improving Caseload Management: A Brief Guide*, states:

There are essential and common elements wherever courts have had success in reducing delay, and of these there are four that stand out:

- 1) Exercising effective leadership;
- 2) Developing and meeting appropriate time expectations;
- 3) Exercising early and continuous control of case progress; and
- 4) Providing firm and credible trial dates.²¹

These elements, along with the IAALS Caseload Guidelines, provide the criteria for the evaluation of any judge's or court's caseload management processes.

The time for action is now. Take a **Quick Look** at how you are doing and decide if there is room for improvement. If so, take the next steps. While it may be desirable to conduct a complete review, consider a staged approach looking at enacting certain new processes or protocols where it appears that the most improvement is needed and possible. If you cannot do it all, do something. Try it, measure it, and then decide if it made a difference. Like life, caseload management is a journey: take it step-by-step. Never stop looking for ways to improve the administration of justice.

²¹ DAVID C. STEELMAN, NATIONAL CENTER FOR STATE COURTS, *IMPROVING CASEFLOW MANAGEMENT: A BRIEF GUIDE* (2008), available at <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1022>.

ATTACHMENT A: IAALS CASEFLOW GUIDELINES

The Guidelines that follow were drawn from a number of sources, including the *Interim and Final Reports of the American College of Trial Lawyers (ACTL)* and the *Institute for the Advancement of the American Legal System (IAALS)*, and an extensive IAALS civil case processing study of eight federal district courts.

The Guidelines are recommendations that are intended for the majority of cases. They are not intended to be adhered to in every instance and judges who are actively involved in case management are in the best position to determine the applicability of each Guideline, based on the specific needs of the case.

Guideline One: Caseflow management should be tailored to the specific circumstances of the case and the parties. Judges should manage civil cases so as to ensure that the overall volume and type of discovery and pretrial events are proportionate and appropriate to the specific circumstances of the case.

Guideline Two: Judicial involvement in the management of litigation should begin at an early stage of the litigation and should be ongoing. A single judge should be assigned to each case at the beginning of litigation and should stay with the case through its disposition.

Guideline Three: Judges should be consistent in the application and enforcement of procedural rules and pretrial procedures, particularly within the same types of cases, and within the same courts.

Guideline Four: Unless requested sooner by any party, the court should set an initial pretrial conference as soon as practicable after appearance of all parties.

Guideline Five: Additional pretrial conferences should be held on request by one or more parties or on the court's own initiative.

Guideline Six: In the initial pretrial order, or at the earliest practicable time thereafter, the court should set a trial date, and this date should not be changed absent extraordinary circumstances.

Guideline Seven: Judges should play an active role in supervising the discovery process and should work to assure that the discovery costs are proportional to the dispute.

Guideline Eight: Judges should rule promptly on all motions.

Guideline Nine: When appropriate, the court should raise the possibility of mediation or other form of alternative dispute resolution early in the case. The court should have the discretion to order mediation or other form of alternative dispute resolution at the appropriate time, unless all parties agree otherwise.

ATTACHMENT B: SAMPLE FEDERAL COURT MANAGEMENT STATISTICS

U.S. District Court -- Judicial Caseload Profile

ALL DISTRICT COURTS		12-Month Periods Ending						
		September 30				December 31		
		2007	2008	2009	2010	2010	2011	
Overall Caseload Statistics	Filings*	335,655	349,969	363,774	372,673	383,459	379,000	
	Terminations	317,277	317,056	349,727	399,121	403,921	396,865	
	Pending	324,673	358,303	369,366	348,437	350,014	333,781	
	Percent Change in Total Filings Current Year Over Earlier Year					-1.2	Over Last Year	
		12.9	8.3	4.2	1.7	Over Earlier Years		
	Number of Judgeships	678	678	678	678	677	677	
	Vacant Judgeship Months**	424.7	397.9	602.7	963.8	1,015.5	889.0	
Actions per Judgeship	Filings	Total	495	516	537	549	566	560
		Civil	380	394	408	417	433	428
		Criminal Felony	85	91	97	98	99	98
		Supervised Release Hearings	30	31	32	34	34	34
	Pending Cases	479	528	545	514	517	493	
	Weighted Filings**	477	472	480	490	499	508	
	Terminations	468	468	516	589	597	586	
	Trials Completed	20	20	20	20	20	20	
Median Time (Months)	From Filing to Disposition	Criminal Felony	7.6	7.3	7.1	6.9	6.9	7.1
		Civil**	8.6	8.1	8.9	7.6	7.8	7.0
	From Filing to Trial (Civil Only)**	24.6	24.8	25.3	24.3	24.2	25.0	
Other	Number (and %) of Civil Cases Over 3 Years Old		17,446	21,820	35,824	45,010	45,411	37,993
			6.6	7.3	11.7	15.8	15.9	14.0
	Average Number of Felony Defendants Filed per Case		1.4	1.3	1.3	1.3	1.3	1.4
	Jurors	Average Present for Jury Selection	49.3	48.8	52.6	49.2	48.8	48.5
		Percent Not Selected or Challenged	37.3	37.4	39.9	38.7	39.0	36.8

2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense													
Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	289,969	15,745	59,866	53,491	2,327	11,288	18,350	31,226	18,276	10,070	37,270	461	31,599
Criminal*	66,006	4,136	11,044	26,353	7,240	6,990	1,896	3,280	675	1,274	726	886	1,506

ATTACHMENT B: SAMPLE FEDERAL COURT MANAGEMENT STATISTICS

U.S. District Court -- Judicial Caseload Profile

COLORADO		12-Month Periods Ending						Numerical Standing Within		
		September 30				December 31				
		2007	2008	2009	2010	2010	2011			
Overall Caseload Statistics	Filings*	3,377	3,487	3,824	3,892	3,970	4,126	U.S.	Circuit	
	Terminations	3,332	3,373	3,765	3,823	3,921	4,108			
	Pending	2,633	2,746	2,834	2,916	2,896	2,920			
	Percent Change in Total Filings Current Year Over Earlier Year					3.9	Over Last Year	34	3	
		22.2	18.3	7.9	6.0	Over Earlier Years		17	2	
	Number of Judgeships	7	7	7	7	7	7			
	Vacant Judgeship Months**	0.0	20.4	23.0	24.0	23.6	7.0			
Actions per Judgeship	Filings	Total	482	498	546	557	567	589	17	2
		Civil	399	411	452	453	464	498	10	1
		Criminal Felony	62	62	64	77	77	63	49	5
		Supervised Release Hearings	21	25	30	27	26	28	41	4
	Pending Cases	376	392	405	417	414	417	46	1	
	Weighted Filings**	527	541	593	607	629	676	7	1	
	Terminations	476	482	538	546	560	587	15	2	
	Trials Completed	20	23	20	25	26	21	46	5	
Median Time (Months)	From Filing to Disposition	Criminal Felony	8.7	7.9	8.9	9.7	9.3	9.4	54	8
		Civil**	6.9	6.9	6.3	5.8	5.7	5.4	4	1
	From Filing to Trial (Civil Only)**	29.0	26.0	27.8	29.1	29.1	24.8	41	5	
Other	Number (and %) of Civil Cases Over 3 Years Old		90	85	64	60	67	59	11	3
			4.3	3.8	2.8	2.7	2.9	2.5		
	Average Number of Felony Defendants Filed per Case		1.4	1.3	1.3	1.3	1.4	1.3		
	Jurors	Average Present for Jury Selection	51.6	46.7	35.0	32.3	34.6	47.8		
Percent Not Selected or Challenged		48.8	42.2	34.7	35.1	33.0	50.0			

2011 Civil and Criminal Felony Case Filings by Nature of Suit and Offense													
Type of	Total	A	B	C	D	E	F	G	H	I	J	K	L
Civil	3,489	148	63	684	28	58	160	408	220	210	621	3	886
Criminal*	438	-	36	162	107	36	36	13	2	18	3	6	19

ATTACHMENT C: U.S. DISTRICT COURTS—CIVIL CASES COMMENCED, TERMINATED, AND PENDING DURING THE 12-MONTH PERIODS ENDING DECEMBER 31, 2011

**Table C-1.
U.S. District Courts—Civil Cases Commenced, Terminated, and Pending
During the 12-Month Periods Ending December 31, 2011**

Circuit and District	Total Civil Cases				U.S. Civil Cases				Private Civil Cases			
	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011
TOTAL	287,294	289,969	305,936	271,327	43,702	46,787	44,420	46,069	243,592	243,182	261,516	225,258
DC	2,788	2,383	2,434	2,737	1,380	1,269	1,164	1,485	1,408	1,114	1,270	1,252
1ST	8,208	6,122	6,133	8,197	1,416	1,395	1,418	1,393	6,792	4,727	4,715	6,804
ME	388	496	518	366	165	181	208	138	223	315	310	228
MA	3,100	2,964	3,065	3,058	658	577	633	602	2,442	2,387	2,372	2,457
NH	509	597	568	538	174	208	220	162	335	389	348	376
RI	2,724	788	808	2,704	113	130	121	122	2,611	658	687	2,582
PR	1,487	1,277	1,234	1,530	306	299	236	369	1,181	978	898	1,161
2ND	38,480	22,427	31,580	29,327	3,370	3,535	3,226	3,679	35,110	18,892	28,354	25,648
CT	2,341	2,124	1,980	2,488	393	449	391	451	1,943	1,675	1,589	2,034
NYN	2,038	1,569	1,513	2,094	370	450	272	548	1,668	1,119	1,241	1,546
NYE	7,587	6,516	6,334	7,766	1,084	1,086	1,034	1,136	6,503	5,430	5,300	6,633
NYS	23,709	10,202	19,519	14,392	962	952	821	993	22,747	9,250	18,598	13,399
NYW	2,460	1,700	1,878	2,282	438	471	458	451	2,022	1,229	1,420	1,831
VT	345	316	356	305	123	127	150	100	222	189	206	205
3RD	38,950	62,424	69,145	32,228	2,632	3,296	3,376	2,552	36,318	59,128	65,769	29,677
DE	1,593	1,393	1,148	1,838	177	65	93	149	1,416	1,328	1,055	1,689
NJ	6,073	8,085	7,713	6,445	784	1,241	1,252	773	5,289	6,844	6,461	5,672
PA E	26,310	47,722	54,952	19,080	617	705	750	572	25,693	47,017	54,202	18,508
PAM	2,245	2,533	2,511	2,267	459	734	719	474	1,786	1,799	1,792	1,793
PAW	2,144	2,403	2,459	2,088	497	504	508	493	1,647	1,889	1,951	1,595
VI	585	288	362	511	98	47	54	91	487	241	308	420
4TH	19,021	17,931	18,035	18,917	5,350	4,323	3,853	5,820	13,671	13,608	14,182	13,097
MD	3,314	3,886	3,874	3,326	771	757	691	837	2,543	3,129	3,183	2,489
NC E	1,813	1,872	1,665	2,020	705	816	609	912	1,108	1,056	1,056	1,108
NC M	987	1,169	883	1,280	330	430	248	512	667	739	635	771
NC W	680	1,190	1,070	1,100	295	333	301	327	685	857	769	773
SC	3,122	3,560	3,394	3,288	677	682	649	710	2,445	2,878	2,745	2,578
VA E	1,973	3,374	3,444	1,903	389	521	498	412	1,584	2,853	2,846	1,491
VA W	673	1,196	1,157	712	289	383	380	292	384	813	777	420
WV N	547	640	691	496	122	151	169	104	425	489	522	392
WV S	5,602	1,044	1,857	4,786	1,772	250	308	1,714	3,830	794	1,549	3,075

**ATTACHMENT C: U.S. DISTRICT COURTS—CIVIL CASES COMMENCED, TERMINATED, AND PENDING
DURING THE 12-MONTH PERIODS ENDING DECEMBER 31, 2011**

Table C-1. (December 31, 2011—Continued)

Circuit and District	Total Civil Cases				U.S. Civil Cases				Private Civil Cases			
	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011
5TH	31,020	27,846	29,834	30,032	6,988	5,255	5,175	7,068	24,032	22,591	23,659	22,964
LA E	9,689	3,156	4,743	8,102	2,786	326	511	2,601	6,903	2,830	4,232	5,501
LA M	959	912	936	935	68	82	70	80	391	830	866	855
LA W	2,284	2,311	2,161	2,434	421	799	516	704	1,863	1,512	1,645	1,730
MS,N	958	879	995	952	110	124	101	133	849	755	884	719
MS,S	2,055	2,043	2,039	2,059	261	217	211	267	1,794	1,826	1,828	1,792
IX,N	3,476	5,494	4,631	4,339	786	892	954	724	2,690	4,602	3,677	3,615
TX,E	3,416	3,214	3,225	3,405	636	568	485	719	2,780	2,846	2,740	2,686
TX,S	5,854	6,554	7,041	5,367	1,342	1,466	1,594	1,214	4,512	5,098	5,447	4,153
TX,W	2,329	3,283	3,073	2,539	578	781	733	626	1,751	2,502	2,340	1,913
6TH	21,648	23,916	20,956	24,608	3,851	4,652	4,560	3,943	17,797	19,264	16,396	20,665
KYE	1,485	1,629	1,579	1,535	528	623	667	484	957	1,006	912	1,051
KY,W	1,469	1,349	1,532	1,286	195	298	261	232	1,274	1,051	1,271	1,054
MI,F	4,902	5,759	5,584	5,077	738	1,506	1,388	856	4,164	4,253	4,196	4,221
MI,W	1,457	1,941	1,837	1,561	222	250	240	232	1,235	1,691	1,587	1,329
OH,N	4,436	6,079	3,651	6,864	561	605	611	555	3,875	5,474	3,040	6,309
OH,S	2,836	2,605	2,730	2,711	606	586	616	576	2,230	2,019	2,114	2,135
IN,L	1,704	1,464	1,350	1,818	453	291	317	427	1,251	1,173	1,033	1,391
IN,M	1,872	1,534	1,509	1,897	271	227	253	245	1,601	1,307	1,256	1,652
IN,W	1,487	1,556	1,184	1,859	277	266	207	336	1,210	1,290	977	1,523
7TH	21,216	22,244	18,168	25,292	2,164	2,733	2,300	2,597	19,052	19,511	15,868	22,695
IL,N	8,903	9,757	9,137	9,523	906	1,080	875	1,111	7,997	8,677	8,262	8,412
IL,C	1,134	1,336	1,295	1,175	181	243	209	215	953	1,093	1,086	960
IL,S	5,705	5,028	1,593	9,140	220	261	241	240	5,485	4,767	1,352	8,900
IN,N	1,650	1,522	1,544	1,638	226	346	288	304	1,424	1,176	1,266	1,334
IN,S	2,177	2,462	2,495	2,144	353	381	333	401	1,824	2,081	2,162	1,743
WI,E	1,086	1,249	1,294	1,041	182	240	217	205	904	1,009	1,077	836
WI,W	561	890	820	631	96	182	157	121	465	708	663	510
8TH	21,682	14,561	14,885	21,358	3,116	3,609	3,424	3,301	18,566	10,952	11,461	18,057
AR,E	9,145	1,970	2,277	8,898	476	552	520	508	8,669	1,418	1,697	8,390
AR,W	1,051	999	1,024	1,026	469	455	431	493	582	544	583	533
IA,N	519	515	537	497	205	212	218	199	314	303	319	298
IA,S	645	806	842	609	143	265	248	160	502	541	594	449
MN	4,480	3,821	4,365	3,936	327	323	384	266	4,153	3,498	3,981	3,670
MO,E	2,875	2,642	2,280	3,237	539	588	511	616	2,336	2,054	1,769	2,621
MO,W	1,812	2,526	2,350	1,988	668	897	778	787	1,144	1,629	1,572	1,201
NE	578	690	724	544	144	175	200	119	434	515	524	425
ND	191	231	296	216	54	69	61	62	137	162	145	154
SD	386	361	340	407	91	73	73	91	295	288	267	316

**ATTACHMENT C: U.S. DISTRICT COURTS—CIVIL CASES COMMENCED, TERMINATED, AND PENDING
DURING THE 12-MONTH PERIODS ENDING DECEMBER 31, 2011**

Table C-1. (December 31, 2011—Continued)

Circuit and District	Total Civil Cases				U.S. Civil Cases				Private Civil Cases			
	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011	Pending Dec. 31, 2010 ¹	Commenced	Terminated	Pending Dec. 31, 2011
9TH	41,693	46,630	47,697	40,626	7,123	8,752	8,702	7,173	34,570	37,878	38,995	33,453
AK	498	301	322	477	172	86	111	147	326	215	211	330
AZ	3,208	3,742	4,008	2,942	653	1,025	921	757	2,555	2,717	3,097	2,185
CA,N	6,380	6,876	7,052	6,204	642	878	780	740	5,738	5,998	6,272	5,464
CA,E	7,222	5,581	6,224	6,579	974	736	823	887	6,248	4,845	5,401	5,892
CA,C	11,175	15,102	15,578	10,696	2,048	2,890	3,114	1,824	9,127	12,212	12,464	8,875
CA,S	2,456	3,381	3,057	2,780	356	662	548	470	2,100	2,719	2,509	2,310
HI	703	818	796	725	89	105	103	91	614	713	693	634
ID	782	682	661	803	142	125	110	157	640	557	551	646
MT	462	578	559	481	112	131	134	109	350	447	425	372
NV	3,226	3,066	3,008	3,284	321	239	254	306	2,905	2,827	2,754	2,978
OR	2,403	2,249	2,378	2,274	725	634	666	693	1,678	1,615	1,712	1,581
WA,E	699	843	782	760	289	367	304	352	410	476	478	408
WA,W	2,350	3,345	3,213	2,482	573	854	825	602	1,777	2,491	2,388	1,880
GUAM	55	40	35	60	13	14	7	20	42	26	28	40
NMI	74	28	24	76	14	6	2	18	60	20	22	58
10TH	9,419	10,904	10,864	9,459	2,181	2,268	2,342	2,107	7,238	8,636	8,522	7,352
CO	2,278	3,489	3,418	2,349	414	512	520	406	1,864	2,977	2,898	1,943
KS	1,435	1,572	1,567	1,440	331	479	441	369	1,104	1,093	1,126	1,071
NM	1,136	1,174	1,242	1,068	282	304	318	268	854	870	924	809
OK,N	887	834	782	939	264	255	228	291	623	579	554	648
OK,E	499	472	485	486	248	179	186	241	251	293	299	245
OK,W	1,191	1,575	1,507	1,259	262	293	338	217	929	1,282	1,169	1,042
UT	1,698	1,395	1,440	1,653	277	169	202	244	1,421	1,226	1,238	1,409
WY	295	393	423	265	103	77	109	71	192	316	314	194
11TH	33,169	32,581	37,205	28,545	4,131	5,700	4,880	4,951	29,038	26,881	32,325	23,594
AL,N	3,409	4,422	2,585	5,246	429	715	454	690	2,980	3,707	2,131	4,556
AL,M	1,085	1,156	1,111	1,130	223	233	221	235	862	923	890	895
AL,S	652	753	732	673	156	184	135	205	496	569	597	468
FL,N	1,595	1,965	1,801	1,759	382	405	371	416	1,213	1,560	1,430	1,343
FL,M	16,138	7,766	14,487	9,417	1,352	1,642	1,396	1,598	14,786	6,124	13,091	7,819
FL,S	4,936	8,448	8,809	4,575	730	1,267	1,189	808	4,206	7,181	7,620	3,767
GA,N	3,657	5,578	5,305	3,930	549	796	728	617	3,108	4,782	4,577	3,313
GA,M	856	1,338	1,280	1,014	178	217	183	212	778	1,121	1,097	802
GA,S	741	1,155	1,095	801	132	241	203	170	609	914	892	631

ATTACHMENT D: SAMPLE FEDERAL COURT MANAGEMENT STATISTICS

Tenth Circuit

District Judges and Magistrate Judges	Civil Cases Pending	Motions Pending	Bench Trials Submitted	Bankruptcy Appeals	Social Security Appeal Cases
COLORADO	44	54	0	0	12
DISTRICT JUDGES	43	54	0	0	12
MATSCH, RICHARD P.	15	1	0	0	0
KANE, JOHN L., JR.	2	1	0	0	0
BABCOCK, LEVMS T.	2	3	0	0	2
DANIEL, WILEY Y. (CJ)	7	2	0	0	0
KRIEGER, MARCIA S.	9	0	0	0	1
BLACKBURN, ROBERT E.	0	0	0	0	0
BRIMMER, PHILIP A.	1	5	0	0	0
ARGUELLO, CHRISTINE M.	0	0	0	0	0
MARTINEZ, WILLIAM J.	3	23	0	0	4
JACKSON, R. BROOKE	3	18	0	0	5
EBEL, DAVID M. (VJ)	0	1	0	0	0
SMITH, ORTRIE D. (VJ)	1	0	0	0	0
MAGISTRATE JUDGES	1	0	0	0	0
WATANABE, MICHAEL J.	0	0	0	0	0
BOLAND, BOYD	1	0	0	0	0
SHAFFER, CRAIG B.	0	0	0	0	0
HEGARTY, MICHAEL E.	0	0	0	0	0
MIX, KRISTEN L.	0	0	0	0	0
TAFOYA, KATHLEEN M.	0	0	0	0	0
WEST, DAVID L.	0	0	0	0	0
RICE, GUDRUN J.	0	0	0	0	0
KANSAS	85	26	1	2	0
DISTRICT JUDGES	85	26	1	2	0
ROGERS, RICHARD DEAN	1	3	0	0	0
CROW, SAM A.	3	3	0	0	0
LUNGSTRUM, JOHN W.	10 ¹	3	0	0	0
BELOT, MONTI L.	11	10	0	0	0
VRATIL, KATHRYN H. (CJ)	38 ²	0	0	0	0
MARTEN, JOHN THOMAS	4	1	0	1	0
MURGUIA, CARLOS	6	2	0	1	0
ROBINSON, JULIE A.	2	0	0	0	0
MELGREN, ERIC F.	10	4	1	0	0
MAGISTRATE JUDGES	0	0	0	0	0
HUMPHREYS, KAREN M.	0	0	0	0	0
WAXSE, DAVID J.	0	0	0	0	0
O'HARA, JAMES P.	0	0	0	0	0
SEBELIUS, KEITH G.	0	0	0	0	0
GALE, KENNETH G.	0	0	0	0	0

¹ Seven of the 10 three-year-old cases consist of personal injury cases related to multidistrict litigation.

² Thirty-six of the 38 three-year-old cases consist of personal injury cases related to multidistrict litigation.

(CJ) = Chief Judge
(VJ) = Visiting Judge

ATTACHMENT E: SAMPLE QUESTIONS FOR INTERVIEWS

Note: Customization based on position will be necessary.

Date of interview:

Interviewer:

Name of interviewee:

Job title:

For which judge, if applicable:

Explain your main duties:

Was your role as it impacts the progression of civil cases explained to you when you started this job? If so, please share that explanation and who provided that explanation?

Is there a manual for your position? (If so, ask for a copy)

Do you have performance / time standards / goals for all / any of your duties? If so, which ones and what are those standards / goals?

What aspects of your job impact the flow of civil cases?

What changes would you suggest to improve this process as it relates to your position?

What changes would you recommend to improve the civil caseflow management process for your judge / for your court?

Would you suggest any changes to the court's local rules? If so, which ones and why?

Would you suggest any changes to your judge's individual protocols, orders, instructions, etc.? If so, what changes and why?

How are magistrate judges presently used in your system?

How might the court more effectively utilize magistrate judges?

Do you regularly review the case management statistics for your judge?

What reports do you use from CM/ECF and why? How often?

What additional reports or information would you like provided to you and why?

Describe how you are made aware of cases that may be on the upcoming Civil Justice Reform Act report? What do you do with this information?

Describe the level of direction you receive from the judge as it relates to the timely completion of assignments / duties?

ATTACHMENT E: SAMPLE QUESTIONS FOR INTERVIEWS

How often does the judge's team meet to review the state of their civil docket?

How often do you meet with the judge to discuss your work / assignments / performance?

Does your chambers or court have specific performance goals for the disposition of civil cases?

Do you get feedback on your performance as it relates to the quality and timeliness of your work? If so, by whom?

How could this process be improved?

For each position, drill down into each duty:

What each duty is?

Is there a performance standard for each duty?

If so, who monitors if it is met?

Is the standard reasonable?

Should it be modified?

If there is no standard should there be one and, if so, what should it be?

Explain how work comes to you, and what you do with an assignment to move the process along (this information will help you to prepare a flowchart of the movement of civil cases in chambers).

In conclusion, if you could make one recommendation to improve the time necessary and/or quality of the civil caseload system in your chambers, what would it be and why?

ATTACHMENT F: RECOMMENDATIONS GRID

Recommendation	Proposed Action	By Whom	Measure
Result:			