

THE PAST & FUTURE OF STATE COURT CIVIL FILINGS



INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



UNIVERSITY *of*
DENVER

What has the trend been in civil case filings?

**Are the filings trends different for
different types of civil cases?**

What factors might influence fluctuations in civil filings?



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INSTITUTE *for the* ADVANCEMENT
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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 facilitating continuous improvement and advancing excellence in the American legal system. We are a “think tank” that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal 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 American legal system.

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INTRODUCTION

Going back to the twentieth century, there has been a historical presumption of growth in filings in our state courts over time. As a report from the Court Statistics Project noted in the 1990s, “To many judges, court administrators, and others who have more frequent contact with the courts, the critical dimension of caseload is not so much the volume, but how volume is changing over time. And in state courts, the direction of change is up.”¹ This perspective has informed the planning for buildings, administrative staff, judges, technology, and other court resources for decades. Following the start of the Great Recession, however, this trend appeared to reverse, leading to a national focus on the decline in state court filings. In 2018, the National Center for State Courts reported that its compilation of state court data from 53 states and territories showed that after years of increasing caseloads, court filings reached an apex at the onset of the Great Recession in 2008 and had thereafter been declining, with total incoming cases in state courts down 19% over the decade.² For civil cases, that decline was 16%.

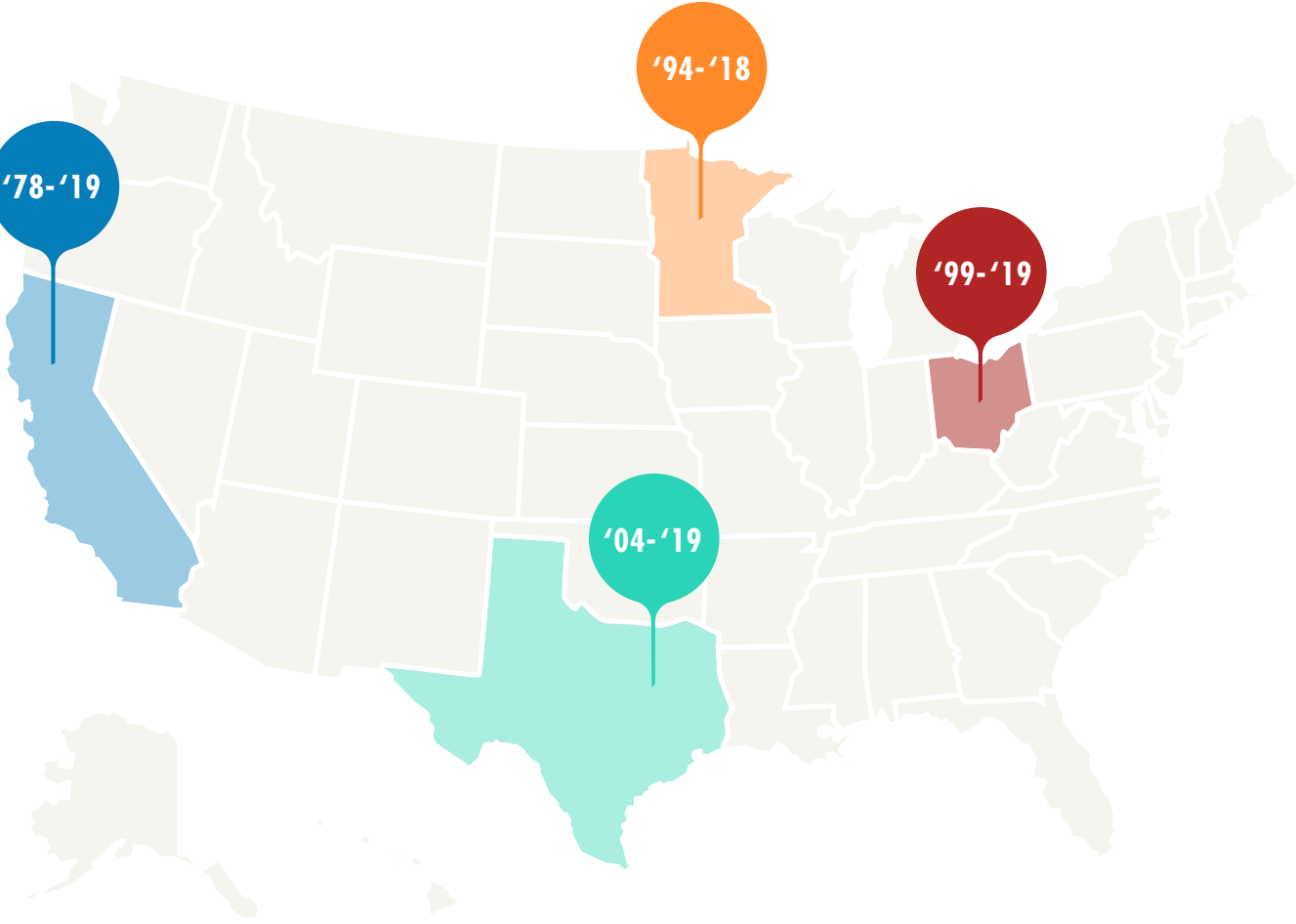
Interestingly, many states started to see a possible reversal of this latest trend just prior to the pandemic. The downward trend in overall state trial court caseloads, and civil caseloads, began to slow in 2016 and showed a slight increase of +1% between 2017 and 2018.³ Then came the COVID-19 pandemic in 2020, with a dramatic impact on everything related to the court system, including incoming state court cases and case processing.⁴ The pandemic—and its impact on everything in our lives and our courts, including state court filings—has now continued into its third calendar year. Today there is a new interest in the ongoing impact of the pandemic on filings in our courts, and with it a renewed interest in filings more generally. While it is critical to look at filings in the short term given the challenges of the pandemic and the economy, we also urge courts and reform-oriented organizations and researchers to take a longer view of filings to inform planning, policymaking, reform efforts, and a deeper understanding of our civil justice system.

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, has undertaken a study to explore a longer-term view of civil filings in our state courts. Looking at this expanded frame of reference, what has the trend been in civil case filings? Are the filings trends different for different types of civil cases? What factors might influence fluctuations in civil filings? Our goal with this study and through this report is to provide a deeper exploration into filing trends, identify factors that could be contributing to changes in filings, and pose questions for future study. IAALS has gathered long-term filing data from four states—California, Minnesota, Ohio, and Texas—and conducted background research regarding changes in procedural and substantive law, court rules and practices, case management practices, business practices, and other possible causal factors in those states to provide additional context for the analysis of those filings.

In terms of data analysis, we reviewed civil filings per year including by case type as available, civil filings by population, and changes in filings over the study period. Because case management systems, data collection strategies, and case type definitions can vary drastically from court to court, it is challenging to compare data from different courts and states. Recognizing these limitations, we speak to some key trends that warrant further study. In addition, we have developed a framework for thinking about factors that may influence filings. Finally, we speak to the implications of this research, including current challenges that are highlighted as well as future opportunities for a different approach—both in terms of how courts think about filings and data and how filings are managed on the ground.

We know from IAALS’ recent *US Justice Needs* study, in partnership with HiiL, the Hague Institute for Innovation of Law, that justice problems in the United States are prevalent, with 66% of the population experiencing at least one legal issue over a four-year period.⁵ In addition to highlighting the prevalence of legal problems, that study

also reflects that people pursue many different unique paths to justice, including resolution of disputes outside of court through informal means. That said, courts remain a critical way in which many resolve their legal problems, and court systems are among those sources of help that improve the chances of resolution.⁶ Yet we have significant work to do to improve access to justice, as shown by the World Justice Index, which rated the United States 115/140 in 2022 for whether people can access and afford civil justice.⁷ By focusing on state court filings over time, this study aims to provide additional insights into the specific role that courts have played in resolving cases, how that role might be changing, and the factors that are expected to continue to influence the filing of cases in our state court system going forward.



OUR STUDY COURTS IN FOCUS

This report includes non-domestic civil filings data from four states—California, Minnesota, Ohio, and Texas (e.g., tort, contract, real property, and miscellaneous civil cases).⁸ One key challenge in a comparison study of state court civil filings is the differences in case type definitions and organizational structures across the courts.⁹ To provide background regarding each of the different courts in this study, and context for the analysis, we include the following court structure and jurisdictional limits highlights for reference. Additional detail and background are included in the appendices to this report: Appendix I provides information about the methods of this study; Appendix II presents more detailed analyses of the data for each study state.

Table 1: Timeframe of Filings Data Received by State

STATE	START YEAR	END YEAR	TOTAL YEARS INCLUDED
California ¹⁰	FY 1978–79	FY 2018–19	41
Minnesota	1994	2018	25
Ohio	1999	2019	21
Texas	2004	2019	16



CALIFORNIA

Today California has one fully unified trial court level—the Superior Courts. There is one Superior Court in each of the state’s 58 counties. The unification of California’s trial courts evolved over time, throughout the period of this study.¹¹ A constitutional amendment in 1950 reduced the prior six types of limited jurisdiction courts to two types—Justice of the Peace Courts (“Justice Courts”) and Municipal Courts.¹² Efforts to unify the courts into a single trial court began in 1970. A constitutional amendment was passed in 1998 initiating the unification of these courts into a single superior court, and this unification was complete by 2001 for all California counties.¹³ Each Superior Court is a separate governmental and fiscal entity. This study includes an analysis of Unlimited (cases with more than \$25,000 in dispute), Limited (cases with \$25,000 or less in dispute), and Small Claims cases (cases of \$10,000 or less in dispute).



MINNESOTA

Minnesota has one level of trial court within its unified court system—the District Courts—with a District Court located in each of the state’s 87 counties. The trial courts are divided into 10 judicial districts.¹⁴ This study analyzes Minnesota’s Major and Minor civil filings, which are defined based on type of case and not the amount of damages sought, as well as Conciliation Court filings, known as small claims in other states.



OHIO

Ohio has four types of trial courts that handle civil cases. Ohio’s Court of Common Pleas is the only trial court created by Ohio’s constitution, with original jurisdiction over all civil cases, including exclusive jurisdiction of matters where the amount in dispute exceeds \$15,000, as well as review of decisions from

some state administrative agencies.¹⁵ There is a Court of Common Pleas in each of Ohio's 88 counties. Municipal and County Courts are created by the General Assembly and have limited jurisdiction over civil cases up to \$15,000.¹⁶ If part of a county is not covered by a Municipal Court, a County Court with the same powers and jurisdiction will be created.¹⁷ As of 2019, there were 130 Municipal and 34 County Courts in Ohio.¹⁸ These courts have concurrent jurisdiction with the Court of Common Pleas over civil cases valued from \$500 to \$15,000, as well as jurisdiction to hear Small Claims cases with a value up to \$6,000.¹⁹ In addition, Ohio has a Court of Claims, which has original jurisdiction over suits against the state and its agencies. This study analyzes Ohio's civil filings from each of the three trial courts, including the Court of Common Pleas, Municipal Courts, and County Courts.



TEXAS

Texas has the most complex trial court system of the states in this study, with multiple levels of trial courts, including state trial courts of general and specific jurisdiction, county trial courts of limited jurisdiction, and local trial courts of limited jurisdiction.²⁰

The state trial court of general and specific jurisdiction is known as the District Courts, with original jurisdiction over civil actions over \$200, divorce, title to land, and contested elections. The District Courts generally have exclusive jurisdiction in matters where the amount in controversy is over \$200,000 and certain other types of civil suits (e.g., suits for title to land).

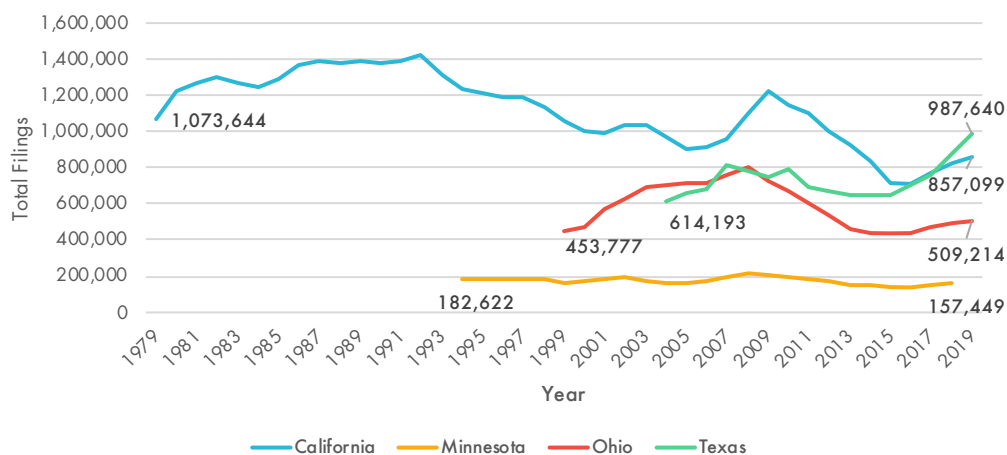
At the county level, there are Constitutional County Courts and Statutory County Courts, as well as Justice Courts at the local trial court level. Jurisdiction of the various levels of trial courts is established by constitutional provision and the statutes establishing the individual courts. As to civil cases, generally the Constitutional County Courts have concurrent jurisdiction with Justice Courts in civil cases from \$200 to \$10,000 and concurrent jurisdiction with the District Courts in civil cases from \$200 to \$5,000. The Statutory County Courts have concurrent jurisdiction with the Constitutional County Courts, along with concurrent jurisdiction with the District Courts in civil cases from \$500 to \$200,000 and appeals from the Texas Workers' Compensation Commission. This simple explanation comes with the caveat that "the actual jurisdiction of each statutory county court varies considerably according to the statute under which it was created."²¹ As to jurisdiction over civil matters, the Justice Courts have exclusive jurisdiction over civil matters that do not exceed \$200 in amount in controversy, concurrent jurisdiction with the County Courts in cases from \$200 to \$10,000, and jurisdiction over eviction cases.²² Prior to 2013, Justices of the Peace presided over both small claims and justice court, both involving cases with an amount in controversy less than \$10,000. The legislature abolished these "small claims courts" and provided that such cases be heard in Justice Court with a new set of rules.²³ This study includes statewide civil filing data from each of these trial courts over the study period.

KEY TRENDS IN STATE COURT FILINGS

It is important to note that, while this study provides a long-term view of filings in these states, it is still just one snapshot in time across a long history of filings in four states. While our goal is to include as long a time period as possible, by definition this analysis is limited by the time period selected, and depending on the years that are reviewed, one may interpret the data differently. With respect to the graphical representations of the data, we have provided both absolute and population-adjusted figures throughout (all population-adjusted figures are calculated as filings per 100,000 individuals in the population). There is value in looking at the data through both of these lenses: the absolute filing rates provide a look at the raw changes in filings over time and are consistent with how courts track and report filings, while the population-adjusted filing rate figures present the data in the context of the size of the population the court serves.

When looking at the filings from these states over the period of this study, from 16 to 41 years depending on the state, the data underscores that civil filings in our state courts have not risen steadily over time as population has increased. In California, where there has been a continual increase in population, we see an overall decline in both absolute and population-adjusted filing rates over time. The same is true for Minnesota, but to a lesser extent. For Ohio, we see fluctuations in filing rates over time, but both absolute and population-adjusted filing rates are approximately the same level at the end of the study as they were at the start. Texas stands out among the study states, with increasing filings—both absolute and population-adjusted—over the period of this study.

Figure 1: Civil Filings by State, Absolute²⁴



CALIFORNIA

'76

Legislature enacted a voluntary judicial arbitration program for Superior Courts

'79

Royal Globe Ins. Co. v. Superior Court, Supreme Court of California – increased the availability of third-party bad faith claims against insurance companies in tort cases

'79

Jurisdictional floor raised from \$5,000 to \$15,000 for unlimited civil filings

'82

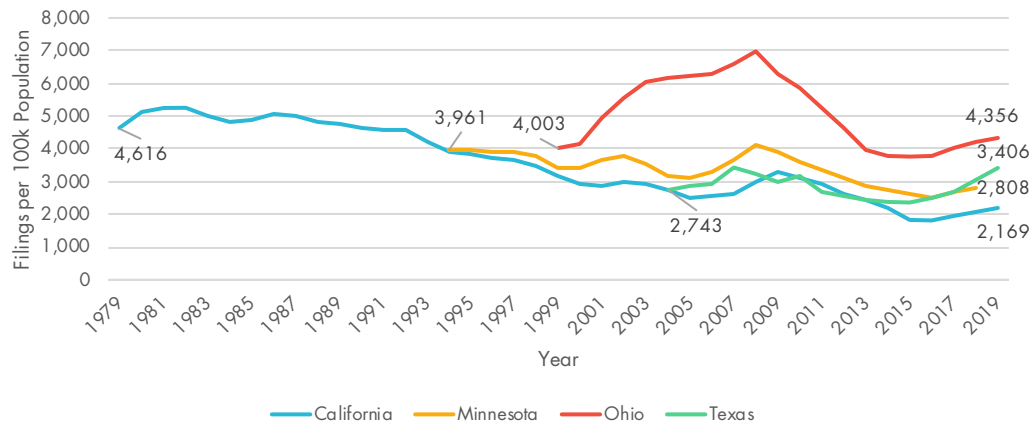
Economical Litigation Program's simplified civil procedure laws made applicable to all limited civil cases

'86

Trial Court Delay Reduction Act (TCdra) adopted to address delay in resolving civil litigation

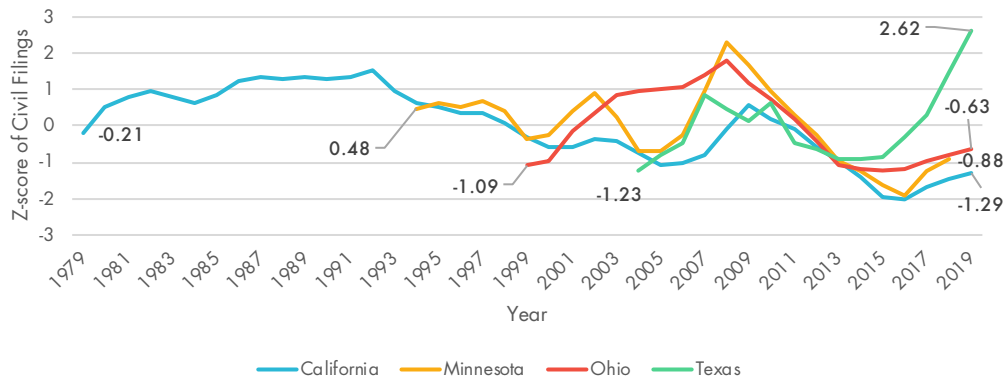
See Appendix III for supporting timeline citations.

Figure 2: Civil Filings by State, Population Adjusted



In addition to looking at the data in terms of absolute and population-adjusted numbers, considering standardized data can be helpful. Figure 3 below presents standardized data for each study state—in the form of z-scores—which allows us to compare data across states while accounting for differences in means and variability in each of those samples.

Figure 3: Civil Filings by State, Standardized²⁵



CALIFORNIA

'86

'88

'97

'98

'99

Jurisdictional floor raised from \$15,000 to \$25,000 for unlimited civil filings

Moradi-Shalal v. Fireman's Fund Ins. Companies reverses *Royal Globe*

Proposition 213, the Personal Responsibility Act of 1996, limited recovery by uninsured motorists

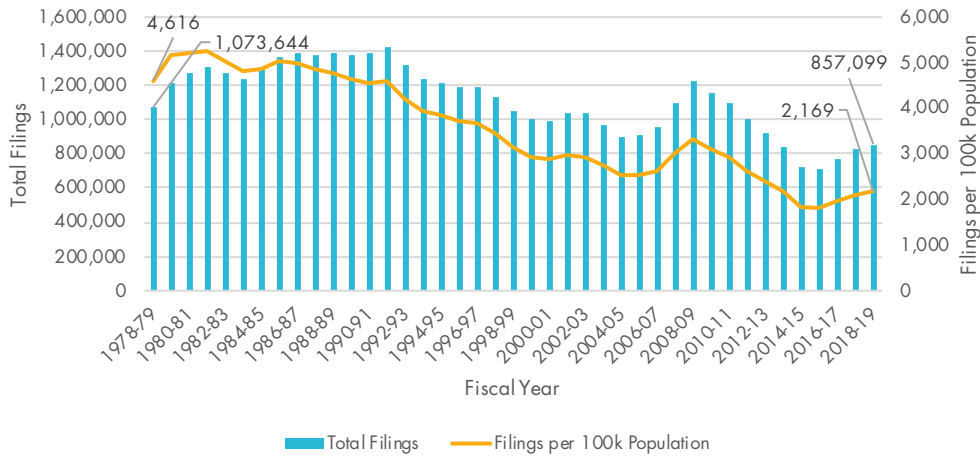
Constitutional amendment passed permitting courts to be unified into a single superior court

Legislation established court-annexed Early Mediation Pilot Programs in five Superior Courts, applicable to both Unlimited Civil and Limited Civil cases

CALIFORNIA

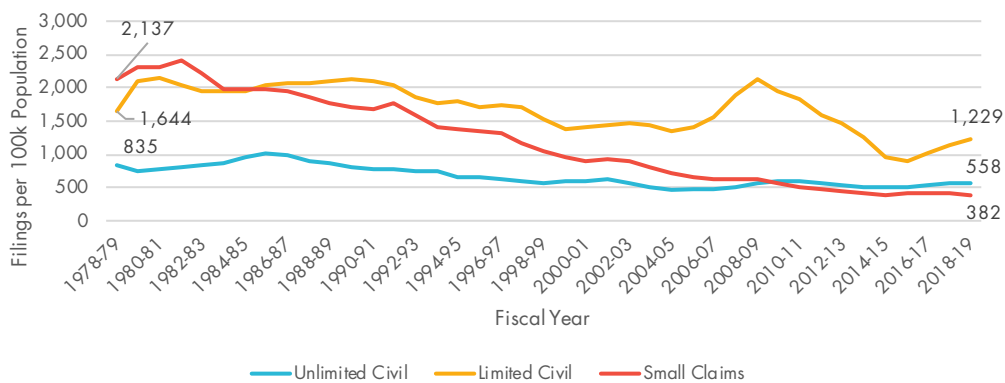
When looking at absolute civil filings in California, we see a gradual, if irregular, decline over the years. In the aggregate, California civil filings in FY 2019 were 20.2% lower than in FY 1979. This trend stands in sharp contrast to California's population growth, which increased dramatically, nearly doubling during the time frame of the study.²⁶ Considering the data when adjusted for population,²⁷ the filings were 53.0% lower.

Figure 4: California Civil Filings, Absolute and Population Adjusted



Civil filings in California can generally be divided into three categories. Small Claims cases involve amounts in controversy under \$10,000, the Limited Civil category includes cases up to \$25,000, and the Unlimited Civil category includes cases over \$25,000, as well as other types of disputes that do not involve money (e.g., quiet title actions and equity).²⁸ The largest total volume of cases for much of this study period and the greatest source of fluctuation over the course of the study period was in limited civil filings.

Figure 5: California Civil Filings by Case Category, Population Adjusted



Complex Civil Litigation Pilot Program in six Superior Courts established

'00

Last court voted to merge into single superior court

'01

Statewide Self-Help Center page created on statewide website

'01

California statute of limitations expanded for personal injury

'03

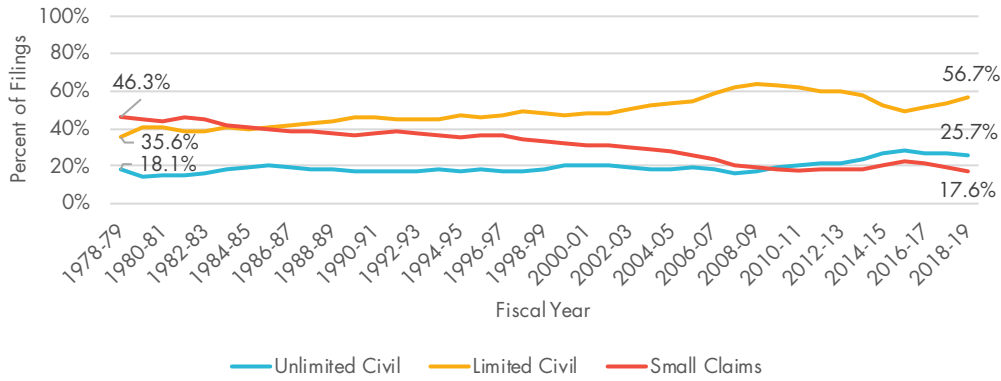
Judicial Council adopted action plan to expand court access for self-represented litigants

'04

New judicial positions, increased judicial compensation, and transfer of court facilities from county to state ownership

'06

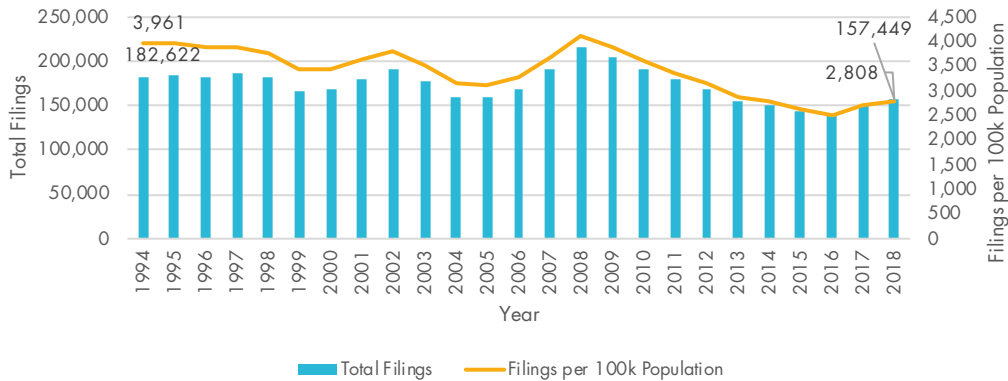
Figure 6: Percent of California Civil Filings by Case Category



MINNESOTA

A review of Minnesota’s absolute civil filings reflects fluctuations over the 25-year period between 1994 and 2018. Filings reached their peak over this period in 2008, followed by a decline from 2008 to 2016. The drop from the peak in 2008 to the lowest level in 2016 was 36.0%. Overall, absolute civil filings were 13.8% lower in 1994 than in 2018. When filing rates are adjusted for population, they reflect a similar trend, though more pronounced, (29.1% decrease). The similarity of the two patterns is due to the slow and steady growth in Minnesota’s population during this period.

Figure 7: Minnesota Civil Filings, Absolute and Population Adjusted



CALIFORNIA

'08

California Budget Crisis

'10

Expedited Jury Trial Act adopted establishing simplified jury trial process

'12

Counties closed courthouses during this period as a result of the recession

'13

Fair Debt Buying Practices Act enacted to respond to reports of unfairness to debtors due to the inadequacy of documentation in debt collection cases

'15

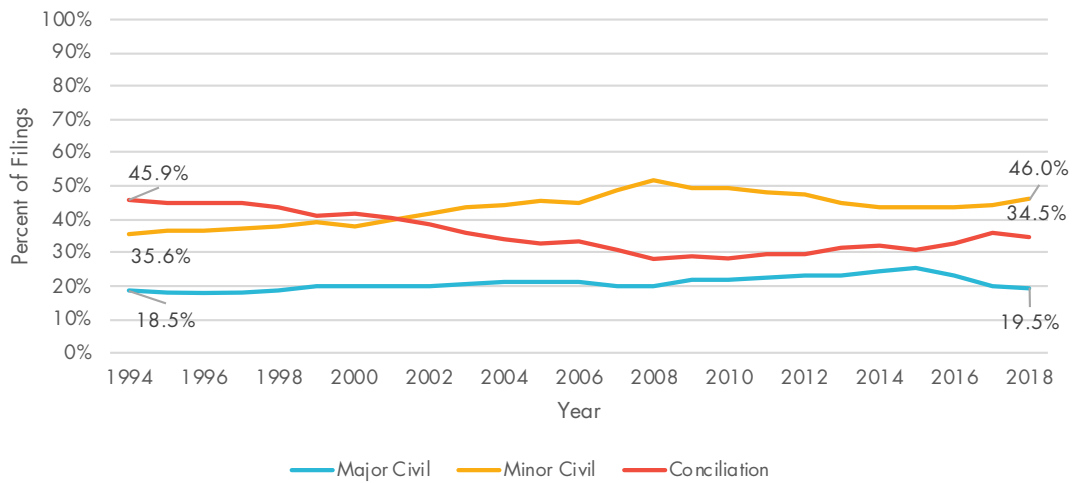
Language Access Plan approved

'17

Futures Commission releases report moving forward reforms on SRLs, civil justice, and technology

Civil filings of all case types are generally separated into two categories in Minnesota—Major Civil and Minor Civil. These two categories are defined based on type of cases and not the amount of damages sought (see Appendix I for a full breakdown of the case types included in these categories).²⁹ In this study, we have separated out Conciliation Claims, known as Small Claims in other states, from Minor Civil given the differences in these cases and the ability to compare across states. Looking at percentages of total caseload, Major Civil filings began at 18.5% of the total caseload, peaked at 25.5% in 2015, and ended at 19.5% in 2018. This category was the most consistent in terms of filings of the three. Minor Civil filings began as 35.6% of the caseload and ended at 46.0% as the greatest portion of filings. Minor Civil filings also had considerable variation in filing rates across the observed time period. Conciliation Claims filings started as the greatest share of the total civil caseload at 45.9% and ended at 34.5%.

Figure 8: Percent of Minnesota Civil Filings by Case Category



OHIO

When looking at absolute civil filings across all four types of courts in Ohio, we see a gradual increase through 2008, when filings reached their peak, followed by a decline. The drop from the peak in 2008 to the lowest level in 2015 was 45.6% (population adjusted: 46.1% decrease). Though there was substantial fluctuation during the study period, absolute filings in 2019 were about the same as in 1999. The population-adjusted filings trend is a near identical reflection of the total filings—which is expected, given that the Ohio population has remained largely stable during that 20-year span, with only 3.1% growth during that time.

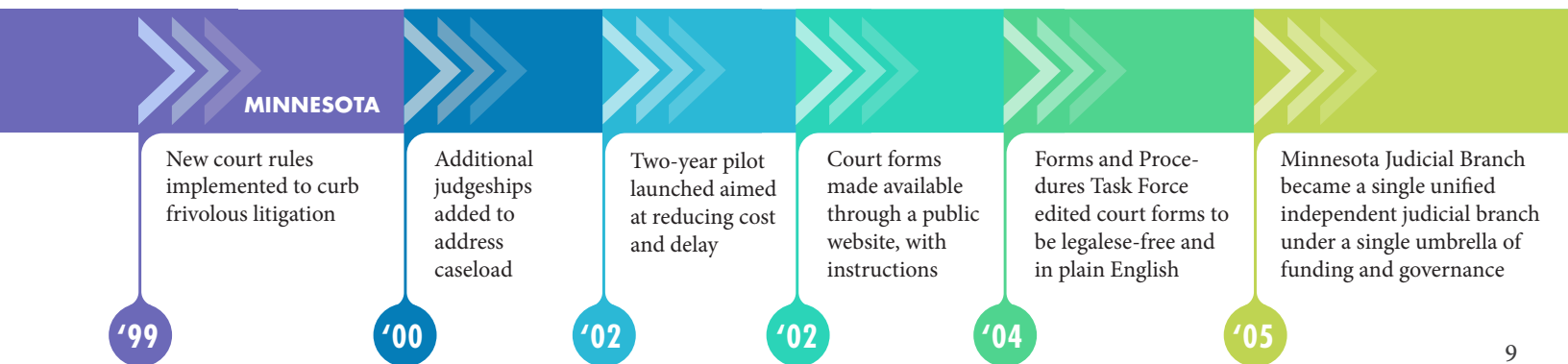
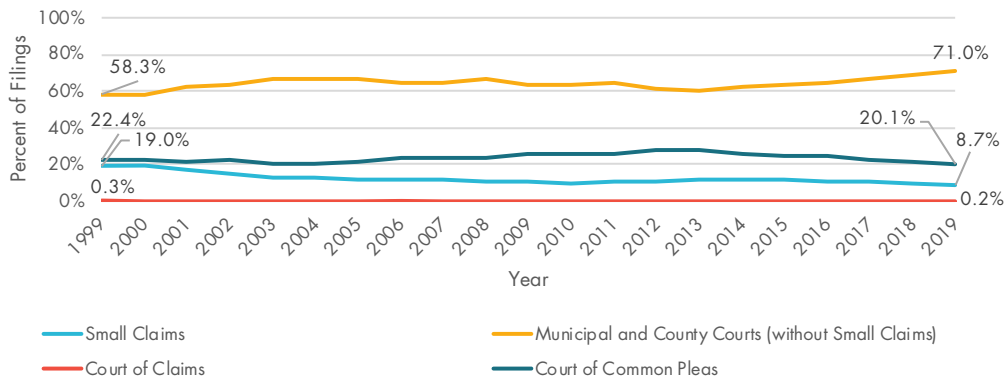


Figure 9: Ohio Civil Filings, Absolute and Population Adjusted



Looking at the percentage of filings over the study period by the court, the distribution of the civil caseload among the trial courts over the study period was relatively consistent, with the Municipal and County Court filings becoming an increasing share of total civil filings toward the end of the study period. The largest total volume of cases and the category of cases with the most fluctuation during the study period was in the Municipal and County Court filings. The Court of Common Pleas represents roughly one quarter of overall annual civil filings, showing an overall decreasing share over the last two decades. Small Claims have been separated out into its own category throughout this analysis to reflect differences in trends and to allow for comparison with other states. The Small Claims share of total filings has decreased consistently over this period. In 1999, Small Claims made up 19.0% of all state civil case filings; in 2019, these cases made up just 8.7%. Court of Claims filings never exceeded 0.3% of the total annual civil filings in any year of the study period.

Figure 10: Percent of Ohio Civil Filings by Court



MINNESOTA

- '06: New statewide web page introduced that included a new Self-Help Center with information and links to legal resources
- '06: Court began providing email support to court users
- '07: Minnesota launched the Statewide Self-Help Center (Call Center)
- '07: Self-Help Workstations made available in 89 courthouses and library locations
- '08: Completed statewide transition to Minnesota Court Information System
- '10: Civil Justice Reform Task Force established to examine civil case processing statutes, court rules, and practices

TEXAS

In addition to being unique because of its size and court structure, Texas is also unique in terms of its overall filings, as there was an increase in filings over the 16 years included in the study data. Texas absolute civil filings in 2019 were 60.8% higher than in 2004. The population-adjusted filing rate was 24.2% higher during that time frame. The substantial difference between absolute and population-adjusted percentages is due to Texas’s population growth, which increased by 29.5% between 2004 and 2019.

Texas civil filings are represented here by court. The largest total volume of cases and the type of court with the most fluctuation during the study period was in the Justice Courts. Unlike the other states in this study whose small claims cases have decreased, filings in the Justice Courts in Texas have increased over the study period, particularly from 2013 to 2019 when filings increased 56.8% (population adjusted: 43.2% increase). Prior to 2013, Justices of the Peace presided over both small claims and justice court, both involving cases with an amount in controversy less than \$10,000. The Legislature abolished “small claims courts” and provided that such cases be heard in Justice Courts with a new set of rules.³⁰ Small claims cases have been separated out into their own category for review across the study period.

Figure 11: Texas Civil Filings, Absolute and Population Adjusted

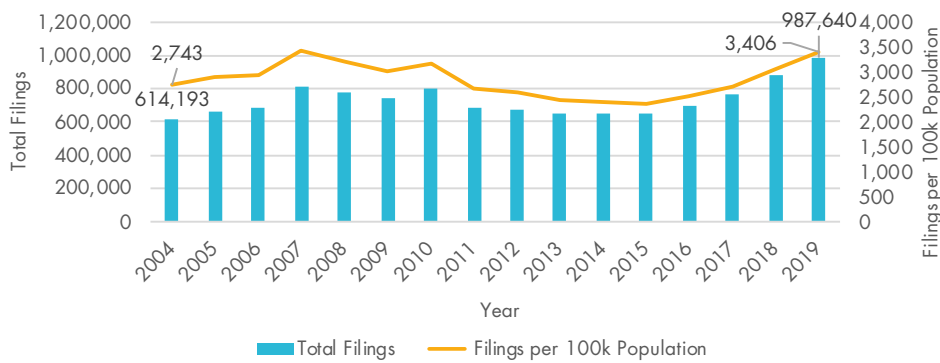
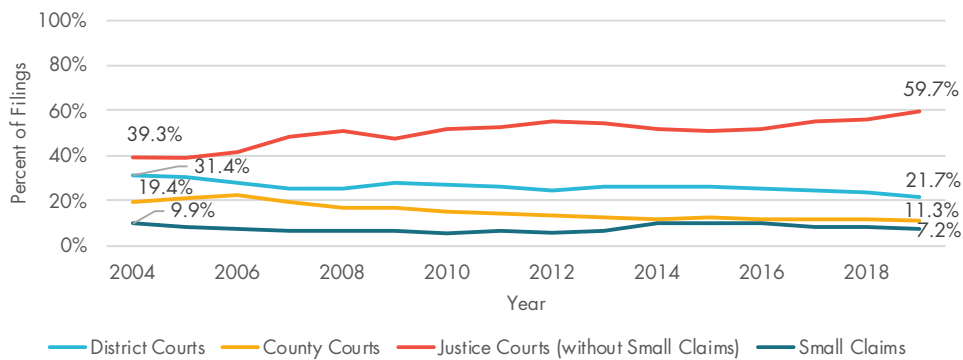


Figure 12: Percent of Texas Civil Filings by Court



Conciliation Courts
Jurisdiction limits
increased to \$10,000

'12

Civil rule reforms
implemented, including
initial disclosures,
proportionality, and
civil cover sheet

'13

Hip-pocket filing limited
to require complaint be
filed within a year
of service if case
unresolved

'13

Expedited
Litigation Track
(ELT) pilot
program
established

'13

Complex Case
Program (CCP)
established

'13

THE SLOW DISAPPEARANCE OF SMALL CLAIMS CASES

A decrease in filings was most consistent and prominent in small claims cases. Small claims courts were originally created to provide a forum for self-represented litigants to recover smaller amounts of damages through simplified processes and more relaxed rules. Notably, the National Center for State Court’s 2015 *Landscape of Civil Litigation in State Courts* found that an unexpectedly high percentage of plaintiffs (76%) were represented by attorneys in the small claims cases in that study, suggesting that small claims was becoming “a forum of choice for attorney-represented plaintiffs in lower-dollar value debt collection cases.”³¹

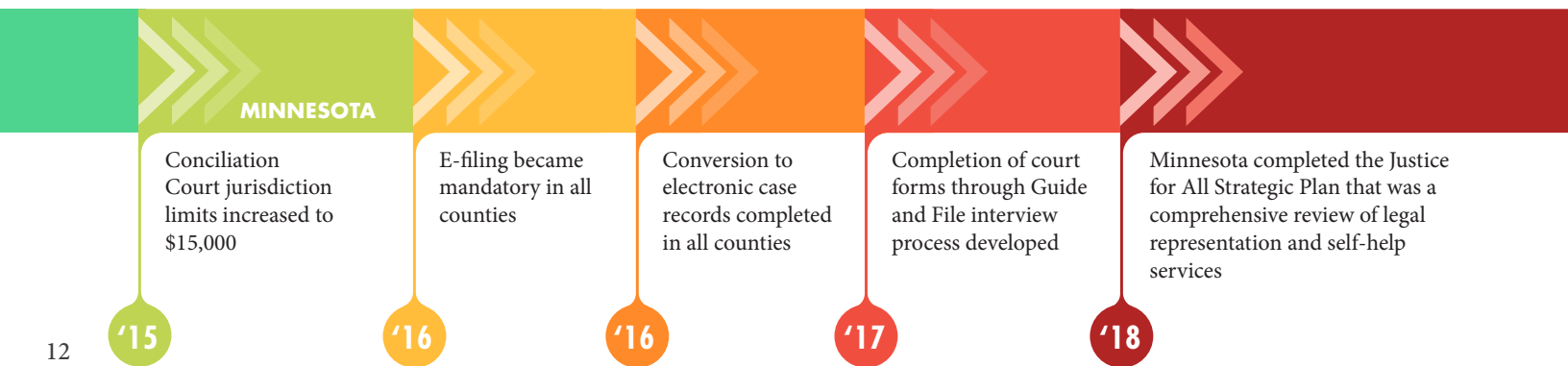
Small claims jurisdiction in all four states experienced numerous increases to their upper jurisdictional limit during the time period of this study, reflecting the broader trend in state courts to increase the jurisdictional limits for these cases.³² Nevertheless, there was a consistent and prominent decrease in filings in three of the four states in small claims cases. In California, the largest category of filings at the beginning of the period was small claims filings at 46.3% of the overall docket. Small claims filings in California fell drastically over the study period and, ultimately, were the least common of the three major case categories in 2019 at 17.6%. Compared to FY 1979, the FY 2019 total filings were 69.6% lower and the population-adjusted filings were 82.1% lower, despite four increases in the monetary cap during the timeframe of this study from \$1,500 to \$10,000.

Conciliation cases in Minnesota (similar to small claims in other states) likewise declined, despite the fact that the monetary cap was increased three times during the timeframe of this study, from \$6,000 to \$15,000. Increasing the monetary jurisdiction of the Conciliation Court did not appear to increase filings in that court, nor did it slow the decline in filings. In Ohio, the Small Claims share of total filings declined over the study period, from 19.0% of all state civil case filings in 1999 to 8.7% in 2019 despite two increases in the monetary cap from \$2,000 to \$6,000 during the study period. While there may be other influencing factors, the increase in jurisdictional amounts in these limited jurisdiction courts does not appear to correspond with an increase in filings in the courts, nor does it correspond with a slowing of the overall decline in filings over time.

Texas saw a smaller decrease in small claims filings over the study period, from 9.9% of all state civil filings in 2004 to 7.2% of all state civil filings in 2019. Within this overall timeframe, there was a decrease in small claims filings prior to 2012, and an increase from 2013 to 2019. This may be explained by the changes to small case categorization and procedures in 2013. Small claims cases have been separated out into their own category for review across the study period.

At the same time, in California and Ohio there is a rise in limited jurisdiction cases. Prior researchers have noted a similar pattern and found evidence of forum shopping—particularly in debt collection cases—when the amount in controversy was studied.³³ This is a potential factor here as well, and this long-term data provides support for further study into the amounts in controversy and forum selection.

Because many courts do not consistently report cases in the “small claims” category with more detailed subcategories, it makes understanding of this specific case category more challenging, both in this study and for



courts and researchers generally.³⁴ This makes it particularly difficult to understand whether these declines are happening across all small claims cases, or whether there is a particular case type in decline in small claims cases, and this is an area that warrants deeper research.

A LONG-TERM DECLINE IN TORT CASES

With regard to tort cases, three of the four study states illustrate the long-term decline that has been provided as a snapshot in other studies. Tort cases comprised just seven percent of the NCSC’s *Landscape of Civil Litigation in State Courts* dataset in 2013, in comparison with 49% in the 1992 NCSC *Civil Justice Survey of State Courts*.³⁵

Within the Unlimited Civil subcategory in California, both total and population adjusted filings dropped over the course of the study period in both Auto Tort and Other Personal Injury/Property Damage/Wrongful Death.

Figure 13: California Unlimited Other Personal Injury/Property Damage/Wrongful Death Filings, Absolute and Population Adjusted

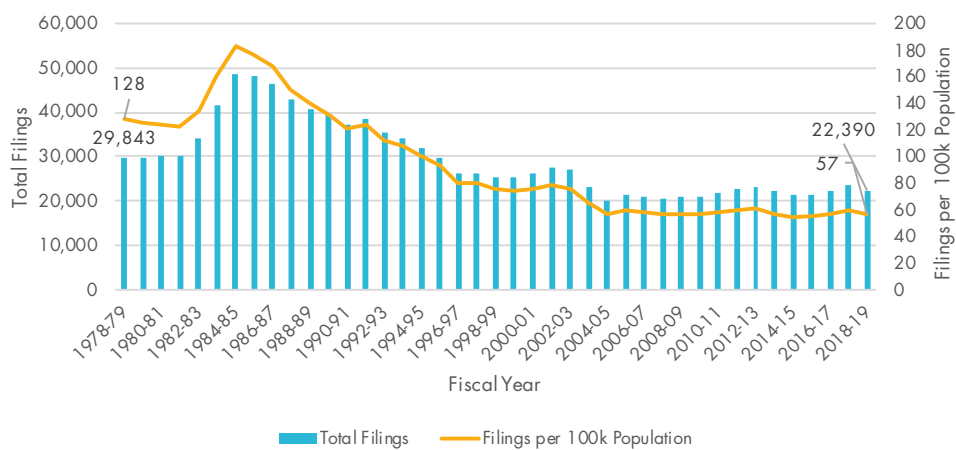
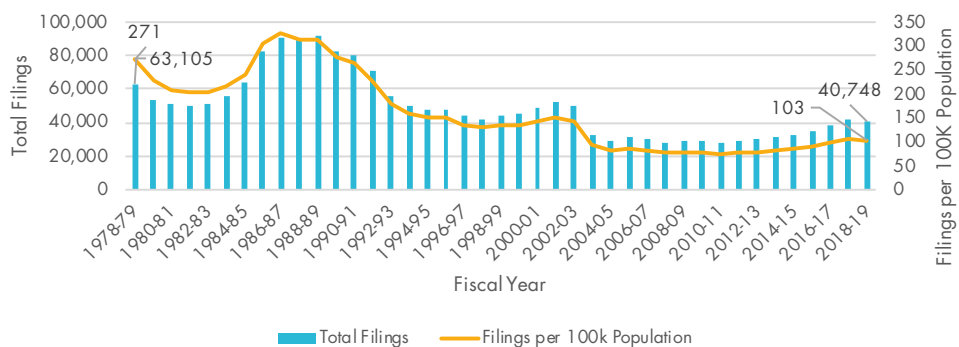


Figure 14: California Unlimited Auto Tort Filings, Absolute and Population Adjusted



OHIO

'04

The Supreme Court of Ohio, with superintendence authority over Ohio courts, moves into a permanent dedicated judicial center

'05

Additional tort reforms cap recovery of non-economic losses

'06

Ohio Supreme Court undergoes comprehensive website redesign

'07

Increased case management focus on training and improved data analysis/reporting

'08

Save the Dream foreclosure assistance program launched that consolidated state resources and initiatives into one program

'08

Updates to the Code of Judicial Conduct adopted

In Ohio, torts declined steadily over the study period, with a decrease of 51.6% over the study period (population adjusted: 53.1% decrease). Within the Court of Common Pleas, tort cases fell by 41.4% over the study period (population adjusted: 50.8% decrease), while tort cases in the Municipal and County Courts decreased by 74.3% (population-adjusted: 75.0%). Tort filings in Minnesota declined by 10.5% over the course of this study (population-adjusted: 26.4% decrease).³⁶ Texas is unique in this regard, with a 32.9% increase (population adjusted: 2.7%) over the study period.³⁷

Figure 15: Ohio Tort Filings, Absolute and Population Adjusted

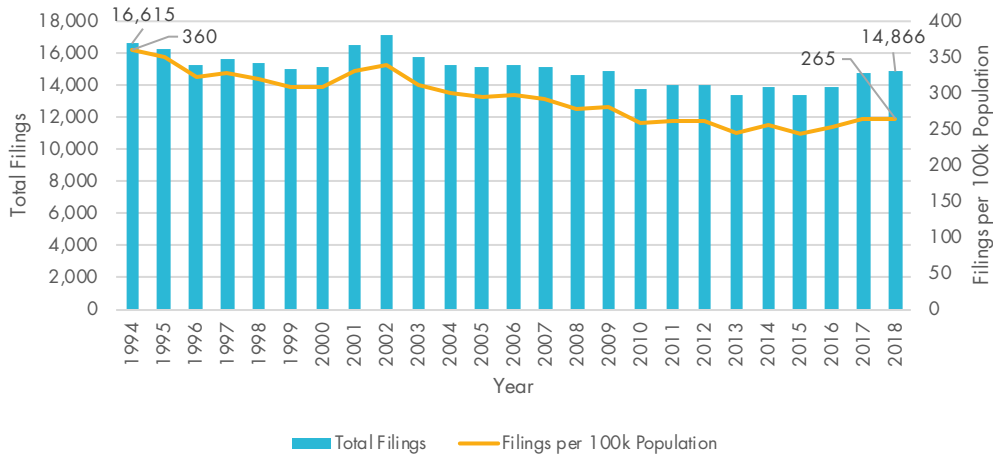
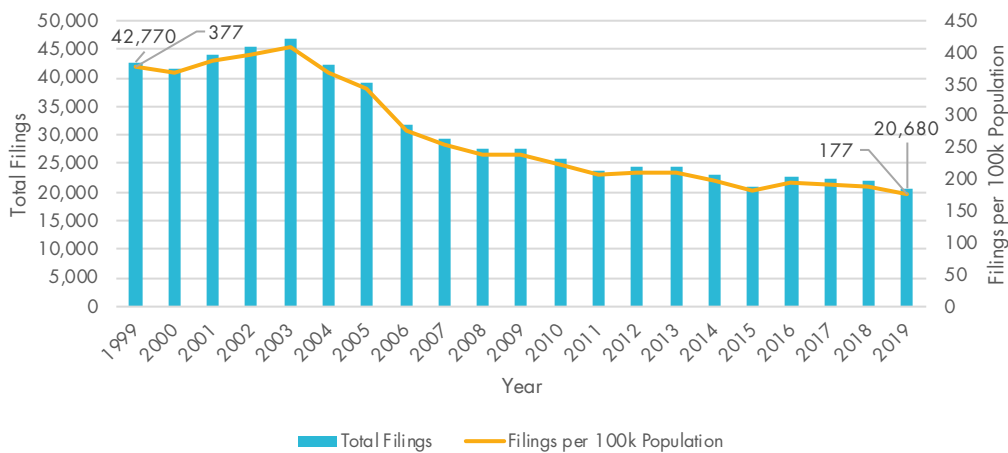


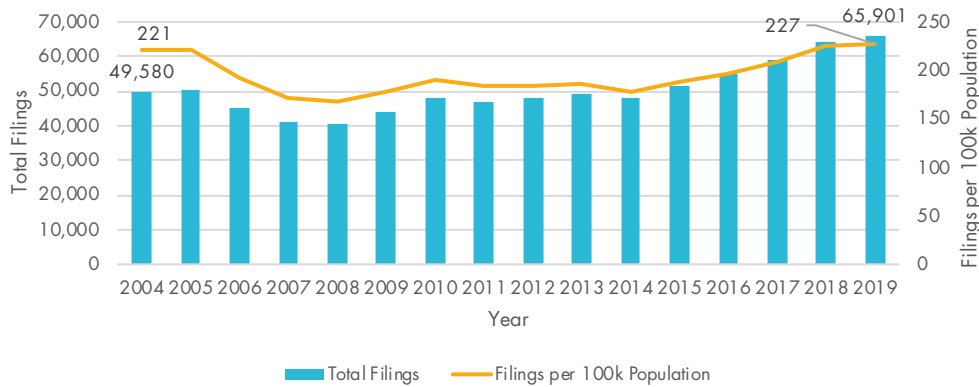
Figure 16: Minnesota Tort Filings, Absolute and Population Adjusted



OHIO

- '08 Ohio Courts Network launched, establishing a centralized data warehouse of case-level data, available to all courts statewide
- '08 Temporary commercial docket rules adopted and pilot programs became operational
- '09 Supreme Court makes significant reductions in spending
- '09 Ohio Disciplinary System Task Force issued final report recommendations for restructuring the disciplinary system
- '11 Advisory Committee on Case Management formed to make recommendations concerning data collection and enhancing caseload management practices

Figure 17: Texas Tort Filings, Absolute and Population Adjusted

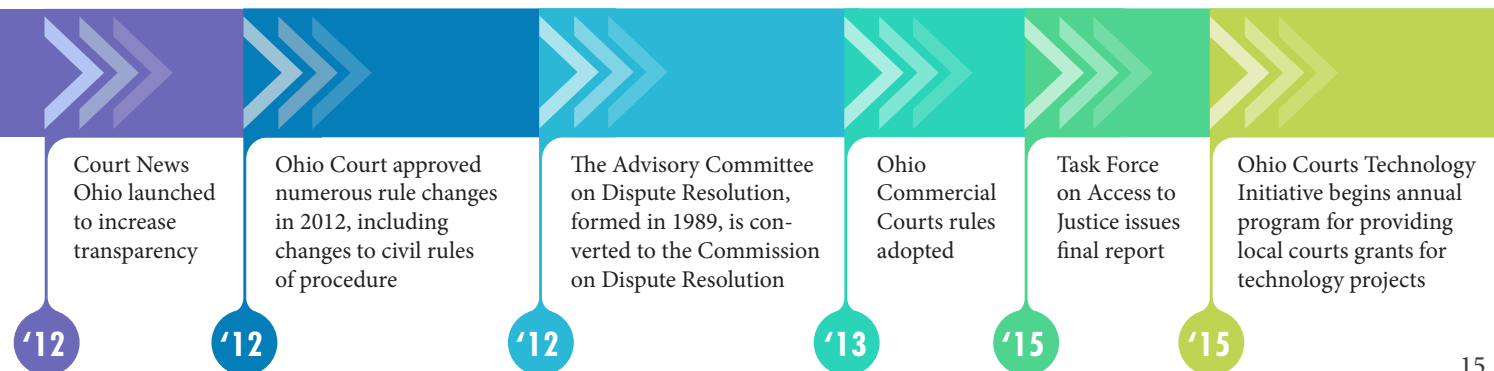


FOCUSING ON DEBT

Other national studies have highlighted the important and increasing role of debt collection cases in state courts. The Pew Charitable Trusts reported in its 2020 report on consumer debt that such litigation has grown from 1.7 million cases in 1993 to about 4 million in 2013, reflecting an increase from less than 12% to 24% during this period.³⁸ Unfortunately most states do not separately track and report consumer debt cases; instead they are reported within other broader categories such as small claims or “other civil.”³⁹ This makes it very difficult to highlight and understand the trends within this case type over time.

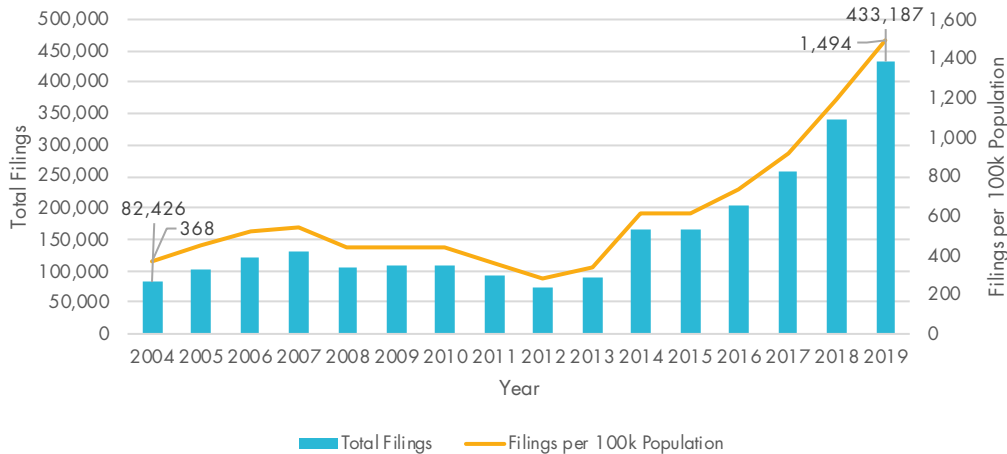
In our study states, one state tracks debt cases separately, providing a unique opportunity to examine these filings over time. As a caution, we cannot assume that what we see in Texas is representative of what is happening in other states or is representative of overall national trends. Rather, we share this data to provide insights into the Texas data and, importantly, to urge other states to similarly track the trends in consumer debt cases. Because Texas has several different case types associated with consumer debt cases across the different trial courts, and has had changes to case types and jurisdiction over time, we have combined all debt cases together below so that we have a consistent and complete picture of the debt cases filings over time. As shown below in Figure 37, in Texas, population-adjusted filing rates for debt cases increased across all Texas courts from 2012 (the low point for debt cases in Texas) to 2019, with an increase in population-adjusted filings of 431.1% over this period.⁴⁰ The substantial and persistent increase in absolute and population-adjusted filing rates in recent years points to a need for additional focus and research on debt cases, in particular.

This type of data and analysis is particularly important in debt collection cases because of the tremendous challenges these cases pose for courts and people, and the corresponding opportunity for reform and impact.⁴¹ These cases exist in high volume around the country, but they also are distinctive in the overwhelming numbers



of unrepresented defendants and a high default rate. Without this data, it is difficult for courts to identify and track problem areas as it relates to the court’s efficiency and the court user’s experience. Debt collection litigation provides an important window into why collecting and analyzing case type trends is necessary and critical for courts and for the administration of justice.

Figure 18: Texas Debt Cases, Absolute and Population Adjusted



FLUCTUATIONS IN FILINGS

In addition to gaining insights by specific case type, this study also provides insights into where there is the greatest fluctuation in filings over time—and where case filings are more consistent. Across all four jurisdictions, the general jurisdiction courts with higher-dollar value cases have the least fluctuation in filings over time. These higher-dollar value, more complex cases appear to be less influenced by external factors over time. On the other hand, we see more fluctuation in limited jurisdiction, lower-dollar value cases. Given the complexity of the different factors impacting filings, it is difficult to identify any single factor as a cause. Nevertheless, this finding indicates that this is a tier of cases that courts should monitor closely to better understand the shifting nature of filings over time. In contrast to the more consistent decline in small claims and tort cases, we see more fluctuation in Contracts and Other Civil specifically over time.



POSSIBLE FACTORS IMPACTING FILINGS

Filings can be affected by a number of factors that occur both internally and externally to the courts and the justice system. Moreover, the impact of a factor may be local or regional, as opposed to statewide or national. Focusing in on California as an example, the population grew considerably over the study period; however, not every part of the state grew at the same rate, nor was the growth steady over the period. This complicates any attempt to link changes in filing levels to these types of factors.

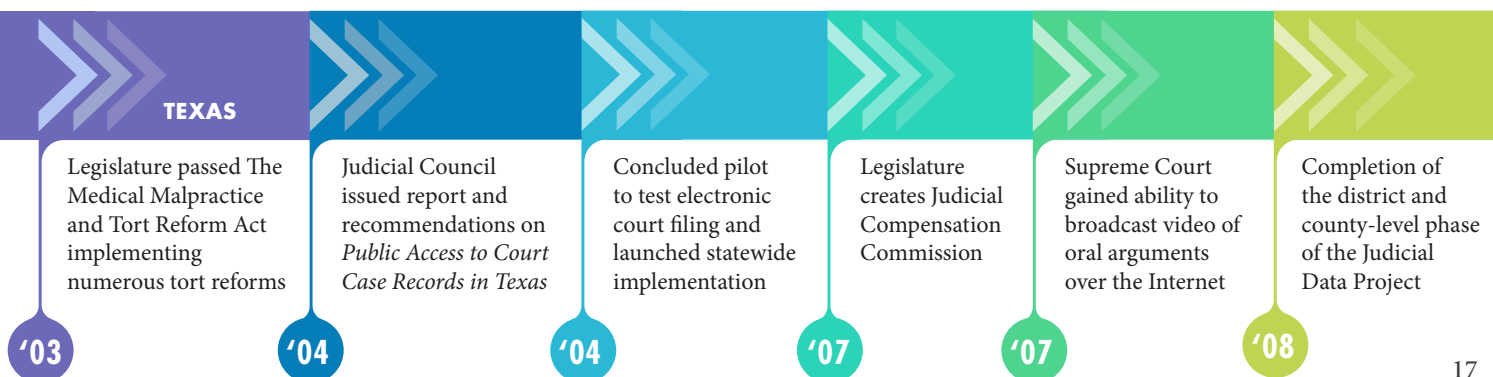
Another source of possible impacts are changes in laws, either substantive or procedural. There were also significant changes in the structure of the California trial courts during this period. Specialty courts, for example complex courts, were created and alternate dispute processes introduced. While most of these changes were implemented statewide, some were only implemented in select courts, further complicating assessment of any change in filing levels.

The intersection of these factors makes the determination of exact causation of filing changes difficult, but it is still valuable to identify possible sources of impact and examine their potential effects on civil case filing rates. As part of this study, we conducted extensive background research, compiling and analyzing numerous publicly available resources, in order to inform the list of factors that could potentially impact civil filing rates. Based on this review and compilation, we offer a framework of possible factors that impact filings.

This framework includes potential influencing factors both within and outside the legal system. Some of the factors that fall within these categories have been the subject of much discussion and research, such as the Class Action Fairness Act of 2005 (CAFA), which changed the traditional jurisdictional and procedural rules governing federal diversity jurisdiction over covered class actions, or mandatory arbitration clauses.⁴² The impact on filings in state courts as a result of events such as the terrorist attacks on Sept. 11, 2001, may not be as well known. Nevertheless, these events have resulted in numerous lawsuits triggered from the loss of life and property damage.⁴³

Another example includes the filings of civil cases involving insurance as a result of weather catastrophes; while this factor has been noted in federal court filings,⁴⁴ such disasters impact state court filings as well. “In 2021, the U.S. experienced 20 separate billion-dollar weather and climate disasters, putting 2021 in second place for the most disasters in a calendar year, behind the record separate billion-dollar events in 2020.”⁴⁵ The diversity of disasters stands out alongside the record damages, with disasters including winter storm/cold wave events, wildfires, drought and heat waves, floods, tornadoes, tropical cyclones, and other severe weather events such as derechos. Economic loss will continue to grow alongside disasters, and we can anticipate a corresponding impact on the courts and court filings.

The COVID-19 pandemic is the most striking and recent example of how an event outside the legal system can have direct consequences on the justice system, including the justice needs of people and how—and where—they seek to resolve them.





WITHIN THE LEGAL SYSTEM

Substantive Changes

- Substantive law changes, statutory or case law, applicable to specific case types, or specific case subcategories

Procedural Changes

- Changes in the statute of limitations
- Changes in civil procedure, rules, or practice
- Case management changes (e.g., the creation of complex litigation dockets)
- Legislation focused on trial court disposition, such as the California Trial Court Delay Reduction Act
- Judicial arbitration
- Mediation programs
- The creation of self-help resources, within and external to the courts
- Filing fees

Digital Transformation and Technology Innovation

- Technology advancements, including e-filing changes and ease of filing
- Advancements in leveraging data

TEXAS

Supreme Court order adopting uniform civil case information sheet

'10

Texas Judicial Council Committee on Judicial Selection issues report and recommendations

'10

Legislature directs Supreme Court to abolish "small claims court" and move cases to justice courts

'11

Texas Expedited Actions Rules adopted to provide expedited procedure for cases less than \$100,000

'13

Texas Courts Online website redesign launched

'14

Court Structure

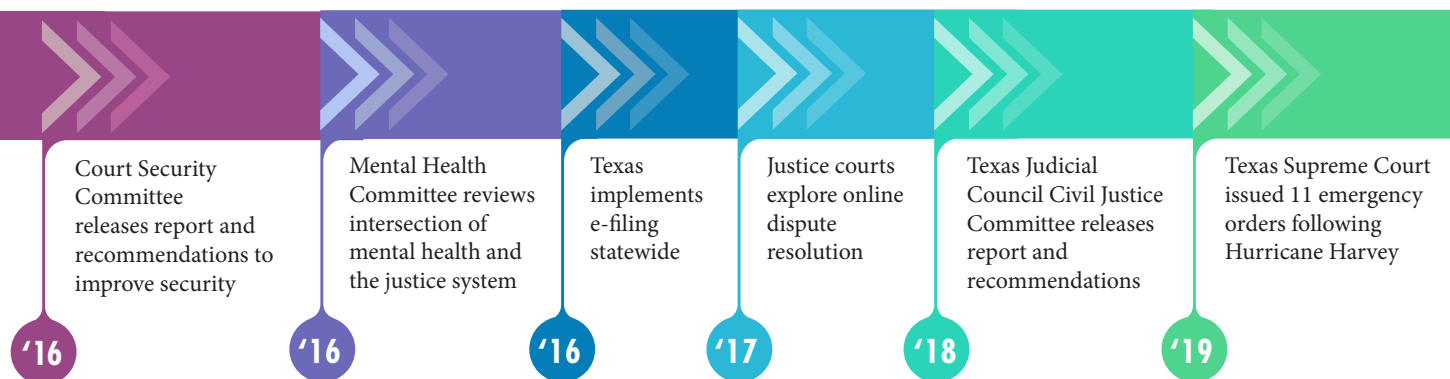
- Changes to court structure and operations (e.g., court closures resulting from budget cuts)
- Changes in jurisdictional amount boundaries between courts
- Court unification

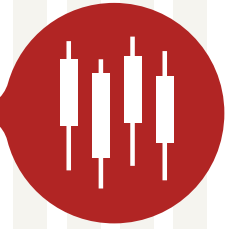
Legal System Policies

- Prioritization of criminal over civil cases
- Mandatory alternative dispute resolution contract clauses
- National legislation impacting forum choice (e.g., Class Action Fairness Act)
- Recognition of racial injustice and inequities within the justice system, and corresponding policy reforms

Evolving Legal Service Delivery and Access

- Changes in legal service delivery by attorneys, allied legal professionals, and others
- Increasing self-representation
- Changes to legal strategy around recovery of damages
- Evolving profession and economics of legal practice





OUTSIDE THE LEGAL SYSTEM

Demographics

- Age of population
- Immigration
- Language spoken
- Changing employment
- Changes in population numbers

Consumer Choice and Behavior

- Forum choice, including choosing informal methods of dispute resolution and alternate dispute resolution strategies
- Abandonment of problem resolution

Societal Policies and Changes

- Changing safety regulation and compliance
- Laws intended to reduce injury (e.g., DUI/DWI, speed limits)
- Changes in personal or community behavior
- Recognition of racial inequities and corresponding policy reforms
- Changes in public trust and confidence in public institutions

Influencing Industries

- Changes in the medical profession
- Changes in manufacturing

Economic

- Economic recessions
- Consumer protection legislation impacting economy (e.g., Dodd-Frank Wall Street Reform and Consumer Protection Act)
- Changes in local and national businesses and industries (e.g., business closures), as well as business behavior
- Changes in consumer behavior
- Changes in business and personal debt

Political

- Political and social unrest, including terrorism

Increasing Disorder and Threats

- Natural and man-made disasters
- Climate change
- Local, national, and global health crises
- Environmental injury and chemical exposure (e.g., asbestos injuries)
- Cyber threats



These categories, both internal and external to the courts, highlight just how many different competing factors influence legal problems in people’s lives, the extent to which people seek to resolve those problems in and outside formal and informal justice providers, and the role the justice system plays in resolution of these problems. The impact of these factors, and their interconnection, has been understudied in our state courts. In looking at national filing trends, there is great opportunity in additional research in the areas of increasing disorder and threats, including natural disasters, climate change and environmental impacts, health crises, and cyber threats. The knowledge about these areas is evolving rapidly, and it is important to evolve our understanding of the impacts of these areas on filings, our court system, and the delivery of justice as well. Because civil justice reforms are often implemented at the state level, research into filing trends at the state level can provide insights into both procedural and substantive changes. That state-based research can then continue to inform national reform efforts. In identifying these factors, we hope to encourage a dialogue around influencing factors and encourage additional focused research.

A CLOSER LOOK AT ECONOMIC FACTORS

In looking at the publicly available filing data for all 50 states at the beginning of this project, as well as focusing in on our study states, one factor that stands out for a more focused analysis is the impact of the economy, including recessions. While the other factors combine in ways that are difficult to separate for specific conclusions, the role of the economy stands out in the data, particularly around the Great Recession of 2008. Below, we focus in specifically on economic factors, comparing the statewide civil filings in each state to statewide unemployment, real gross state product, and population. We present two figures for each of the study states: one that provides a comparison of absolute civil filing rates and unemployment rates and one that provides a statistically standardized comparison of civil filing rates, unemployment rates, real gross state product, and population. While there is no apparent relationship between civil filing rates and either real gross state product or population, there does appear to be a link between civil filing rates and unemployment rates—thus, our discussion of the economic data focuses on this potential connection.

Figure 19: California Civil Filings (Population Adjusted) and Unemployment Rate

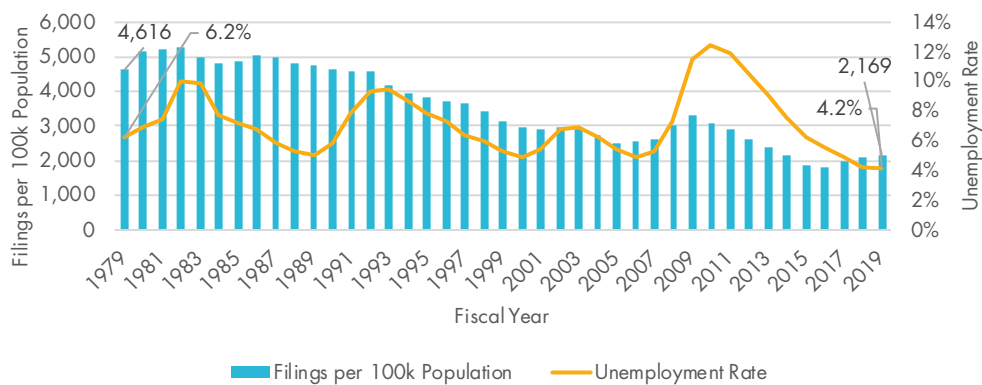


Figure 20: Minnesota Civil Filings (Population Adjusted) and Unemployment Rate

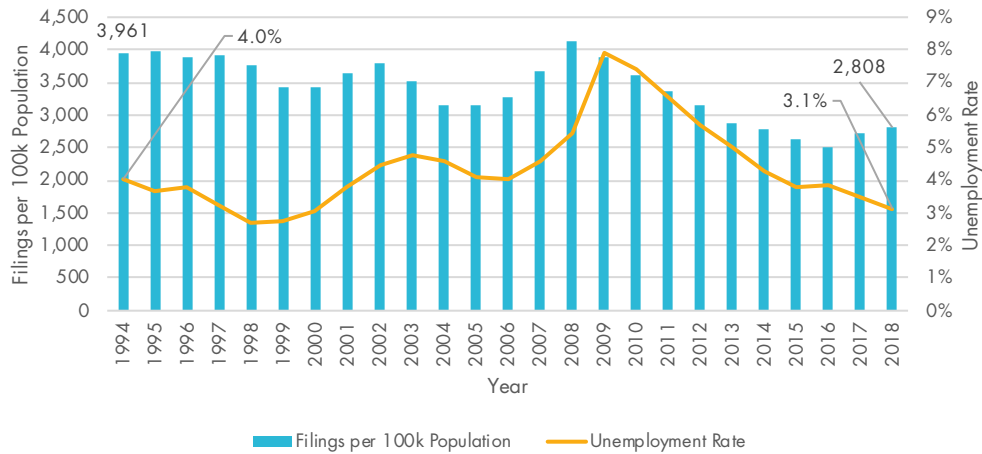
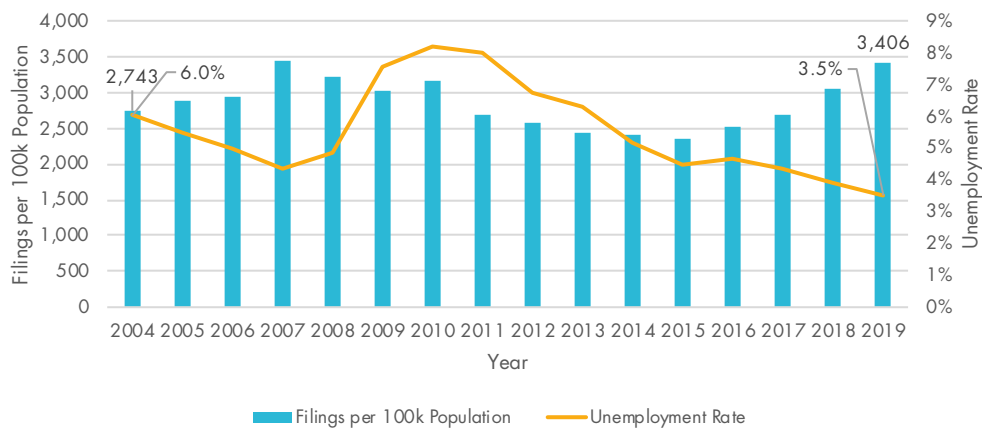


Figure 21: Ohio Civil Filings (Population Adjusted) and Unemployment Rate



Figure 22: Texas Civil Filings (Population Adjusted) and Unemployment Rate



What stands out across the analysis of these economic factors in all four states is a potential relationship between filings and unemployment. We see an echo in the pattern between civil filings and the unemployment rate. Specifically, we first see a downward trend in civil filing rates, with a notable increase in unemployment rates following close behind, followed by a decline. Toward the end of the study period, in 2018 and 2019, we see a possible reversal of the decline in filings across the states in this study, and this trend has been reported more broadly nationwide.⁴⁶

If this trend held, we would expect to see a corresponding increase in unemployment in 2020 and 2021. While this has indeed occurred, the COVID-19 pandemic has been an instrumental driver and disruptor of these unemployment numbers and filings. Nevertheless, the potential relationship between unemployment and civil filings should be closely monitored and studied. If there is indeed such a connection, changes in state civil filings rates could be an important predictor of changes in unemployment rates and broader economic change. A potential connection makes sense, given that at their core, cases in our state courts reflect what is happening in the lives of both people and businesses, including foreclosures, increasing debt and subsequent default, and increasing contract disputes, to name a few. Businesses can react in many different ways to such pressures, including reducing their workforce, leading to unemployment. While this project was not set up to assess this correlation, we highlight it here for further study.

Figure 23: California Civil Filings, Unemployment Rate, Real Gross State Product, and Population, Standardized⁴⁷

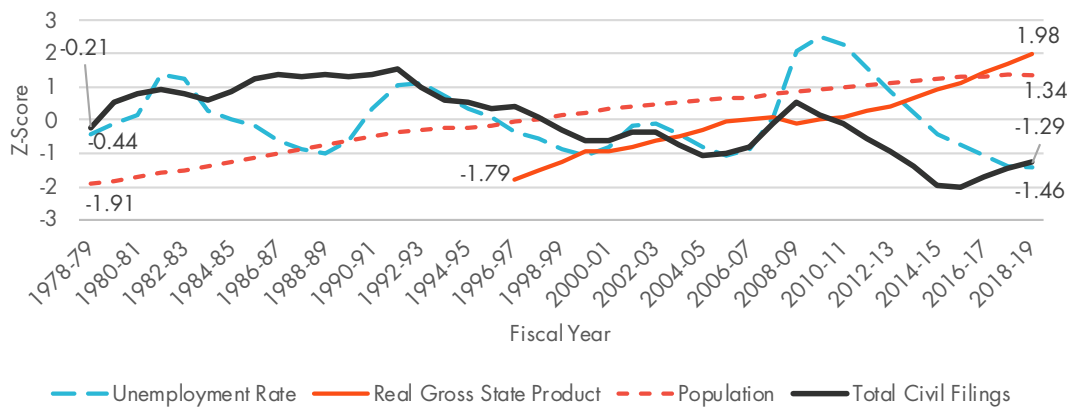


Figure 24: Minnesota Civil Filings, Unemployment Rate, Real Gross State Product, and Population, Standardized

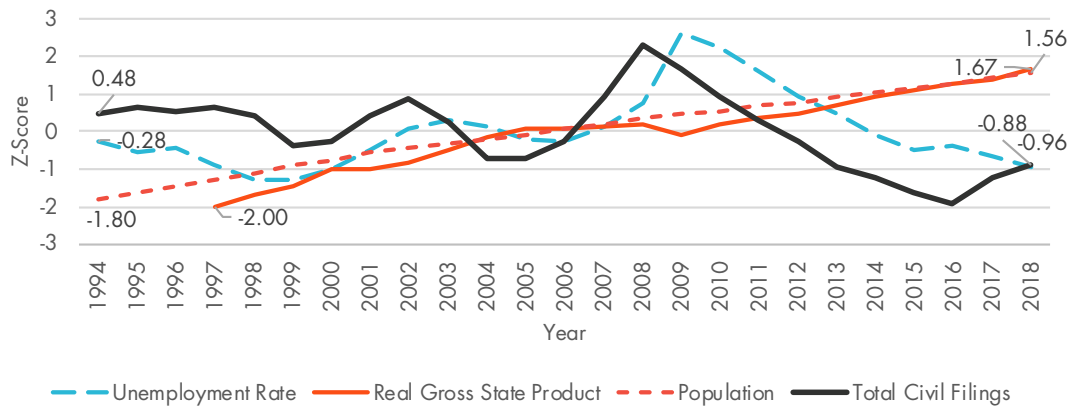


Figure 25: Ohio Civil Filings, Unemployment Rate, Real Gross State Product, and Population, Standardized

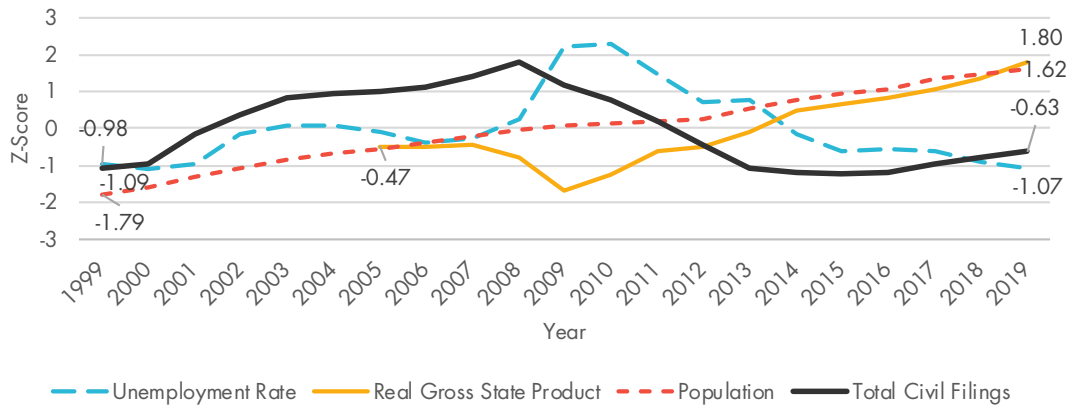
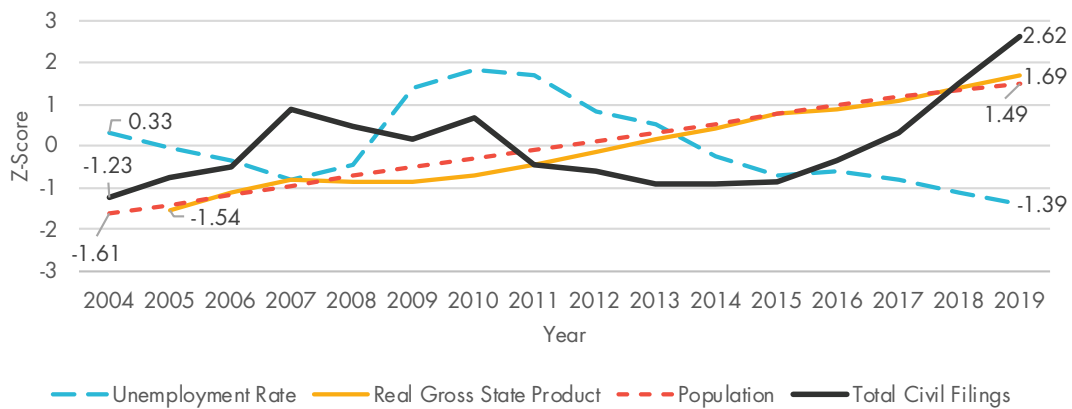


Figure 26: Texas Civil Filings, Unemployment Rate, Real Gross State Product, and Population, Standardized



IMPLICATIONS FOR STATE COURTS

In addition to the specific study findings noted above, this study provides important insights for state courts more broadly, including current challenges and opportunities.

CHALLENGES

We begin with challenges highlighted by this research, including the constantly evolving nature of state courts, the state of state court data, and the resulting limited historical view of filings in our courts.

The Constantly Evolving Nature of Courts

One of the biggest challenges in reviewing filings over longer periods of time is the constant evolution of the court system, including the organizational structure and subject matter jurisdiction of courts.⁴⁸ We know different state court systems are distinct from each other in this regard, but state courts are also very distinct from themselves over long periods of time. This study included filings data from California from FY 1978–79 through FY 2018–2019. Looking at the California court system over this 41-year period, it is clear the court has gone through substantial changes. While the time periods for this study are shorter in our other states, the same conclusion can be drawn. Our courts are constantly evolving, as they should, both to continue to deliver justice and serve the needs of the public—and because of the numerous factors that we have previously identified that persistently compel (and force) change in our courts.

The constantly evolving nature of our courts creates a challenge for researchers studying filings, but most importantly it creates a challenge for state courts themselves. This study points to a need for a longer view of filings to inform understanding of filing trends, reform efforts, and future planning. Additional study and data would provide greater insight into the specific impact of various factors, allowing courts to both plan and implement reforms in an evidence-based way. Yet this can be a difficult endeavor for courts, given limited time and resources, leaving many courts to naturally default to a five- or 10-year review of filings.⁴⁹ While these shorter time periods have their value, they limit our ability to fully understand trends in filings and our courts more generally and longer-term studies would be additive. While such studies may not be a yearly endeavor, we urge more in-depth and longer-term studies both in and outside the courts. Thankfully, technological advances in court case tracking practices are creating greater opportunities for these longitudinal studies over time, decreasing the barriers to such endeavors. And if courts recognize the value of such studies, they can be more intentional about tracking change over time for their own internal analysis and for external researchers.

The State of State Court Data

Turning to the data itself, there is a longstanding recognition of the challenges of gathering, analyzing, and comparing state court filing data within states, across states, and over extended periods of time. One immediate challenge in comparing state court data is the many different ways that courts are organized and administered. Even the small sample of state courts in this study reflect the many differences in civil case type categorization. If we look within a single state, another challenge arises from courts changing case types—and overall case type categories—over time. This makes the collection of data and cross-state comparisons challenging for researchers who advocate for an evidence-based approach to reforms in our justice system.

Numerous other researchers have experienced these same challenges of data collection and analyses, including concerns over data consistency and quality. The NCSC has recognized these challenges, and with support from

the Conference of State Court Administrators (COSCA) and the Joint Technology Committee (JTC), developed data standards through its National Open Court Data Standards (NODS) project.⁵⁰ “NODS was created with the understanding that data is complex, and definitions and rules vary widely across and within state courts. Within the context of this variation, data standards facilitate the sharing of data, increase transparency, provide for consistency in data interpretation, allow for meaningful comparisons across data sets, and reduce the cost of producing or extracting individual data sets.”⁵¹

This study highlights a deeper challenge that goes beyond concerns of data consistency and quality, or challenges for researchers. State courts track case types separately more frequently in unlimited jurisdiction courts and tend to group high-volume cases together in broad categories, such as limited civil or small claims. This aggregation of data by general case type often prevents identification and explanation of filing patterns. It also makes it more challenging for courts to understand their own dockets, assess issues within those dockets, and put in place case management processes to administer these cases. Consumer debt cases are a perfect example, where very few state courts separately track this specific case type, limiting information to the researchers, reformers, and the court itself.

The data from the states in this study reflects a consistent decline in small claims cases in our state courts, but the exact underlying causes are difficult to interpret given the aggregation of case types. Given that this is a very large percentage of the state court dockets, these cases should be tracked with more specificity, which includes applying the NODS standards, such as civil case categories, more specific civil case types, and case disposition detail.⁵² Without this specificity, it is difficult to understand the impact of internal and external factors over time—and it is difficult to utilize the data to inform justice system improvement. This approach also makes it difficult to hone in on reforms that could be of great benefit to the users of the system in these high-volume cases, where there are high percentages of self-represented litigants.

FUTURE OPPORTUNITIES

While these challenges are substantial, they also present meaningful opportunities for the future of our courts.

Technological Opportunities

Technology is not the limitation it once was. This study begins with filings in the 1970s, over 50 years ago. Technology innovations in the 1970s included the floppy disk, the portable cassette player, and the digital wristwatch. Courts utilized paper files and research into filing trends was limited and labor intensive. Since then, technology has undergone an accelerating pace of change alongside exponential growth in computing power. In 2001, the CCJ and COSCA recognized these advancements, noting that the courts “will in the coming years promulgate technology standards, including functionality standards for case management information systems, standards for electronic filing of court documents, and standards for the use of XML in transmitting data to and from courts.”⁵³ Multiple resolutions have followed in support of the use of technology, most recently a resolution in 2021 in support of remote and virtual hearings, recognizing that remote technology has been a “vital tool to enable courts to maintain operations while keeping court users, the public, and court employees safe.”⁵⁴

While much of the focus during the pandemic has been on the use of technology to keep court systems available to the public, the courts’ adoption of technology—at an unprecedented pace and scale—filters throughout all aspects of the court system. Prior to the pandemic, 37 states and D.C. allowed self-represented litigants to electronically file court documents in at least some civil cases. Since March 2020, an additional 10 states have created similar processes.⁵⁵ Such technology improvements are essential for access, but they are also linked to better data.

A Renewed Commitment to Research and Data

One critical outcome of technological advances in information tracking capabilities is the amount of data that is now able to be collected and analyzed. We are in the midst of a data explosion. Businesses around the world are collecting more data than ever before, and they are using it to make data-driven decisions that transform their organizations. To stay relevant and effectively deliver justice in our rapidly changing world, we must understand what is currently happening in our courts and anticipate what is coming next. The same is true for efforts to improve the justice system more broadly—such efforts must be evidence-based, and data must be at the core of first understanding the problems to be solved.

There are numerous efforts around the country highlighting the importance of data in our courts. In 2016, CCJ and COSCA adopted a set of recommendations to transform our state courts, detailed in the report *Call to Action: Achieving Civil Justice for All*, with the goal of transforming our state courts to meet the needs of litigants in the twenty-first century. The blue-ribbon commission that developed the recommendations recognized that successful solutions must come from a clear-eyed understanding of the problems; to inform this work, a *Landscape* study was conducted to provide critical insights into the reality of civil litigation in our state courts. Alongside the recommendations regarding using technology wisely, the *Call to Action* urges courts to catch up with the private sector in the use of technology and data, noting that “experience and research tell us that one cannot manage what is unknown. Smart data collection is central to the effective administration of justice and can significantly improve decision making.”⁵⁶ As noted above, the NCSC has recently led important work on the consistency of data in our courts through the NODS project. Recognizing the pressure that the public and private organizations are putting on courts to make court data and legal documents publicly accessible, COSCA and NCSC adopted this project to develop “business and technical court data standards to support the creation, sharing, and integration of court data by ensuring a clear understanding of what court data represent and how court data can be shared in a user-friendly format.”⁵⁷

Many others outside the court system have also issued the call for data, including IAALS, recognizing that open and transparent information about our justice system is essential to ensure that the system itself is open and transparent, and it is critical to reform efforts that seek to make the process more accessible, fair, and equitable. IAALS’ recently released *US Justice Needs* study examines the justice needs of over 10,000 individuals to provide a greater understanding of how people in the United States resolve those needs and to create momentum for evidence-based strategies for justice system improvement on the part of courts, legal service providers, policy-makers, social services organizations, legislators, and the public. The American Academy of Arts & Sciences has similarly been focused on improving access to data through their Making Justice Accessible Initiative, including their white paper on *Measuring Civil Justice for All* that provides a blueprint for a data collection along with recommendations on how to measure the fairness and effectiveness of civil justice.⁵⁸ The Georgetown Civil Justice Data Commons (CJDC) has laid out the case for why we need civil data and is working to develop systems for collecting, sharing, and making civil justice data more accessible for research.⁵⁹

What we can track and learn is only limited by our own thinking and the quality of the data. Our courts will continue to evolve and change, likely even faster than in the past. There will always be practical reasons to change processes, change case types, and evolve how and what we track in terms of data. What we need to do is ensure that reasons for changes are carefully documented and that plans are implemented that support smooth data tracking across those changes—this will allow for clear analysis, research, and tracking over time.

CONCLUSION

The COVID-19 pandemic has brought with it a renewed focus on filing trends. During the first year of the pandemic, incoming caseloads declined 28%.⁶⁰ Civil caseloads, in particular, declined 26% from 2019 to 2020.⁶¹ In combination with technology, we have also seen the development of new tools, including the NCSC's new backlog dashboard. This attention and focus on tracking caseload trends presents a critical opportunity to reorient thinking. The recent focus is likely to be very narrow and focused on the last few years of the pandemic alone. While focused attention on filings changes as a result of the impact is critical, we urge courts not to become too myopic on the pandemic impacts alone. There is great value in understanding how our system has changed over time, and the many other factors that are influencing how and when businesses and people bring cases to our courts for resolution.

The National Center for State Court's recently released *Just Horizons* report underscores the importance of courts anticipating and preparing for future challenges and opportunities that impact the delivery of justice in our courts.⁶² The report explores driving forces of change in our society and key areas of vulnerability challenging our courts, noting that "[t]ackling these court system vulnerabilities requires a concerted and sustained effort by all who work in and use the courts."⁶³

As courts face the future, they have an opportunity to shape a new narrative born of their commitment to look forward; identify, analyze, and interpret current and future trends impacting courts; anticipate challenges and needs; innovate and modernize to address challenges; and secure the long-term vitality of the role of courts in our democracy.⁶⁴

This study has provided insights into changes in filings over several decades in our state courts, providing critical information for our courts, the bench, the bar, and broader civil court modernization efforts. For courts, it provides a deeper understanding of civil filing trends for their own strategic planning. Historically, courts have assumed filings would grow and planned for that growth, in terms of staffing, physical structures, and docket management. For courts that have had a fixed mindset in terms of their staffing, judges, and buildings based on assumptions regarding growing population and legal problems in our society, these findings call for a reset in thinking and a closer analysis.

Another key takeaway is that the increase in population and growing number of possible legal claims in people's lives are not necessarily translating to increasing litigation in our state court system. The *US Justice Needs* study recognizes the prevalence of legal issues in people's lives, finding that two out of three Americans encounter at least one serious legal problem every four years.⁶⁵ While small claims courts were originally created to provide a forum for self-represented litigants to recover smaller amounts of damages through simplified processes and more relaxed rules, this study reflects a consistent and prominent decrease in small claims cases. The *US Justice Needs* study also highlights that just 49% of problems were resolved, and that people experience a range of serious and negative consequences as a result.⁶⁶ Combining the insights of these studies tells us that there is substantial room for modernizing our justice system to ensure it remains a viable avenue for people to resolve their justice problems.

This review of filings over a longer period of time also suggests a much more nuanced review and an understanding of filings trends is necessary. Past views of case types, including the number and importance from the view of the bench and bar, have defined how cases are tracked in court dockets and managed by judges. There is a natural tendency to focus on complex litigation, with detailed knowledge and tracking of complex cases and their resolution. We urge a broader view, looking more closely at limited jurisdiction cases and breaking down case types, such as small claims, whenever possible to allow for a greater understanding—and ultimately improved

management—of these cases over time. These cases have great impact on the lives of people. There is also a natural tendency to review case filings by looking to influencing factors within the justice system. We urge courts to look to external factors as well, as the past few years have provided direct evidence of such external factors. The comparison of civil filings and unemployment data suggests both a connection and an opportunity for further research that could provide insights into upstream solutions that prevent justice problems in addition to solutions that ensure fair resolution.

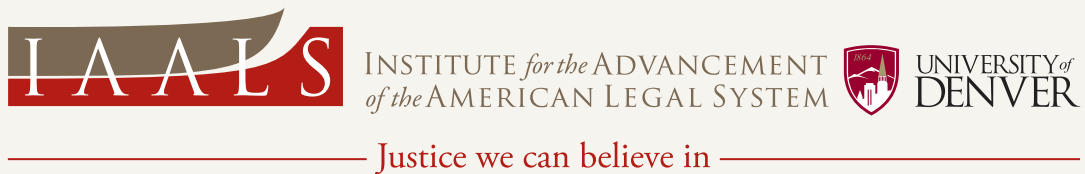
For courts, judges, attorneys, and civil justice reform-focused groups and social scientists engaged in civil justice reform efforts, the study provides critical data to understand trends and inform where to target reform. It is essential to focus research and reform efforts on those justice needs in our society that are life-altering, including eviction and debt collection, to ensure these needs are met. To do so, we call on courts to utilize technology to track data with specificity and use this data to inform innovation and reforms.

Endnotes

- 1 BRIAN J. OSTRUM & NEAL KAUDER, NAT'L CTR. FOR STATE COURTS, EXAMINING THE WORK OF STATE COURTS, 1993: A NATIONAL PERSPECTIVE FROM THE COURT STATISTICS PROJECT (1995), https://www.courtstatistics.org/_data/assets/pdf_file/0031/29749/1993-EWSC.pdf.
- 2 NAT'L CTR. FOR STATE COURTS, STATE COURT CASELOAD DIGEST: 2016 DATA 1 (2018), https://www.courtstatistics.org/_data/assets/pdf_file/0029/29819/2016-Digest.pdf.
- 3 NAT'L CTR. FOR STATE COURTS, STATE COURT CASELOAD DIGEST: 2018 DATA 6 (2020), https://www.courtstatistics.org/_data/assets/pdf_file/0014/40820/2018-Digest.pdf.
- 4 NAT'L CTR. FOR STATE COURTS, COURT STATISTICS PROJECT, 2020 INCOMING CASES IN STATE COURTS: CASELOAD HIGHLIGHTS (Jan. 12, 2022) https://www.courtstatistics.org/_data/assets/pdf_file/0020/72254/CLHL_2020_Incoming_Cases-.pdf.
- 5 THE HAGUE INST. FOR INNOVATION OF LAW AND INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 6 (2021) [hereafter US JUSTICE NEEDS].
- 6 *Id.* at 9.
- 7 World Justice Project Rule of Law Index 2022 (Civil Justice Factor 7.1, which measures “Measures the accessibility and affordability of civil courts, including whether people are aware of available remedies; can access and afford legal advice and representation; and can access the court system without incurring unreasonable fees, encountering unreasonable procedural hurdles, or experiencing physical or linguistic barriers.”), <https://worldjusticeproject.org/rule-of-law-index/factors/2022/United%20States/Civil%20Justice>.
- 8 Our emphasis is on civil case filings, and the discussion throughout is in reference to civil filings only. Civil as defined here excludes family law, probate, mental health, juvenile, and actions related to criminal cases, for example, bail forfeitures and return of property. Appendix I provides a further breakdown of included case types by court.
- 9 The challenges associated with a lack of consistent data across state courts are well-known and widely lamented among empirical court researchers. There are ongoing efforts to create standardized methods of tracking cases in state courts. See the NCSC’s National Open Data Standards for more: <https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods>.
- 10 Data obtained from California was provided by fiscal year, rather than calendar year.
- 11 For more on the history of California’s trial courts, see LARRY SIPES, COMMITTED TO JUSTICE, CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS, THE RISE OF JUDICIAL ADMINISTRATION IN CALIFORNIA (2002).
- 12 Harry N. Scheiber, *Innovation, Resistance, and Change: A History of Judicial Reform and the California Courts, 1960-1990*, 66 S. CAL. L. REV. 2049, 2077 (1992).
- 13 Senate Constitutional Amendment, SCA 4, appeared on the 1998 ballot as Proposition 220.
- 14 MINNESOTA JUDICIAL BRANCH ANNUAL REPORT 2 (2019).
- 15 OHIO CONST. ART. IV, §4.
- 16 OHIO REV. CODE CHAPT. 1901 (MUNICIPAL COURT) AND 1907 (COUNTY COURT).
- 17 Ohio Judicial System, Ohio.gov, <https://ohio.gov/wps/portal/gov/site/government/resources/ohio-judicial-system>.
- 18 THE SUPREME COURT OF OHIO, 2019 OHIO COURTS STATISTICAL SUMMARY 43 (2019).
- 19 OHIO REV. CODE §1925.02.
- 20 TEXAS COURTS: A DESCRIPTIVE SUMMARY 2 (2014), <https://www.txcourts.gov/media/994672/Court-Overview.pdf> (clarifying that “to determine the jurisdiction of a particular court, recourse must be had first to the Constitution, second to the general statutes establishing jurisdiction for that level of court, third to the specific statute authorizing the establishment of the particular court in question, fourth to statutes creating other courts in the same county (whose jurisdictional provisions may affect the court in question), and fifth to statutes dealing with specific subject matters (such as the Family Code, which requires, for example, that judges who are lawyers hear appeals from cases heard by non-lawyer judges in juvenile cases)”).
- 21 *Id.* at 10.
- 22 TEXAS GOVERNMENT CODE, § 27.031(a)(2), and TEXAS PROPERTY CODE, § 24.004(a).
- 23 See Robert B. Johnson, *Breaking Down Small Claims in the New Justice Court*, 17 J. OF CONSUMER & COMMERCIAL LAW 1 (2013), http://www.jtexconsumerlaw.com/V17N1/V17N1_SmallClaims.pdf.
- 24 California data, here and throughout, is organized by fiscal year; Minnesota, Ohio, and Texas data are organized by calendar year.
- 25 A z-score shows how much a data point differs from the mean in terms of standard deviation, with a z-score of 0 representing a year where filings were exactly average, and a z-score of -1 representing a year where the filings were 1 standard deviation below the mean. In any dataset, 68% of values will have a z-score between -1 and 1, and 95% of values will have a z-score between -2 and 2.
- 26 See generally California Department of Finance, <https://www.dof.ca.gov/Forecasting/Demographics/Estimates/>.
- 27 Where relevant throughout this report, we discuss population-adjusted data. All population-adjusted calculations consider filings per 100,000 individuals in the population.

- 28 The amounts in controversy in California's Unlimited Civil cases, Limited Civil cases, and Small Claims cases have progressively increased over the course of the study period.
- 29 See Texas State Law Library, Small Claims Cases, <https://guides.sll.texas.gov/small-claims/history-of-justice-courts>; See Johnson, *supra* note 23, at 1. Texas has since increased the jurisdiction of Justice Courts once again, with an upper jurisdictional limit now set at \$20,000 as of September 1, 2020.
- 30 See Texas State Law Library, Small Claims Cases, <https://guides.sll.texas.gov/small-claims/history-of-justice-courts>; Johnson, *supra* note 23, at 1. Texas has since increased the jurisdiction of Justice Courts once again, with an upper jurisdictional limit now set at \$20,000 as of September 1, 2020.
- 31 NAT'L CTR. FOR STATE COURTS, THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS 33 (2015). States differ in their approaches to whether and when lawyers may appear on behalf of clients in small claims courts. Of the four states in this study, individuals can be represented by an attorney in small claims cases all states except California.
- 32 It is important to recognize inflation over the course of this time period as well. See, e.g., World Data.info, Inflation Rates In the United States of America (noting that the "inflation rate for consumer prices in the United States of America moved over the past 61 years between -0.4% and 13.5%"), <https://www.worlddata.info/america/usa/inflation-rates.php>. While increasing jurisdiction accounts for inflation over time, while also creating opportunity for more cases to benefit from more streamlined and accessible processes, there is always the concern that such changes may shift case filings in a way that overwhelms resources.
- 33 Judith Fox, *How Forum Determines Substance in Judicial Debt Collection*, 31 BANKING & FINANCIAL SERVS. REV. 11 (Aug. 2012).
- 34 See, e.g., NAT'L CTR FOR STATE COURTS, *supra* note 31, at 18 (noting inconsistency in reporting subcategories and reporting on small claims throughout without further breakdown).
- 35 *Id.* at 6-7 (noting the decline in tort cases over time, from approximately half (49%) of the caseload in the 1992 *Civil Justice Survey of State Courts* to just 7% of the *Landscape* caseload).
- 36 Minnesota tort case types included are discrimination, harassment, malpractice, property damage, personal injury, product liability, sexual harassment, and wrongful death. We have included all tort case types in the data we received from Minnesota in these calculations.
- 37 Texas tort case types included from the District Courts are injury/damage – motor vehicle, medical malpractice, other professional malpractice, product liability – asbestos/silica, other product liability, other injury/damage, total non-motor vehicle injury/damage (pre-September 2010). Texas tort case types included from the County Courts are injury/damage – motor vehicle, tax, other civil, medical malpractice, other professional malpractice, product liability – asbestos/silica, other product liability, other injury/damage, total non-motor vehicle injury/damage (pre-September 2010). We have included all tort case types in the data we received from Texas in these calculations.
- 38 THE PEW CHARITABLE TRUSTS, HOW DEBT COLLECTORS ARE TRANSFORMING THE BUSINESS OF STATE COURTS 8 (2020), <https://www.pewtrusts.org/-/media/assets/2020/06/debt-collectors-to-consumers.pdf>.
- 39 The Pew Charitable Trusts found that in 2018, only 12 states reported statewide debt claims caseload data for at least one of their courts on their public websites. *Id.* at 10.
- 40 Texas debt case types included from District Courts are accounts/notes/contract and debt. Texas debt case types included from County Courts are debt and suits on debt. We have included all debt case types in the data we received from Texas in these calculations.
- 41 See US JUSTICE NEEDS, *supra* note 5, at 198-213 (focusing in on the impact of debt and money-related problems); Paula Hannaford Agor & Brittany Kauffman, Nat'l Center for State Courts and INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., PREVENTING WHACK-A-MOLE MANAGEMENT OF CONSUMER DEBT CASES: A PROPOSAL FOR A COHERENT AND COMPREHENSIVE APPROACH FOR STATE COURTS (2020).
- 42 28 U.S.C. §§ 1332(d), 1453, and 1711-1715. See, e.g., Emery G. Lee III & Thomas E. Willging, *The Impact of the Class Action Fairness Act on the Federal Courts: An Empirical Analysis of Filings and Removals*, 156 Univ. of Penn. L. Rev. 1723 (2008).
- 43 Shawn Rice, 9/11 Terrorist Attack Suits Left Mark on Insurance Industry, Law360 (Sept. 10, 2021).
- 44 See, e.g., Just the Facts: Insurance Case Filings Spike After Natural Disasters, United States Courts (Nov. 16, 2021), <https://www.uscourts.gov/news/2021/11/16/just-facts-insurance-case-filings-spike-after-natural-disasters>.
- 45 Adam B. Smith, National Oceanic and Atmospheric Administration, 2021 U.S. billion-dollar weather and climate disasters in historical context (Jan. 24, 2022), <https://www.climate.gov/news-features/blogs/beyond-data/2021-us-billion-dollar-weather-and-climate-disasters-historical>.
- 46 See generally Nat'l Ctr. for State Courts, Court Statistics Project, <https://www.courtstatistics.org/>.
- 47 California data is organized by fiscal year; unemployment, real gross state product, and population data are organized by calendar year.
- 48 The "Our Study Courts in Focus" section above and Appendix II both highlight the differences in organizational structure and changes in jurisdictional amounts over time in the courts in this study. In addition, the state timelines throughout this report highlight just a sample of the factors influencing the courts over time.
- 49 See, e.g., *In Re: Minnesota Supreme Court Civil Justice Reform Task Force, Recommendations of the Minnesota Supreme Court Civil Justice Reform Task Force*, Final Report (2011).
- 50 Nat'l Ctr. for State Courts, National Open Court Data Standards (NODS), www.ncsc.org/nods.

- 51 Nat'l Ctr. for State Courts, National Open Court Data Standards Leadership Guide (Apr. 2020), https://www.ncsc.org/_data/assets/pdf_file/0036/59859/NODS-Leadership-Guide.pdf.
- 52 See, e.g., Nat'l Ctr. for State Courts, National Open Court Data Standards (NODS) User Guide (April 2020), https://www.ncsc.org/_data/assets/pdf_file/0014/34025/NODS-User-Guide.pdf.
- 53 Conference of Chief Justices Resolution 13 Implementation of Automation Standards (2001), https://ccj.ncsc.org/_data/assets/pdf_file/0018/23463/08022001-implementation-automation-standards.pdf.
- 54 Conference of Chief Justices and Conference of State Court Administrators Resolution 2 In Support of Remote and Virtual Hearings (2021), https://ccj.ncsc.org/_data/assets/pdf_file/0016/67012/Resolution-2_Remote-and-Virtual-Hearings.pdf. See generally THE PEW CHARITABLE TRUSTS, HOW COURTS EMBRACED TECHNOLOGY, MET THE PANDEMIC CHALLENGE, AND REVOLUTIONIZED THEIR OPERATIONS (2021) [hereinafter HOW COURTS EMBRACED TECHNOLOGY], <https://www.pewtrusts.org/en/research-and-analysis/reports/2021/12/how-courts-embraced-technology-met-the-pandemic-challenge-and-revolutionized-their-operations>.
- 55 HOW COURTS EMBRACED TECHNOLOGY, *supra* note 54, at 1.
- 56 CALL TO ACTION: ACHIEVING CIVIL JUSTICE FOR ALL, RECOMMENDATIONS TO THE CONFERENCE OF CHIEF JUSTICES BY THE CIVIL JUSTICE IMPROVEMENTS COMMITTEE 31 (2016). Recommendations include: “1) To measure progress in reducing unnecessary cost and delay, courts must regularly collect and use standardized, real-time information about civil case management; 2) Courts should use information technology to inventory and analyze their existing civil dockets; and 3) Courts should publish measurement data as a way to increase transparency and accountability, thereby encouraging trust and confidence in the courts. The recommendations of the Cady Initiative for Family Justice Reform recognized the critical role of technology and data as well, recommending that “Courts should gather baseline data to understand the landscape of their domestic relations caseload and then implement standardized, ongoing monitoring and development of evidence-informed practices.” THE CADY INITIATIVE FOR FAMILY JUSTICE REFORM PRINCIPLES 18 (2019).
- 57 Nat'l Ctr. for State Courts, National Open Court Data Standards (NODS), <https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods>.
- 58 AMERICAN ACADEMY OF ARTS & SCIENCES, MEASURING CIVIL JUSTICE FOR ALL: WHAT DO WE KNOW? WHAT DO WE NEED TO KNOW? HOW CAN WE KNOW IT? (2021), <https://www.amacad.org/publication/measuring-civil-justice-all>.
- 59 Georgetown Law Institute for Technology Law & Policy, Civil Justice Data Commons, <https://www.law.georgetown.edu/tech-institute/programs/civil-justice-data-commons/#:~:text=The%20Civil%20Justice%20Data%20Commons,system%20in%20the%20United%20States>.
- 60 NAT'L CTR. FOR STATE COURTS, COURT STATISTICS PROJECT, 2020 INCOMING CASES IN STATE COURTS: CASELOAD HIGHLIGHTS (2022), https://ncfsc-web.squiz.cloud/_data/assets/pdf_file/0020/72254/CLHL_2020_Incoming_Cases-.pdf.
- 61 *Id.*
- 62 NAT'L CTR. FOR STATE COURTS, JUST HORIZONS FINAL REPORT: CHARTING THE FUTURE OF THE COURTS (Dec. 2022).
- 63 *Id.* at vi.
- 64 *Id.* at 4.
- 65 US JUSTICE NEEDS, *supra* note 5, at 29.
- 66 *Id.*



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