

APPENDICES
To
Report of the Civil Justice Reform Act
Advisory Committee of the
United States District Court for the
Western District of Virginia

July 30, 1993

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United States District Court for the
Western District of Virginia

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Chairman

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APPENDICES
TO THE CIVIL JUSTICE REFORM ACT
COMMITTEE REPORT

July 30, 1993

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
_____ DIVISION

_____,

Plaintiff,

v.

CIVIL ACTION NO. _____

_____,

Defendant.

SCHEDULING AND REFERRAL ORDER

Pursuant to Federal Rule of Civil Procedure 16(b), the court orders as follows:

(1) This case is set for trial on _____ [approximately eight months from the date of the filing of the case].

(2) Discovery shall be completed no later than _____ [40 days prior to trial date].

(3) All dispositive motions must be filed in writing with the court no later than _____ [approximately 45 days before the trial date so the matter will be submitted for a ruling at least 30 days before trial].

(4) The moving party for any motion will have the responsibility to bring the motion on for a hearing or the motion will be deemed to have been abandoned.

(5) Absent approval by the magistrate judge or the court, no party shall propound more than 30 interrogatories and shall name as experts no more than a total of five persons and no more than two persons on each triable issue. Discovery materials are not to be filed with the court unless relevant to a motion or objection or unless specifically ordered by the court.

(6) Any objections to discovery must be made within ten days after the discovery request. For good cause the time for filing objections may be enlarged.

(7) This case is referred to the Hon. Glen E. Conrad, United States Magistrate Judge for the following purposes:

(a) Require the attendance or availability of parties for settlement conferences when appropriate;

(b) Monitor and rule on discovery issues. Counsel are directed to make reasonable good faith efforts to resolve any discovery disputes before the intervention of the magistrate judge is sought. If the magistrate judge orders or any party requests, a dispute will be submitted to the magistrate judge for resolution;

(c) Expand or restrict discovery;

(d) Make the parties aware of alternative dispute resolution possibilities and, where appropriate, recommend such procedures;

(e) Encourage and assist the parties to consider all reasonable settlement efforts; and

(f) For good cause shown to alter any deadlines or dates established in this order.

(8) When a party identifies an expert witness as a potential trial witness, that party shall at the same time furnish any reports prepared by the expert for the case.

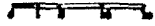
ENTER this ____ day of _____, 199_.

DISTRICT COURT JUDGE

PCS/CJRA/A11

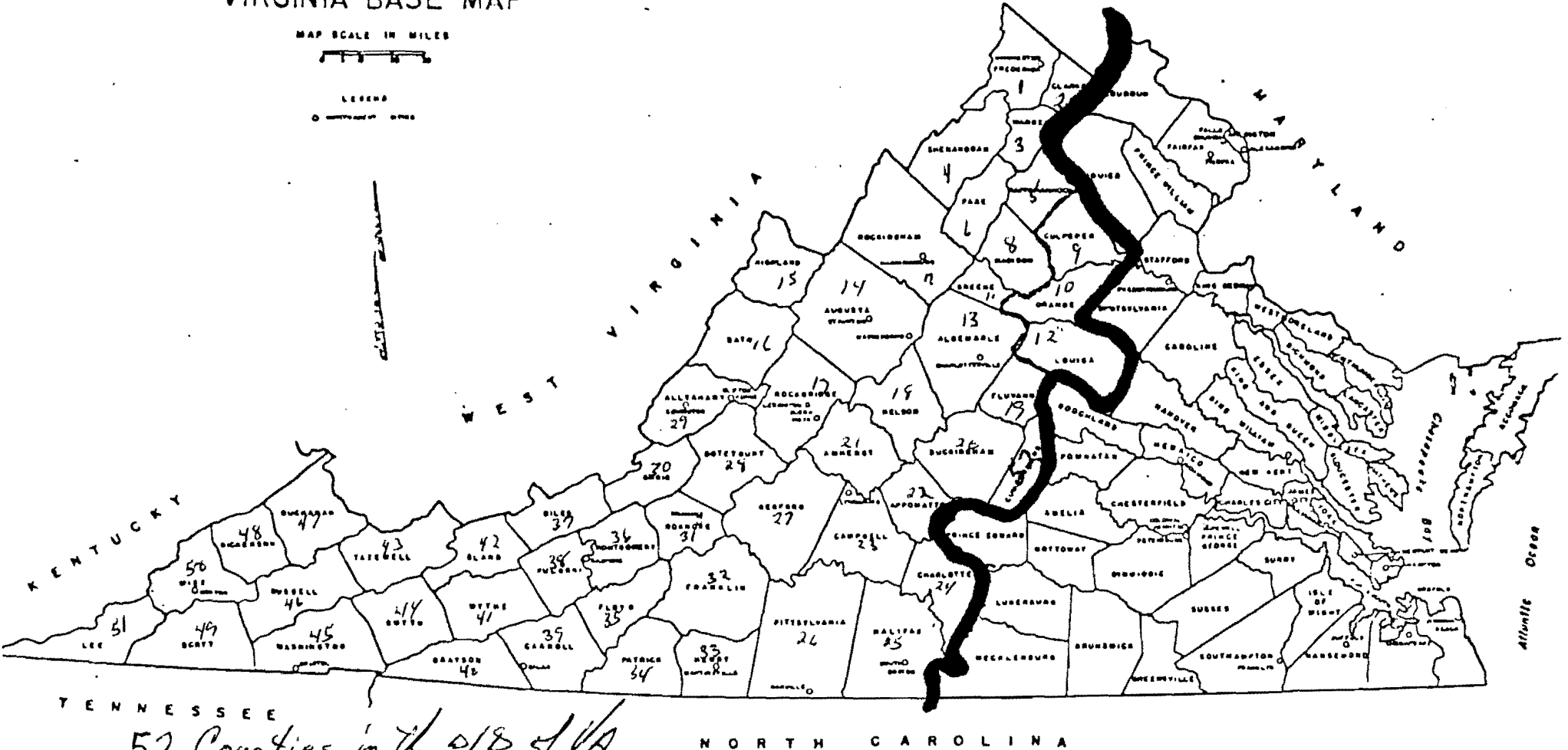
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HIGHWAYS
DIVISION OF TRAFFIC AND PLANNING
VIRGINIA BASE MAP

MAP SCALE IN MILES



LEGEND

○ INTERSECTION OF HIGHWAYS



52 Counties in the 4/8 of VA.

Guidance to Advisory Groups Appointed Under the Civil Justice Reform Act of 1990

SY92 Statistics Supplement

September 1992



Prepared for the Western District of Virginia

NOTES:

(Except for the update to 1992 data and this parenthetical, this document is identical to the one entitled "Guidance to Advisory Groups Appointed Under the Civil Justice Reform Act of 1990 SY91 Statistics Supplement, October 1991.")

The pages that follow provide an update to section IIb of the February 28, 1991 "Guidance to Advisory Groups" memorandum, incorporating data for Statistical Year 1992 (the twelve months ended June 30, 1992). The pages have been formatted exactly like the corresponding pages of the original memorandum, and may replace the corresponding pages in the original. There are no changes to the text of the document, except for a few references to the dates covered by the data. Certain discrepancies may be apparent between the original document and this update, as follows:

1. Table 1 (page 12) may show slightly different counts of case filings for recent years (e.g., SY88-90) than were shown in Table 1 of the original document. The variations arise from two sources. First, some cases actually filed in a particular statistical year are not reported to the Administrative Office until after it has officially closed the data files for that year (it is a practical necessity that the A.O. at some point close the files so that it may prepare its annual statistical reports). This can result in increased counts of cases filed in prior years. Second, both filing dates and case-type identifiers are occasionally reported incorrectly when a case is filed, but corrected when the case is terminated. The corrections can result in both increases and decreases in case filing counts.
2. Chart 6 (page 15) in the original document was incorrectly based on a subset of the "Type II" cases (as defined on page 10). It has been replaced in this update with a chart entitled "Chart 6 Corrected," which is based on all Type II cases. In most districts, the difference between the original, incorrect Chart 6 and the new version will be insignificant. In only a few districts is the difference significant.
3. An error was made in constructing Chart 8 in the original document. The text indicating the percentage of cases in the "Other" category lasting 3 years or more was shown as "8.0%," without regard to the actual percentage. The bars shown in the chart, however, were accurate. The error has been corrected in this update.

b. Caseload mix and filing trends. The variety of cases making up the caseload in most district courts will be surprising to many who study them for the first time. That variety may be important to advisory groups in assessing the docket and in considering what groups of cases, if any, should be treated differently in management plans. Different types of cases tend to move through the courts in different ways. For example, some are almost always disposed of by default judgment (student loan); some are in the nature of an appeal (bankruptcy); some are a unique subset of another category (asbestos cases in the personal injury category). From readily available data we cannot discern how a specific case moved through the system nor how a future case may move. Some types of cases, however, may move through the system in distinctive ways often enough to warrant your special attention. Do they affect court performance distinctively? Do they consume court resources distinctively?

We have sorted case types into two categories to illustrate the point of distinctive paths. Type I case types are distinctive because within each case type the vast majority of the cases are handled the same way; for example, most Social Security cases are disposed of by summary judgment. Type II case types, in contrast, are disposed of by a greater variety of methods and follow more varied paths to disposition; for example, one contract action may settle, another go to trial, another end in summary judgment, and so on. (See the table in Appendix B for a complete definition of the case types.)

Type I includes the following case types, which over the past ten years account for about 40% of civil filings in all districts:

- student loan collection cases
- cases seeking recovery of overpayment of veterans' benefits
- appeals of Social Security Administration benefit denials
- condition-of-confinement cases brought by state prisoners
- habeas corpus petitions
- appeals from bankruptcy court decisions
- land condemnation cases
- asbestos product liability cases

The advisory group may wish to consider whether, in this district, these categories or any others identified by the group are distinctive enough to warrant special attention in assessing the condition of the docket or in recommending future actions. Careful documentation of analyses and decisions of this kind will contribute significantly to the final report the Judicial Conference must make to Congress.

Type II includes the remainder of the case types, which collectively account for about 60% of national civil filings over the past ten years. Case types with the largest number of national filings were:

- contract actions other than student loan, veterans' benefits, and collection of judgment cases
- personal injury cases other than asbestos
- non-prisoner civil rights cases
- patent and copyright cases
- ERISA cases
- labor law cases
- tax cases

- securities cases
- other actions under federal statutes; e.g., FOIA, RICO, and banking laws

Chart 1 shows the percentage distribution among types of civil cases filed in your district for the past three years.

Chart 1: Distribution of Case Filings, SY90-92
Western District of Virginia

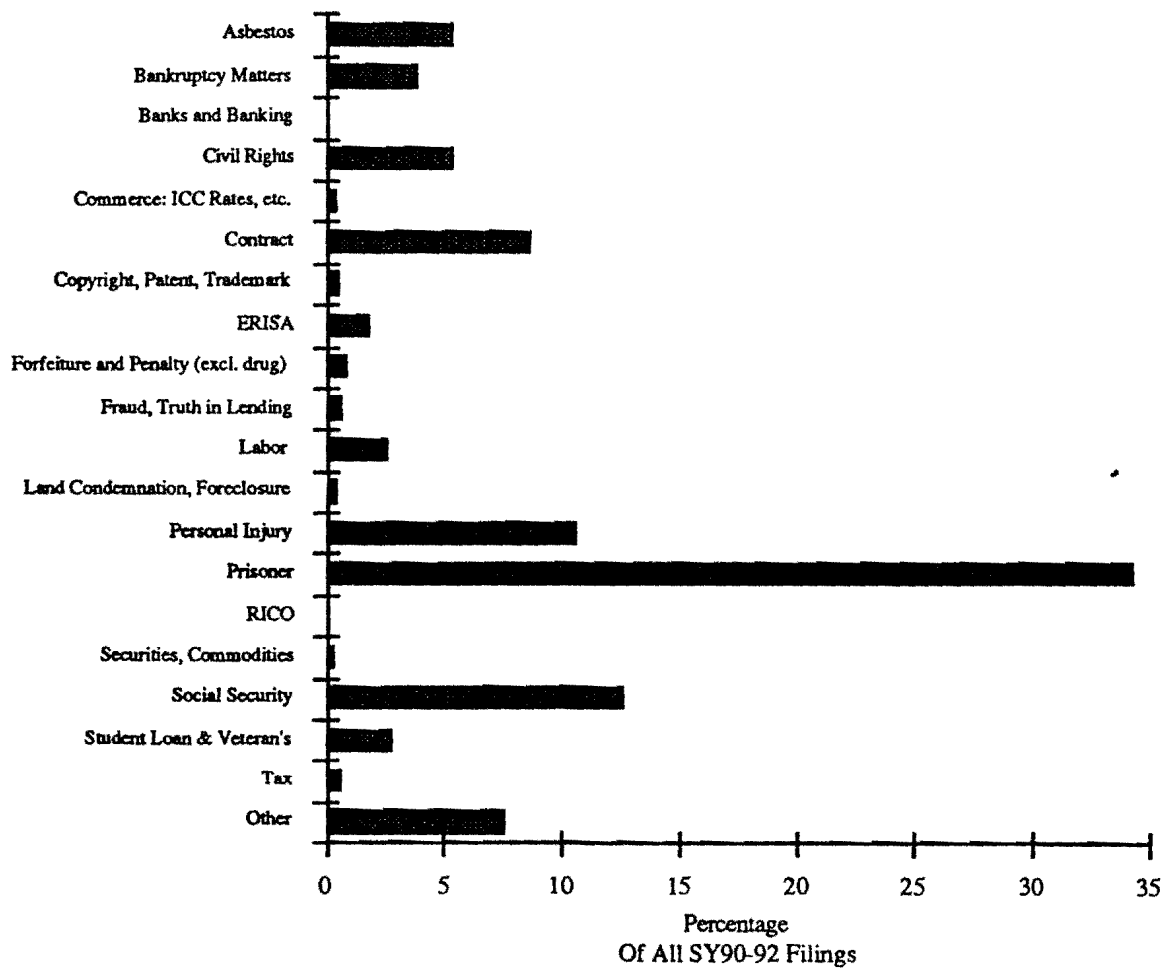


Chart 2 shows the trend of case filings over the past ten years for the Type I and Type II categories. Table 1 shows filing trends for the more detailed taxonomy of case types.

Chart 2: Filings By Broad Category, SY83-92
Western District of Virginia

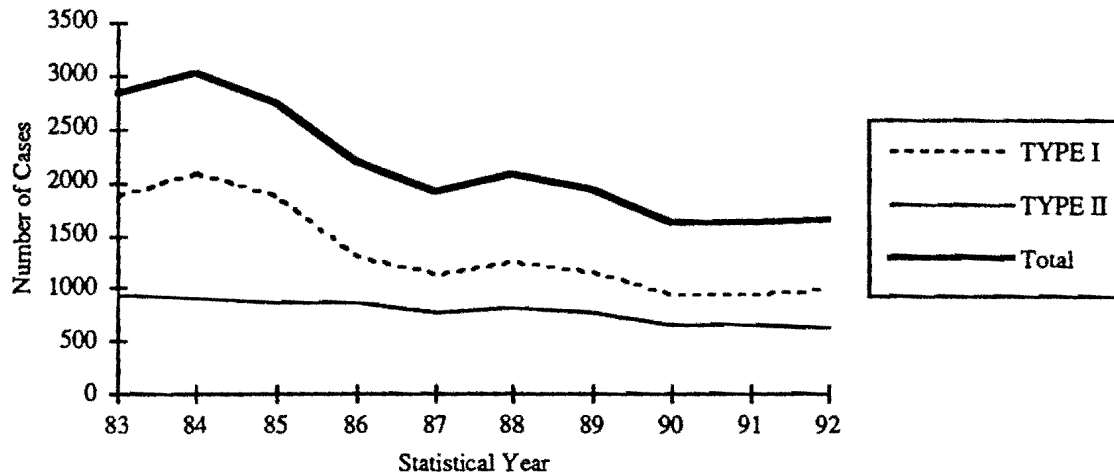
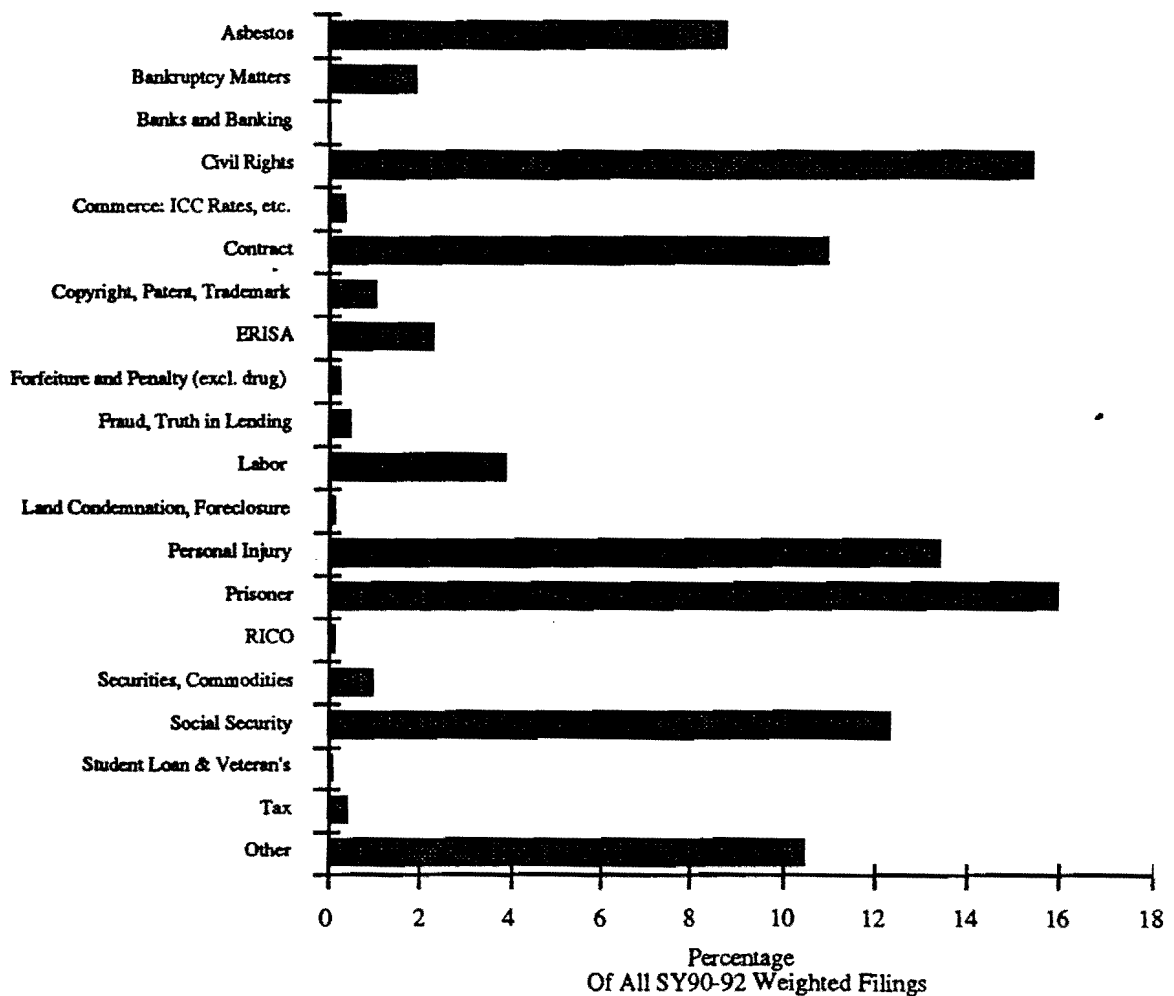


Table 1: Filings by Case Types, SY83-92

Western District of Virginia	YEAR									
	83	84	85	86	87	88	89	90	91	92
Asbestos	1	9	18	38	37	30	51	169	77	13
Bankruptcy Matters	69	62	105	67	57	64	58	59	80	49
Banks and Banking	0	1	0	0	0	2	1	0	1	0
Civil Rights	168	151	133	151	112	116	99	72	108	80
Commerce: ICC Rates, etc.	0	3	1	1	3	1	4	2	5	15
Contract	205	192	217	216	217	241	223	159	125	136
Copyright, Patent, Trademark	5	14	13	18	9	16	15	4	11	12
ERISA	6	4	18	13	20	19	19	23	35	31
Forfeiture and Penalty (excl. drug)	167	146	78	25	13	17	31	22	12	7
Fraud, Truth in Lending	12	14	19	10	8	9	8	10	2	20
Labor	63	59	61	104	63	44	40	50	44	33
Land Condemnation, Foreclosure	3	1	18	22	4	7	3	9	3	8
Personal Injury	189	199	177	178	184	179	219	189	153	175
Prisoner	452	449	463	400	461	508	562	482	539	646
RICO	0	0	0	3	4	3	1	3	1	4
Securities, Commodities	7	11	4	5	11	8	4	4	13	2
Social Security	629	814	592	349	430	541	361	180	219	214
Student Loan and Veteran's	725	759	662	423	135	101	108	50	22	65
Tax	11	15	8	12	9	16	13	7	13	14
All Other	100	108	133	137	120	140	94	117	140	111
All Civil Cases	2812	3011	2720	2172	1897	2062	1914	1611	1603	1635

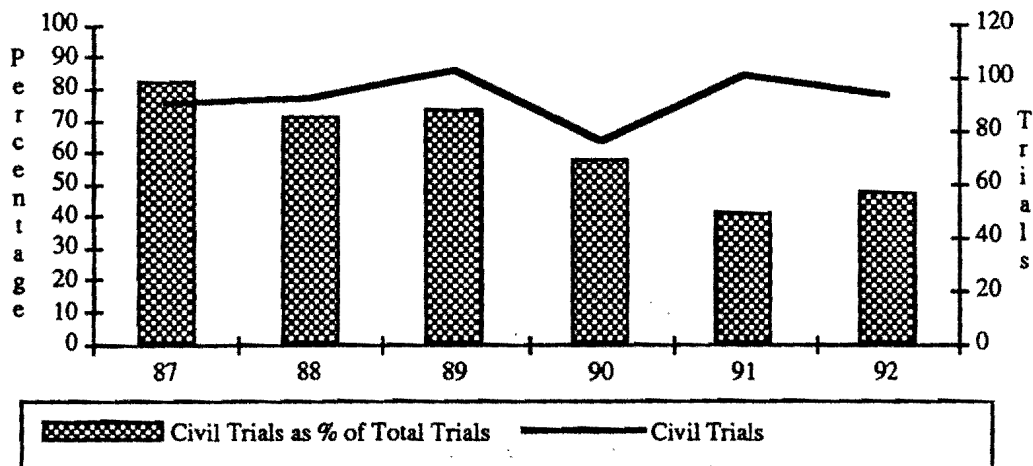
c. Burden. While total number of cases filed is an important figure, it does not provide much information about the work the cases will impose on the court. For this reason, the Judicial Conference uses a system of case weights based on measurements of judge time devoted to different types of cases. Chart 3 employs the current case weights to show the approximate distribution of demands on judge time among the case types accounting for the past three years' filings in this district. The chart does not reflect the demand placed on magistrate judges.

Chart 3: Distribution of Weighted Civil Case Filings, SY90-92
Western District of Virginia



Another indicator of burden is the incidence of civil trials. Chart 4 shows the number of civil trials completed and the percentage of all trials accounted for by civil cases during the last six years.

Chart 4: Number of Civil Trials and Civil Trials as a Percentage of Total Trials, SY87-92
Western District of Virginia



d. Time to disposition. This section is intended to assist in assessments of “delay” in civil litigation in this district. We first look at conventional data on the pace of litigation and then suggest some alternative ways of examining data to estimate the time that will be required to dispose of newly filed cases. The *MgmtRep* table shows the median time from filing to disposition for civil cases and for felonies. Time from joinder of issue to trial is also reported for civil cases that reached trial. These data are commonly used to assess the dispatch with which cases have moved through a court in the past. When enough years are shown and the data for those years are looked at collectively, reasonable assessments of a court’s pace might be made.

Data for a single year or two or three may not, however, provide a reliable predictor of the time that will be required for new cases to move from filing to termination. An obvious example of the problem arises in a year when a court terminates an unusually small portion of its oldest cases. Both average and median time to disposition in that year will show a decrease. The tempting conclusion is that the court is getting faster when the opposite is actually the case. Conversely, when a court succeeds in a major effort to clean up a backlog of difficult-to-move cases, the age of cases terminated in that year may suggest that the court is losing ground rather than gaining.

Since age of cases terminated in the most recent years is not a reliable predictor of next year’s prospects, we offer other approaches believed to be more helpful. *Life expectancy* is a familiar way of answering the question: “How long is a newborn likely to live?” Life expectancy can be applied to anything that has an identifiable beginning and end. It is readily applied to cases filed in courts.

A second measure, *Indexed Average Lifespan (IAL)*, permits comparison of the characteristic lifespan of this court’s cases to that of all district courts over the past decade. The IAL is indexed at a value of 12 (in the same sense that the Consumer Price Index is indexed at 100) because the national average for time to disposition is about 12 months. A value of 12 thus represents an average speed of case disposition, shown on the charts below as IAL Reference. Values below 12

indicate that the court disposes of its cases faster than the average, and values above 12 indicate that the court disposes of its cases more slowly than the average. (The calculation of these measures is explained in Appendix B.)

Note that these measures serve different purposes. Life expectancy is used to assess change in the trend of actual case lifespan; it is a timeliness measure, corrected for changes in the filing rate but not for changes in case mix. IAL is used for comparison among districts; it is corrected for changes in the case mix but not for changes in the filing rate. Charts 5 and 6 display calculations we have made for this district using these measures.

Chart 5: Life Expectancy and Indexed Average Lifespan, All Civil Cases SY83-92
Western District of Virginia

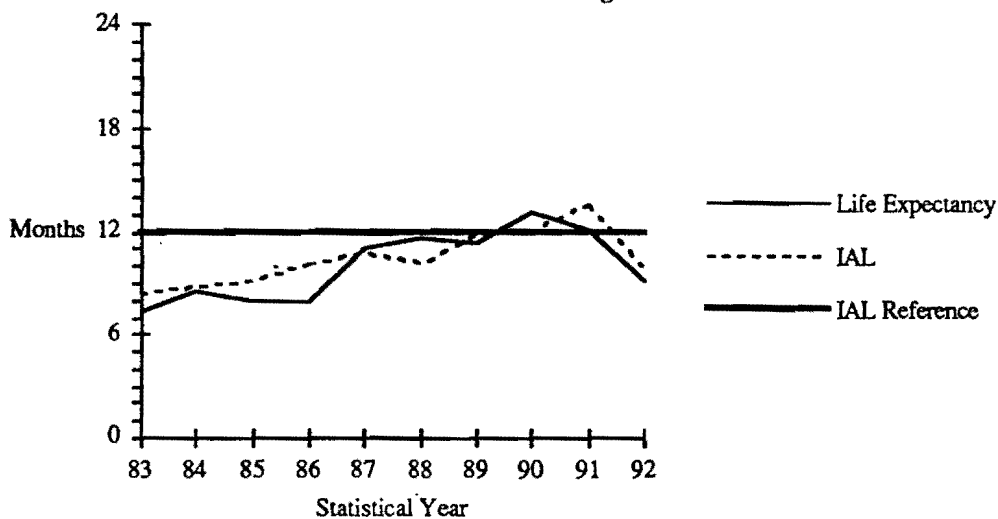
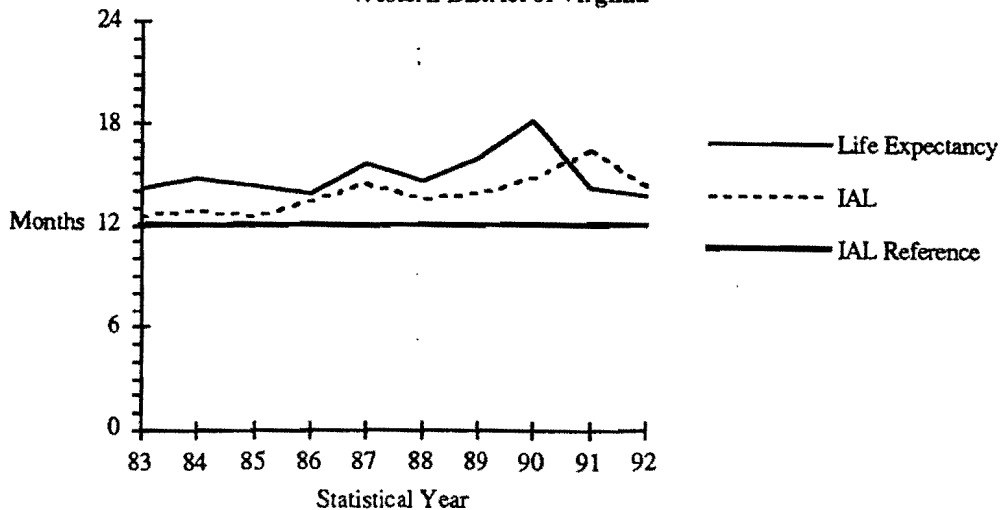


Chart 6: Life Expectancy and Indexed Average Lifespan, Type II Civil Cases SY83-92
Western District of Virginia



e. Three-year-old cases. The *MgmtRep* table shows the number and percentage of pending cases that were over three years old at the indicated reporting dates. We have prepared Charts 7 and 8 to provide some additional information on these cases.

Chart 7 shows the distribution of case terminations among a selection of termination stages and shows within each stage the percentage of cases that were three years old or more at termination.

Chart 7: Cases Terminated in SY89-91, By Termination Category and Age

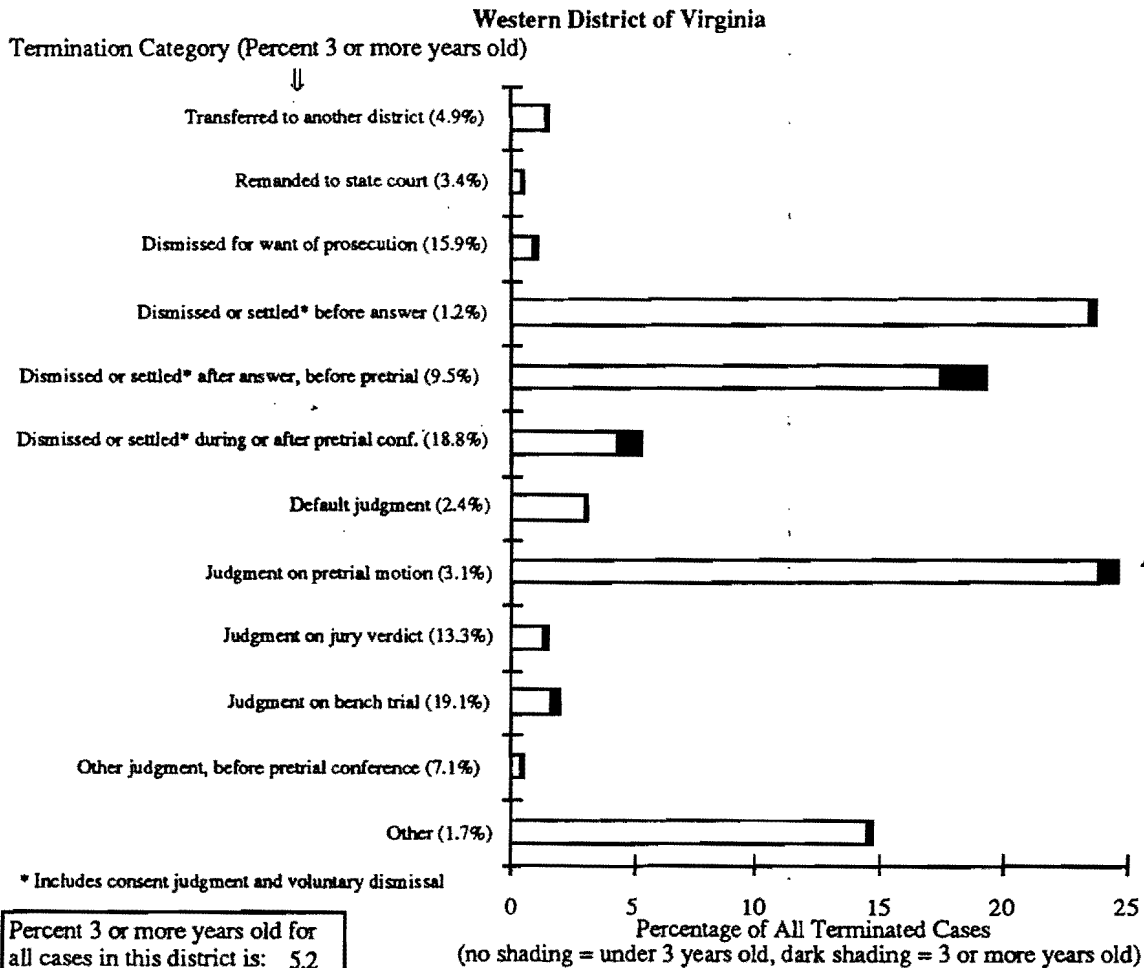
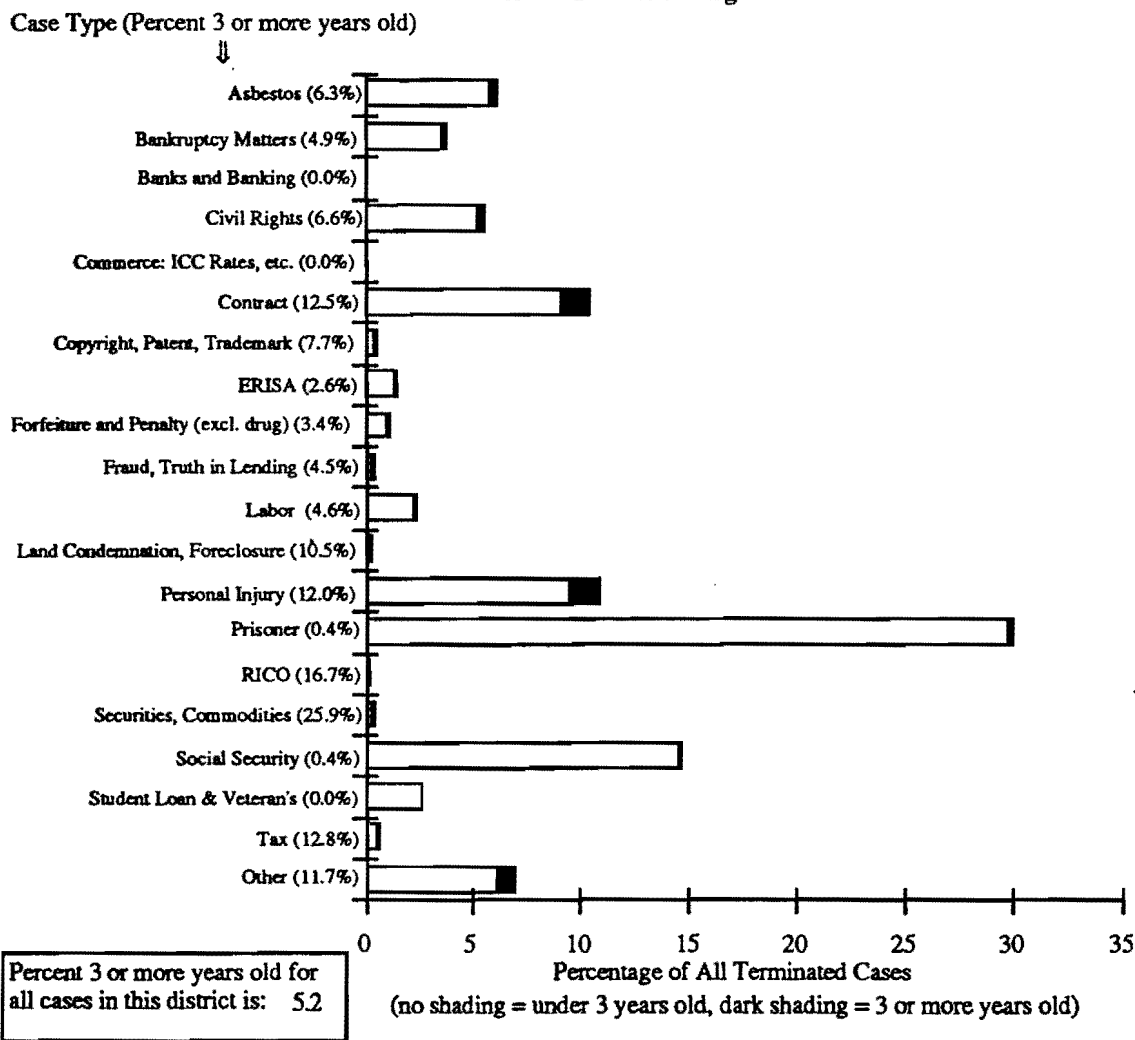


Chart 8 shows the distribution of terminations among the major case types and shows within each type the percentage of cases that were three years old or more at termination.

Chart 8: Cases Terminated in SY90-92, By Case Type and Age
Western District of Virginia



f. Vacant judgeships. The judgeship data given in *MgmtRep* permit a calculation of available judge power for each reported year. If the table shows any vacant judgeship months for this district, a simple calculation can be used to assess the impact: Multiply the number of judgeships by 12, subtract the number of vacant judgeship months, divide the result by 12, and then divide the result into the number of judgeships. The result is an adjustment factor that may be multiplied by any of the per-judgeship figures in the *MgmtRep* table to show what the figure would be if computed on a per-available-active-judge basis. For instance, if the district has three judgeships and six vacant judgeship months, the adjustment factor would be 1.2 ($36 - 6 = 30$; $30 / 12 = 2.5$; $3 / 2.5 = 1.2$). If terminations per judgeship are 400, then terminations per available active judge would be 480 (400×1.2). This will overstate the workload of the active judges if

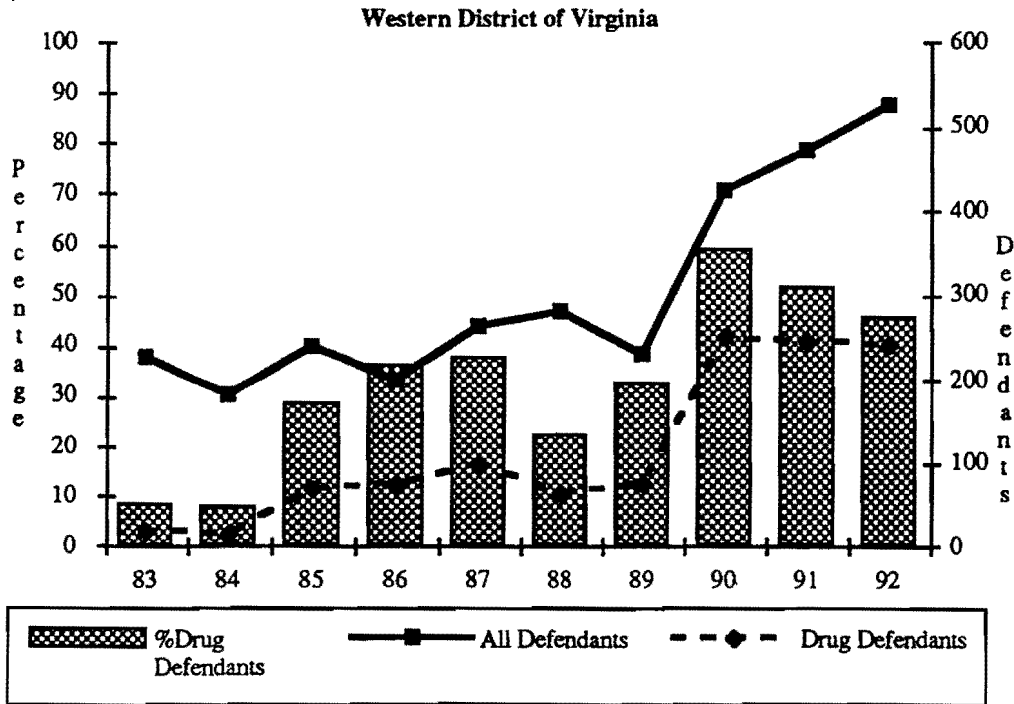
there are senior judges contributing to the work of the district. Because of the varying contributions of senior judges, however, there is no standard by which to take account of their effect on the workload of the active judges.

2. The Criminal Docket

a. The impact of criminal prosecutions. In calling on the advisory group to consider the state of the criminal docket, Congress recognized that the criminal caseload limits the resources available for the court's civil caseload. It is important to recognize that the Speedy Trial Act mandates that criminal proceedings occur within specified time limits, which may interfere with the prompt disposition of civil matters.

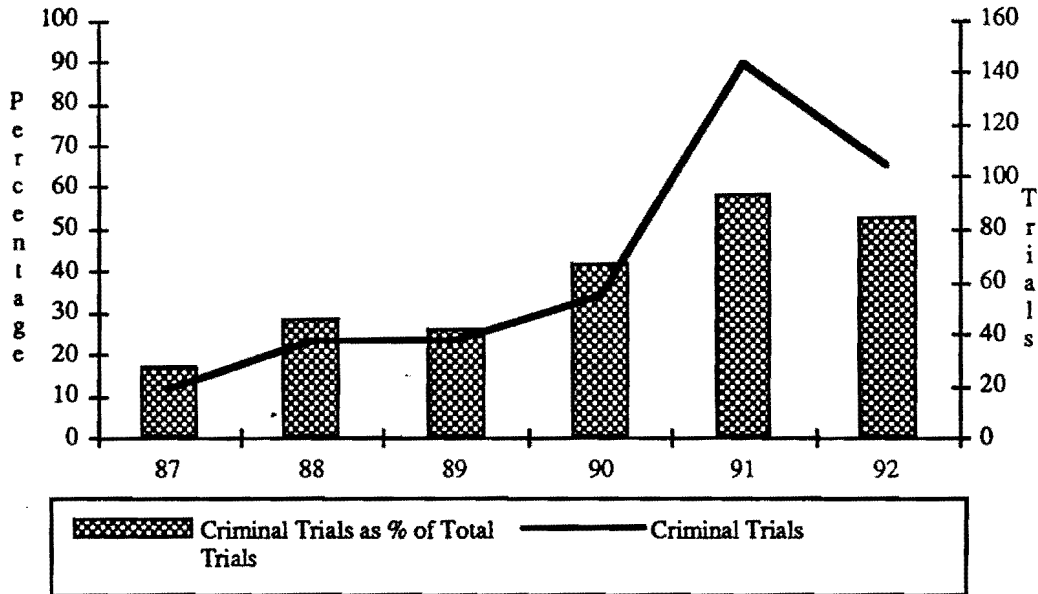
The trend of criminal defendant filings for this district is shown in Chart 9. We have counted criminal defendants rather than cases because early results from the current FJC district court time study indicate that burden of a criminal case is proportional to the number of defendants. Because drug prosecutions have in some districts dramatically increased demands on court resources, we have also shown the number and percentage of defendants in drug cases. A detailed breakdown of criminal filings by offense is shown on the last line of the table reproduced on page 8. A more detailed, five-year breakdown of the district's criminal caseload is available from David Cook of the Administrative Office's Statistics Division (FTS/633-6094).

Chart 9: Criminal Defendant Filings With Number and Percentage Accounted for by Drug Defendants, SY83-92



b. The demand on resources by criminal trials. Chart 10 shows the number of criminal trials and the percentage of all trials accounted for by criminal cases during the last six years.

Chart 10: Number of Criminal Trials and Criminal Trials as a Percentage of Total Trials, SY86-91
Western District of Virginia



For more information on caseload issues

This section was prepared by John Shapard of the Federal Judicial Center with assistance from David Cook and his staff in the Statistics Division of the Administrative Office of the U.S. Courts. Questions and requests for additional information should be directed to Mr. Shapard at (FTS/202) 633-6326 or Mr. Cook at (FTS/202) 633-6094.

TABLE C. U.S. DISTRICT COURTS
CIVIL CASES COMMENCED, TERMINATED AND PENDING
DURING THE TWELVE MONTH PERIODS ENDED JUNE 30, 1991 AND 1992

CIRCUIT AND DISTRICT	FILINGS			TERMINATIONS			PENDING		
	PERIOD ENDED JUNE 30, 1991	PERIOD ENDED JUNE 30, 1992	PERCENT CHANGE	PERIOD ENDED JUNE 30, 1991	PERIOD ENDED JUNE 30, 1992	PERCENT CHANGE	PERIOD ENDED JUNE 30, 1991*	PERIOD ENDED JUNE 30, 1992	PERCENT CHANGE
TOTAL...	207,690	226,895	9.2	211,713	239,633	13.2	237,040	224,302	-5.4
DC.....	3,099	3,351	8.1	3,051	3,140	2.9	3,737	3,948	5.6
1ST...	7,446	7,957	6.9	7,138	9,833	37.8	11,839	9,963	-15.9
ME.....	691	696	0.7	756	432	-42.9	566	830	46.6
MA.....	3,870	3,918	1.2	3,631	6,255	72.3	7,704	5,367	-30.3
NH.....	579	844	45.8	567	739	30.3	823	928	12.8
RI.....	648	724	11.7	624	744	19.2	776	756	-2.6
PR.....	1,658	1,775	7.1	1,560	1,663	6.6	1,970	2,082	5.7
2ND...	18,573	20,903	12.5	15,349	21,144	37.8	29,409	29,168	-0.8
CT.....	2,654	2,842	7.1	2,453	2,485	1.3	3,427	3,784	10.4
NY,N.....	1,474	1,576	6.9	1,380	2,065	49.6	3,293	2,804	-14.9
NY,E.....	4,739	4,672	-1.4	3,809	5,119	34.4	6,649	6,202	-6.7
NY,S.....	7,925	9,918	25.1	6,020	9,242	53.5	13,115	13,791	5.2
NY,W.....	1,423	1,442	1.3	1,351	1,877	38.9	2,495	2,060	-17.4
VT.....	358	453	26.5	336	356	6.0	430	527	22.6
3RD...	20,076	20,918	4.2	19,066	21,529	12.9	22,730	22,119	-2.7
DE.....	835	749	-10.3	658	875	33.0	1,056	930	-11.9
NJ.....	5,560	5,783	4.0	5,466	6,000	9.8	5,265	5,048	-4.1
PA,E.....	8,254	8,193	-0.7	7,427	8,676	16.8	10,373	9,890	-4.7
PA,M.....	1,879	1,967	4.7	1,961	2,041	4.1	1,658	1,584	-4.5
PA,W.....	2,761	3,689	33.6	2,779	3,200	15.1	2,983	3,472	16.4
VI.....	787	537	-31.8	775	737	-4.9	1,395	1,195	-14.3
4TH...	16,773	18,110	8.0	16,417	18,463	12.5	16,032	15,679	-2.2
MD.....	3,450	3,544	2.7	3,291	3,533	7.4	3,479	3,490	0.3
NC,E.....	1,321	1,509	14.2	1,231	1,520	23.5	1,066	1,055	-1.0
NC,M.....	654	727	11.2	632	625	-1.1	614	716	16.6
NC,W.....	726	887	22.2	718	769	7.1	829	947	14.2
SC.....	3,656	3,963	8.4	2,839	3,572	25.8	3,203	3,594	12.2
VA,E.....	3,499	3,969	13.4	3,811	4,637	21.7	3,096	2,428	-21.6
VA,W.....	1,582	1,638	3.5	1,677	1,970	17.5	1,705	1,373	-19.5
WV,N.....	507	590	16.4	577	612	6.1	638	616	-3.5
WV,S.....	1,378	1,283	-6.9	1,641	1,225	-25.4	1,402	1,460	4.1
5TH...	27,229	27,093	-0.5	29,845	33,716	13.0	32,923	26,300	-20.1
LA,E.....	4,953	4,302	-13.2	5,358	4,557	-15.0	3,404	3,149	-7.5
LA,M.....	1,296	1,141	-12.0	1,161	1,241	6.9	1,483	1,383	-6.8
LA,W.....	2,691	2,774	3.1	3,115	2,912	-6.5	3,283	3,145	-4.2
MS,N.....	986	1,156	17.2	1,043	1,004	-3.7	1,290	1,442	11.8
MS,S.....	1,745	1,932	10.7	2,415	2,786	15.4	2,980	2,126	-28.7
TX,N.....	4,585	4,892	6.7	5,214	4,886	-6.3	4,472	4,478	0.1
TX,E.....	2,751	2,293	-16.7	2,427	6,238	157.0	6,247	2,302	-63.2
TX,S.....	5,497	5,783	5.2	6,011	7,073	17.7	7,141	5,851	-18.1
TX,W.....	2,725	2,820	3.5	3,101	3,019	-2.7	2,623	2,424	-7.6
6TH...	21,359	24,373	14.1	29,449	29,440	0.0	25,811	20,744	-19.6
KY,E.....	2,005	1,885	-6.0	1,699	2,176	28.1	1,847	1,556	-15.8
KY,W.....	1,481	1,456	-1.7	1,473	1,523	3.4	1,851	1,784	-3.6
MI,E.....	5,103	7,187	40.8	5,101	6,464	26.7	4,405	5,128	16.4
MI,W.....	1,641	1,663	1.3	1,811	1,767	-2.4	1,470	1,366	-7.1
OH,N.....	4,422	4,597	4.0	12,195	9,817	-19.5	8,781	3,561	-59.5
OH,S.....	2,387	2,793	17.0	2,737	2,828	3.3	2,741	2,706	-1.3
TN,E.....	1,653	2,011	21.7	1,873	1,863	-0.5	1,692	1,840	8.7
TN,M.....	1,387	1,468	5.8	1,269	1,415	11.5	1,264	1,317	4.2
TN,W.....	1,280	1,313	2.6	1,291	1,587	22.9	1,760	1,486	-15.6

U.S. DISTRICT COURT -- JUDICIAL WORKLOAD PROFILE

ALL DISTRICT COURTS		TWELVE MONTH PERIOD ENDED SEPTEMBER 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1992	1991	1990	1989	1988	1987			
OVERALL WORKLOAD STATISTICS	Filings*	265,612	244,790	251,166	257,259	269,982	265,234			
	Terminations	263,034	250,615	245,014	255,473	266,595	262,605			
	Pending	262,805	260,095	273,301	267,440	269,646	266,006			
	Percent Change In Total Filings Current Year	Over Last Year	8.5						<input type="checkbox"/>	<input type="checkbox"/>
	Over Earlier Years		5.8	3.2	-1.6	.1		<input type="checkbox"/>	<input type="checkbox"/>	
	Number of Judgeships	649	649	575	575	575	575			
	Vacant Judgeship Months**	1326.5	1227.6	540.1	374.1	485.2	483.4			
ACTIONS PER JUDGESHIP	FILINGS	Total	409	377	437	447	470	461	<input type="checkbox"/>	<input type="checkbox"/>
		Civil	355	325	381	393	419	411	<input type="checkbox"/>	<input type="checkbox"/>
		Criminal Felony	54	52	56	54	51	50	<input type="checkbox"/>	<input type="checkbox"/>
	Pending Cases	405	401	475	465	469	463	<input type="checkbox"/>	<input type="checkbox"/>	
	Weighted Filings**	416	384	452	454	469	454	<input type="checkbox"/>	<input type="checkbox"/>	
	Terminations	405	386	426	444	464	457	<input type="checkbox"/>	<input type="checkbox"/>	
	Trials Completed	32	31	35	35	34	34	<input type="checkbox"/>	<input type="checkbox"/>	
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.9	5.8	5.4	5.2	4.5	4.1	<input type="checkbox"/>	<input type="checkbox"/>
		Civil**	9	10	9	9	9	9	<input type="checkbox"/>	<input type="checkbox"/>
	From Issue to Trial (Civil Only)	15	15	14	13	14	14	<input type="checkbox"/>	<input type="checkbox"/>	
OTHER	Number (and %) of Civil Cases Over 3 Years Old	17,249 7.7	21,252 9.4	25,672 10.6	23,137 9.7	21,918 8.9	20,043 8.2	<input type="checkbox"/>	<input type="checkbox"/>	
	Average Number of Felony Defendants Filed per Case	1.6	1.5	1.5	1.5	1.6	1.5	<input type="checkbox"/>	<input type="checkbox"/>	
	Jurors	Avg. Present for Jury Selection**	37.64	37.43	35.60	36.07	32.70	31.14	<input type="checkbox"/>	<input type="checkbox"/>
Percent Not Selected or Challenged**		34.1	34.3	33.9	35.4	33.7	32.1	<input type="checkbox"/>	<input type="checkbox"/>	

**FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS
SHOWN BELOW -- OPEN FOLDOUT AT BACK COVER**

1992 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	230509	8958	16006	48423	7825	9976	16394	33428	38179	58302	24233	5022	20755
Criminal*	34277	1883	1467	3782	576	1676	5118	6766	1022	6354	595	1925	3113

Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not. See Page 167.

U.S. DISTRICT COURT -- JUDICIAL WORKLOAD PROFILE

VIRGINIA WESTERN		TWELVE MONTH PERIOD ENDED SEPTEMBER 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1992	1991	1990	1989	1988	1987			
OVERALL WORKLOAD STATISTICS	Filings*	2,036	1,878	1,713	2,065	2,209	2,125			
	Terminations	2,045	2,220	1,650	2,122	2,103	1,770			
	Pending	1,599	1,608	1,937	1,865	2,017	1,914			
	Percent Change In Total Filings Current Year	Over Last Year.	8.4						<u>44</u>	<u>6</u>
	Over Earlier Years. . .	18.9			-1.4	-7.8	-4.2	<u>61</u>	<u>7</u>	
	Number of Judgeships	4	4	4	4	4	4			
	Vacant Judgeship Months**	.0	.0	12.0	7.2	.0	.0			
ACTIONS PER JUDGESHIP	FILINGS	Total	509	470	428	516	552	531	<u>12</u>	<u>1</u>
		Civil	437	398	377	476	515	494	<u>12</u>	<u>1</u>
		Criminal Felony	72	72	51	40	37	37	<u>26</u>	<u>6</u>
		Pending Cases	400	402	484	466	504	479	<u>41</u>	<u>3</u>
		Weighted Filings**	380	392	375	399	432	400	<u>55</u>	<u>6</u>
		Terminations	511	555	413	531	526	443	<u>12</u>	<u>2</u>
		Trials Completed	42	63	42	36	33	26	<u>17</u>	<u>3</u>
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	7.0	7.4	8.2	8.1	5.8	5.1	<u>71</u>	<u>6</u>
		Civil**	10	15	12	10	10	8	<u>56</u>	<u>8</u>
		From Issue to Trial (Civil Only)	13	12	13	11	11	16	<u>27</u>	<u>5</u>
OTHER		Number (and %) of Civil Cases Over 3 Years Old	41 3.0	59 4.3	104 5.9	73 4.2	98 5.1	65 3.6	<u>22</u>	<u>3</u>
		Average Number of Felony Defendants Filed per Case	1.7	1.5	2.0	1.6	1.5	1.7		
	Jurors	Avg. Present for Jury Selection**	33.65	29.01	28.89	23.95	27.29	25.31	<u>44</u>	<u>6</u>
Percent Not Selected or Challenged**		21.0	16.4	13.9	13.6	23.1	22.0	<u>25</u>	<u>4</u>	

**FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS
SHOWN BELOW -- OPEN FOLDOUT AT BACK COVER**

1992 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1748	232	56	734	49	31	78	138	233	15	78	-	104
Criminal*	257	-	20	74	3	1	28	75	6	26	2	3	19

Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.
See Page 167.

SAMPLE FILING ORDER W/ATTACHMENTS

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

REGGIE AMBROSE RICHARDSON JR.)	
Plaintiff(s), #197857)	Civil Action No. 93-
v.)	
DEPT. OF CORR.,)	By: Hon. Glen E. Conrad
Defendant(s).)	U. S. Magistrate Judge
	<u>ORDER</u>

Upon consideration of plaintiff's application to proceed in forma pauperis, his proof of poverty and the complaint annexed, it is ORDERED that:

(1) The complaint may be filed without contemporaneous payment of filing and service of process fees. The Court shall conduct additional investigations as to the status of the plaintiff's trust account and his rate of earnings, and any other relevant evidence, and upon consideration of this additional evidence, may require the plaintiff to pay all or any portion of the usual fees by, among other ways, requiring the plaintiff to execute a consent to permit a partial withholding of his prison earnings by the appropriate prison officials to be paid over to the Court in payment of such fees. See Evans v. Croom, 650 F.2d 521(4th Cir. 1981);

(2) The defendants file their responsive pleadings within twenty days of the receipt of this Order. The pleadings shall contain a supporting affidavit from the appropriate prison official setting forth the status of the plaintiff's trust account for six (6) months preceding the date of this Order as well as plaintiff's

rate of pay for any work performed as an inmate. The Court further directs that copies of the ledger sheets comprising the plaintiff's trust account for that period be submitted with the affidavits;

(3) To the extent that the Inmate Grievance Procedures set forth in the Department of Corrections Department Policy Manual is applicable to plaintiff, that the complaint contains grievance matters as defined in 10-2 of said policy, and that plaintiff has failed to utilize said procedure, the defendants may move for a continuance not to exceed ninety days so that the plaintiff may present his claims through the procedure. Upon the termination of the ninety days, the Court shall take whatever action deemed appropriate;

(4) The plaintiff is referred to Rule 5 of the Federal Rules of Civil Procedure which requires that every pleading after the complaint and every written motion, notice, or other similar paper be served on all parties, which service shall be made by mailing it to the parties' attorney;

(5) The plaintiff is hereby granted 20 days from the receipt of a copy of defendants' answer and other responsive pleadings within which to file opposing affidavits or other appropriate material, if he be so advised. Failure to so respond may result in the entry of judgment against the plaintiff on the basis of defendants' responsive pleading;

(6) Plaintiff shall notify the Court immediately upon his transfer or release and shall provide a new address if known. FAILURE TO NOTIFY THE COURT OF SUCH A CHANGE OF ADDRESS WILL RESULT IN DISMISSAL OF THIS CASE.

(7) Pursuant to the Standing Order of Court entered September 19, 1988, all nondispositive orders in this case will be referred to the Hon. Glen E. Conrad, United States Magistrate Judge. (See Appendix.)

A copy of the complaint herein shall be certified to: to the Office of the Attorney General, Commonwealth of Virginia, 101 N. Eighth Street, Richmond, Virginia 23219, with a certified copy of this Order and Appendix, and a copy of this Order shall also be certified to the plaintiff herein.

ENTER: This _____ day of February, 1993.

UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

IN RE: FILING AND PROCESSING PRISONER CIVIL RIGHTS
CASES AND PETITIONS FOR WRITS OF HABEAS CORPUS

STANDING ORDER OF REFERENCE

In furtherance of a more centralized system for processing prisoner civil rights cases and petitions for writs of habeas corpus, it is now O R D E R E D that effective October 1, 1988, all such cases will be routinely referred to United States Magistrate Judge Glen E. Conrad for purposes of consideration and ruling as to any and all nondispositive , pretrial matter and motions as may arise. This order is entered under the authority of 28 USC § 636(b)(1)(A), and the provisions set forth thereunder shall govern the magistrate's conduct and scope of authority.

For purposes of the Order, the terms prisoner civil rights cases and petitions for writs of habeas corpus shall be deemed to include the following:

- a. civil rights complaints filed pursuant to 42 USC §1983;
- b. civil rights complaints filed pursuant to 28 USC §1331 (Bivens Actions);
- c. habeas corpus petitions filed pursuant to 28 USC §2254 (state habeas);
- d. habeas corpus petitions filed pursuant to 28 USC §2255 (federal habeas).

The clerk is directed to associate a copy of this Order with filings as outlined above to all parties in all cases.

ENTER: This 1st day of November, 1991.

FOR THE COURT:

/s/ James C. Turk
Chief US District Judge

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

NOTICE TO PARTIES OF RIGHT TO CONSENT TO
JURISDICTION OF UNITED STATES MAGISTRATE JUDGE

ELIJAH ISRAEL,
Plaintiff(s)

Date: 2/25/93

vs

CIVIL ACTION NO. 93-0041-R

ED MURRAY,
Defendant(s)

et als.,

Pursuant to 28 U.S.C. Sec. 636(c) (2) the parties to this action are hereby notified of the availability of a magistrate judge to exercise jurisdiction of any or all proceedings in this civil action, including the entry of dispositive orders, by a United States Magistrate Judge specifically designated by the Court to exercise such jurisdiction. Your decision should be communicated to the Clerk of this Court. Thereafter, either the district court judge or the magistrate judge may again advise the parties of the availability of the magistrate judge, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.

You are further notified that if all parties consent to the exercise of jurisdiction in this case by a magistrate judge, appeal from the judgment of a magistrate judge will be to the United States Court of Appeals for the Fourth Circuit unless all of the parties to this action further consent to appeal to a district judge. If appeal to a district judge is elected by all of the parties, review of the decision of the district judge by the Fourth Circuit Court of Appeals shall be only upon petition for leave to appeal by a party stating specific objections to the judgment. Election of this method of appeal shall not limit any party's right to seek review by the Supreme Court of the United States.

JOYCE F. WITT, Clerk

By:

Deputy Clerk

If you desire to consent to this action please indicate by checking the blank below and returning to the Clerk's Office within 15 days from the date of this Notice.

_____ I Consent

SIGNATURE

WESTERN DISTRICT OF VIRGINIA
PRO SE/PRISONER YEAR END STATISTICAL REPORT
1992

I. PRELIMINARY SCREENING

TOTAL PETITIONS/COMPLAINTS SCREENED	873
Total filed this year (incl. 124 sua sponte dismissals)	711
Total returned to inmate w/o filing	81
Total sent to other districts w/o filing	67
Other/Miscellaneous	14

II. MOTIONS/ORDERS - HEARINGS/TRIALS

TOTAL ORDERS ENTERED THIS YEAR	3088
Total standard filing orders entered	711
Total dispositive orders entered	606
Total non-dispositive orders entered	1771
TOTAL HEARINGS/TRIALS CONDUCTED THIS YEAR	57

III. APPEALS

PENDING AT BEGINNING OF YEAR	83
Total NOA filed this year	169
Total appeals disposed of this year	141
Affirmed	137
Vacated & Remanded	2
Other	2
TOTAL PENDING AT END OF YEAR	111

WD/VA PRISONER/PRO SE QUARTERLY REPORT - SEPT. - DEC. 1992

I. PRELIMINARY SCREENING	
TOTAL PETITIONS/COMPLAINTS SCREENED	171
Total filed this quarter	132
(incl. 25 sua sponte dismissals)	
Total returned to inmate w/o filing	15
Total sent to other districts w/o filing	10
Other/Miscellaneous	14
II. MOTIONS/ORDERS - HEARINGS/TRIALS	
TOTAL ORDERS ENTERED THIS QUARTER	655
Total standard filing orders entered	132
Total dispositive orders entered	132
Total non-dispositive orders entered	391
TOTAL HEARINGS/TRIALS CONDUCTED THIS QUARTER	11
III. APPEALS	
PENDING AT BEGINNING OF QUARTER	127
Total NOA filed this quarter	39
Total appeals disposed of this quarter	55
Affirmed	51
Vacated & Remanded	2
Other	2

TOTAL PENDING AT END OF QUARTER 111

	2307	2308	2309	2310	2311	23AX	23BA	23BC	TOTAL
TOTAL PENDING AT BEG	104	0	16	106	89	24	15	4	358
TOTAL PENDING AT END	132	1	15	90	96	16	15	1	366
***	***	***	***	***	***	***	***	***	***
TOTAL APPEALS PENDING AT BEG	-	-	-	-	-	-	-	-	127
TOTAL APPEALS PENDING AT END	44	0	4	41	11	7	3	1	111
***	**	***	***	***	***	***	***	***	***
< 6 MOS	84	0	2	69	60	8	3	1	227
6-12 MOS	41	1	4	21	33	6	10	0	116
>12 MOS	7	0	9	0	3	2	2	0	23

QUARTERLY FILING STATISTICS COMPARISON

<u>JAN - MAR 1990</u>	90
<u>JAN - MAR 1991</u>	122
<u>JAN - MAR 1992</u>	214
<u>APR - JUNE 1990</u>	107
<u>APR - JUNE 1991</u>	149
<u>APR - JUNE 1992</u>	185
<u>JULY - SEP 1990</u>	98
<u>JULY - SEP 1991</u>	132
<u>JULY - SEP 1992</u>	180
<u>OCT - DEC 1990</u>	144
<u>OCT - DEC 1991</u>	122
<u>OCT - DEC 1992</u>	132
<u>TOTAL FILINGS 1990</u>	439
<u>TOTAL FILINGS 1991</u>	525
<u>TOTAL FILINGS 1992</u>	711

BIOGRAPHIES OF COMMITTEE MEMBERS

Susie Stuart Drake, Esquire, practices law in Lynchburg, Virginia. She received her B.A. from Hollins College and her LL.B. from the University of Virginia School of Law.

D. Brock Green, Esquire, graduated from Virginia Polytechnic Institute and State University in 1972 and the University of Virginia School of Law in 1975. He is a member of the Virginia State Bar, the Bars of the Eastern and Western District of Virginia, the Fourth Circuit Court of Appeals, and the United States Supreme Court. He has practiced extensively in many state courts in Virginia, both federal courts, the Fourth Circuit Court of Appeals, the United States District Court for the Southern District of New York, and the Second Circuit Court of Appeals. After a judicial clerkship, he worked in various capacities within the Legal Services Corporation for approximately seven years. He has been in private practice with an emphasis in civil litigation since that time.

Honorable George W. Harris, Jr. is a Judge of the Virginia District Court, Twenty-third Judicial District. He was appointed by Governor Charles Robb in 1985 and subsequently elected by the General Assembly. His current term expires April 1997. Judge Harris graduated from Virginia Union University in 1963 and from North Carolina Central University School of Law in 1967. He is admitted to practice in Virginia, in the U.S. District Courts for the Eastern and Western Districts of Virginia and the U.S. Court of Appeals for the Fourth Circuit. He practiced law in Roanoke from 1967 to 1985. He is a member of the Old Dominion Bar, the Virginia State Bar, and the Virginia, National and American Bar Associations. He attended the Special Court Course of The National Judicial College and is a recipient of Diplomas of Judicial Skills and of Humanities and Judging from the American Academy of Judicial Education.

James P. Jones, Esquire, is a 1965 graduate of the University of Virginia School of Law. He is engaged in general litigation practice in a firm with offices in Abingdon and Bristol.

Frank Kilgore, Esquire, is a lifelong resident of the coalfield section of Virginia and has practiced law in the town of St. Paul since 1982, concentrating in the fields of torts, labor and environmental law and local government. He is active in economic development, natural resource protection and management issues and educational improvements in the state's coalfield counties. He is past president of the Wise County Bar Association and through articles and commentaries addresses the issue of uniform and effective ethical standards within the state bar.

Robert W. Mann, Esquire, is a Partner in the firm of Young, Haskins, Mann & Gregory in Martinsville, Virginia, where he is engaged in litigation, primarily in the personal injury field. He is a Fellow of the American College of Trial Lawyers and certified as a Civil Trial Advocate by the National Board of Trial Advocacy. He is a Member of the American Trial Lawyers Association and Past President of the Virginia Trial Lawyers Association. Mr. Mann graduated from the University of Richmond Law School.

James Boswell McCloskey, Esquire, a graduate of Drury College in Springfield, Missouri and the University of Missouri - Columbia (JD 1970), has been employed by Norfolk Southern Corporation and its predecessor Norfolk and Western Railway Company since July 1970. He served in the NW regional headquarters in St. Louis, Missouri until 1984, when he was transferred to Roanoke, Virginia and then to Norfolk in 1989. Mr. McCloskey is General Attorney, responsible for the investigation and litigation of personal injury claims involving NS's operating subsidiaries including Norfolk Southern Railway Company and North American Van Lines, Inc. He is a member of the Virginia State Bar and The Missouri Bar and serves on the U.C. council of the Civil Litigation Section, Virginia Bar Association.

Mr. Laurence E. Richardson, received his BCS from Benjamin Franklin University and his LL.B. from Southeastern University. He served as Naval Aviator during World War II. From 1948 to 1969, he worked in the television and radio industry in Washington, D.C. at WTOP, WTOP-TV and the Post-Newsweek Stations. Since 1970, he has been Owner/President of Charlottesville Broadcasting Corporation (WINA/WQMZ/WKAV) Charlottesville, Virginia.

Steven D. Rosenfield, Esquire, received his B.S. in Engineering from the University of Miami (Fla.) in 1970. He was a law reader from 1973 to 1976 and was licensed to practice law in 1977. He was a Legal Services attorney from 1977 to 1979. Since 1979, he has been engaged in private practice in Charlottesville, Virginia with an emphasis on criminal defense and plaintiffs' civil rights law.

Professor Joan M. Shaughnessy, is an Associate Professor of Law at Washington & Lee University School of Law in Lexington, Virginia, where she currently teaches Civil Procedure, Federal Courts, Trial Advocacy and Jurisprudence. Prior to joining the Washington & Lee faculty, she was an associate with Cleary, Gottlieb, Steen & Hamilton in New York City, where she engaged primarily in securities and commercial litigation. She received her B.A. from the State University of New York at Binghamton and her J.D. from the University of Chicago Law School. She is a member of the New York bar and an associate member of the Virginia Bar.

Ms. Kathy Graves Stockburger, is the Executive Director of the Conflict Resolution Center, Inc., a community based, non-profit dispute resolution service located in Roanoke, Virginia. The Center offers mediation, arbitration and facilitation services and provides consultation and training in dispute resolution and conflict management. Ms. Stockburger received her B.A. from the University of Virginia and is a trained mediator. She attended T.C. Williams School of Law and is currently engaged in graduate studies in Training and Human Resource Development at Virginia Tech. She is a member of The American Society of Training and Development and an applicant for Associate Membership in the Academy of Family Mediators.

Phillip C. Stone, Esquire, is a partner in the firm of Wharton, Aldhizer & Weaver in Harrisonburg, Virginia. He is a Fellow of the American College of Trial Lawyers, the American Bar Association, and the Virginia Law Foundation. Mr. Stone is Chairman of the Civil Litigation Section of Virginia Bar Association and a member of the Executive Committee of the Virginia Bar Association. He is past president of the Virginia Association of Defense Attorneys, a member of the Fourth Circuit Judicial Conference and past chairman of the Virginia State Bar Disciplinary Board and of the Virginia State Bar Ethics Committee.

E. Montgomery (Monty) Tucker, Esquire, has served since 1990 as the United States Attorney for the Western District of Virginia. Prior to becoming U.S. Attorney, from 1973 to 1990, he served as an Assistant U.S. Attorney. From 1970 to 1973, he was a Litigation Associate with Hunton and Williams. He received his B.A. and J.D. degrees from Washington and Lee University.

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Attorney Survey
March 1992**

The following survey is being conducted by the Advisory Group of the W.D.VA., a body appointed pursuant to the Judicial Reform Act of 1990 to study whether there are unnecessary costs and delays associated with civil litigation in this district and, if so, how they can be reduced. The Group is seeking your opinions as a practicing attorney in the W.D.VA. in order to assist it in making recommendations for improving the management of civil litigation. The survey should take no longer than fifteen minutes to complete. Please return it no later than April 3, 1992, in the enclosed postage prepaid envelope. We appreciate your taking the time to participate in this study. Confidentiality will be maintained.

Background Information

1. For how many years have you been practicing law? _____ years.
2. What percentage of your practice is devoted to civil litigation? _____ %
3. During the past three years, what percentage of your civil litigation practice was in the U.S.D.Ct. for the W.D.VA.? _____ %
4. What percentage of your W.D.VA. civil practice is in each of the following divisions?

(i) Roanoke _____ %	(v) Danville _____ %
(ii) Abingdon _____ %	(vi) Harrisonburg _____ %
(iii) Big Stone Gap _____ %	(vii) Lynchburg _____ %
(iv) Charlottesville _____ %	
5. During the past three years, what percentage of your civil litigation practice was in the U.S.D.Ct. for the E.D.VA.? _____ %
6. How would you best describe your practice setting?
 Private law firm
 Federal government
 State government
 Local government
 Corporate counsel
 Independent non-profit organization
 Other _____
7. How many practicing lawyers are there in your firm or organization?
 1-3 3-10 Over 10
8. What percentage of your civil litigation practice consists of representing plaintiffs? _____ %
9. What percentage of your practice consists of criminal litigation in the U.S.D.Ct. for the W.D.VA.? _____ %
10. Please indicate the extent of your experience with the following dispute resolution devices.

	Substantial	Moderate	Slight	None
Arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mediation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

11. If your answer was substantial or moderate, please give your opinion of the process.

	Highly Favorable	Somewhat Favorable	Neutral	Somewhat Opposed	Strongly Opposed
Arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mediation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

The following questions pertain to your civil litigation experience in the Western District of Virginia during the past three years.

13. Have you encountered unreasonable delays? yes no

If yes, how much have each of the following contributed to these delays?

	No contribution	Slight contribution	Moderate contribution	Substantial contribution
Tactics of opposing counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conduct of clients	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conduct of insurers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal or office practice inefficiencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial inefficiencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inefficiencies in the clerk's office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unnecessary or inadequate procedural rules	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demands of criminal docket	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14. Have you found such litigation to be unnecessarily costly for your clients? yes no

If yes, how much have each of the following contributed to the unnecessary costs?

	No contribution	Slight contribution	Moderate contribution	Substantial contribution
Conduct of counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conduct of clients	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conduct of insurers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal or office practice inefficiencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial inefficiencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inefficiencies in the clerk's office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unnecessary or inadequate procedural rules	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. To what extent have tactics of counsel contributed to unreasonable delays or unnecessary cost?

None Slight Moderate Substantial

If you selected moderate or substantial, please indicate the extent to which of the following tactics of counsel contributed to your assessment

	Substantial cause	Moderate cause	Slight cause	Not a cause
Unnecessary use of interrogatories	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too many interrogatories	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too many depositions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Too many deposition questions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overbroad document requests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Overbroad responses to document production requests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unavailability of witness or counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raising frivolous objections	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to comply with time schedules	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to attempt in good faith to resolve issues without court intervention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unnecessary motions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unwarranted sanctions motions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack of professional courtesy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unwillingness to engage in settlement negotiations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. In general, have you found case management by magistrate judges responsive to the needs of litigants as to both time and costs?

yes no no opinion

To what extent has ineffective case management by magistrate judges contributed to unnecessary delays or unreasonable costs?

None Slight Moderate Substantial No Opinion

If you selected *moderate* or *substantial*, please select the appropriate response for the following court activities:

Number of status conferences	Deadlines	Extension of deadlines
<input type="checkbox"/> Far too many	<input type="checkbox"/> Far too restrictive	<input type="checkbox"/> Far too many
<input type="checkbox"/> Somewhat too many	<input type="checkbox"/> Somewhat too restrictive	<input type="checkbox"/> Somewhat too many
<input type="checkbox"/> Reasonable number	<input type="checkbox"/> Reasonable	<input type="checkbox"/> Reasonable number
<input type="checkbox"/> Somewhat too few	<input type="checkbox"/> Somewhat permissive	<input type="checkbox"/> Somewhat too few
<input type="checkbox"/> Far too few	<input type="checkbox"/> Far too permissive	<input type="checkbox"/> Far too few

Please indicate the extent to which each of the following possible instances of ineffective case management by **magistrate judges** contributed to your assessment:

	Substantial cause	Moderate cause	Slight cause	Not a cause
Delays in entering scheduling orders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Excessive time periods provided for in scheduling orders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to resolve discovery disputes promptly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to resolve other motions promptly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scheduling too many motions on different cases concurrently	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to tailor discovery to needs of the case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure by magistrate judge to initiate settlement discussions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inadequate supervision of settlement discussions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inadequate judicial preparation for conferences or proceedings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17. To what extent has ineffective case management by **judges** contributed to unnecessary delays or unreasonable costs?

None Slight Moderate Substantial

If you selected *moderate* or *substantial*, please select the appropriate response for the following court activities:

<i>Number of status conferences</i>	<i>Deadlines</i>	<i>Extension of deadlines</i>
<input type="checkbox"/> Far too many	<input type="checkbox"/> Far too restrictive	<input type="checkbox"/> Far too many
<input type="checkbox"/> Somewhat too many	<input type="checkbox"/> Somewhat too restrictive	<input type="checkbox"/> Somewhat too many
<input type="checkbox"/> Reasonable number	<input type="checkbox"/> Reasonable	<input type="checkbox"/> Reasonable number
<input type="checkbox"/> Somewhat too few	<input type="checkbox"/> Somewhat permissive	<input type="checkbox"/> Somewhat too few
<input type="checkbox"/> Far too few	<input type="checkbox"/> Far too permissive	<input type="checkbox"/> Far too few

Please indicate the extent to which each of the following possible instances of ineffective case management by **judges** contributed to your assessment:

	Substantial cause	Moderate cause	Slight cause	Not a cause
Delays in entering scheduling orders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Excessive time periods provided for in scheduling orders	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to resolve discovery disputes promptly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to resolve other motions promptly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scheduling too many motions on different cases concurrently	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure to tailor discovery to needs of the case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure by judge to initiate settlement discussions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inadequate supervision of settlement discussions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Inadequate judicial preparation for conferences or proceedings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure by judge to assign reasonably prompt trial dates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure of judge to meet assigned trial dates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure by judge to give sufficient advance notice of trial	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Failure by judge to manage trial time efficiently	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. Do you favor the adoption of written local rules in the W.D.VA.?

Yes No

If yes, what areas would you like to see addressed by local rules:

- Continuity of procedures among divisions
- Discovery
- Pre-trial scheduling orders
- Motions practice
- Sanctions
- Attorney's fees motions
- Prisoner litigation
- Social Security litigation
- Other _____
- Other _____

	Substantially Improved	Moderately Improved	Remained unchanged	Moderately worsened	Substantially worsened
19. During the past three years, the cost and time it takes to litigate civil actions has:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. During the past three years, how many months (on average) has it taken from the time your civil cases were ready for trial to the time that trial actually commenced? _____ months (or NA, if not applicable)					
21. The impact of the court's criminal docket on cost and delay in civil actions is:	Substantial <input type="checkbox"/>	Moderate <input type="checkbox"/>	Slight <input type="checkbox"/>	No Opinion <input type="checkbox"/>	

The following questions describe solutions which have been implemented in other districts or are under active consideration in this or other districts to address concerns regarding unnecessary delays and unreasonable costs in federal litigation. With respect to each proposed solution, please indicate your opinion as to its effectiveness in expediting civil litigation or reducing its cost.

22. <u>GENERAL</u>	Substantial Effect	Moderate Effect	Slight Effect	No Effect at all	No Opinion
Shorter time limits for completing the various stages of litigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requiring counsel to attempt to resolve issues before court intervention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Permitting pre-motion conferences with the court on any motion at the request of any party	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requiring pre-motion conferences with the court for the following categories of motions:					
Dispositive motions (dismissal, summary judgment)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Discovery motions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other motions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Permitting the filing of procedural, non-dispositive motions (for example, motions to amend and motions to add parties) by letter rather than formal motion and brief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing a 30 page limitation for memoranda of law, except for good cause shown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requiring Rule 11 sanctions motions to be separately filed and not appended to another motion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increased availability of telephone conferences with the court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

23. **ALTERNATIVE DISPUTE RESOLUTION**

	Substantial Effect	Moderate Effect	Slight Effect	No Effect	No Opinion
Requiring mandatory arbitration of all disputes in which the amount in controversy is less than:					
\$100,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$200,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$1,000,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing court-annexed mediation upon mutual consent of parties for some or all issues in dispute	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Making available attorneys who are experts in the subject matters in dispute to evaluate claims and defenses and to assist parties in settlement negotiations ("early neutral evaluation")	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requiring attendance of parties and/or their insurers at court settlement conferences	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

24. **DISCOVERY**

Requiring automatic disclosure of the following information shortly after joinder of issue:					
The identity of witnesses reasonably likely to have information which bears significantly upon claims, defenses or damages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General description of documents relied upon in preparing pleadings or contemplated to be used in support of the parties' allegations or calculation of damages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Existence and contents of insurance agreements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requiring automatic disclosure prior to the final pre-trial conference of the qualifications, the opinions and the basis for those opinions of experts intended to be called as trial witnesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conditioning grants by the court of broader discovery upon the shifting of costs in instances where the burden of responding to such requests appears to be out of proportion to the amounts or issues in dispute	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Defining the scope of permissible discovery by balancing the burden or expenses of the discovery against its likely benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Assessing the costs of discovery motions on the losing party	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing less time for completion of discovery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Requiring discovery relating to particular issues (e.g., venue, class certification) or a specified stage of the case					

(e.g., liability) to be completed before permitting discovery respecting other issues or another state (e.g., damages, experts)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limiting the number of interrogatories presumptively permitted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limiting the type of interrogatories (e.g., identification, contention) presumptively permitted at various stages of discovery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limiting the number of depositions presumptively permitted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limiting the length of depositions presumptively permitted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you have a criminal practice in the W.D.VA., please answer the following questions (25-27).

- | | Far More Likely | Somewhat More Likely | No Effect | Somewhat Less Likely | Far Less Likely | No Opinion | |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|------------|
| 25. The sentencing guidelines have had the following effect on likelihood that a criminal case will be tried: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| 26. Congressional mandatory minimum sentences, in cases to which they apply, have had the following effect on likelihood that a criminal case will be tried: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| | | Substantial Increase | Moderate Increase | No Effect | Substantial Decrease | Moderate Decrease | No Opinion |
| 27. The sentencing guidelines have had the following effect on judicial time devoted to sentencing: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| 28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays. | | | | | | | |

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

WESTERN DISTRICT OF VIRGINIA
CIVIL JUSTICE REFORM ACT
ADVISORY GROUP

Results of Attorney Survey
March 1992

Number of Respondents

Total	440
Junior	142
Senior	298
Non-Litigators	99
Litigators	341
Plaintiff Lawyer	170
Defense Lawyer	203
Mixed	67

Explanatory Notes: Junior Lawyers are those who reported being in practice less than ten years. Senior Lawyers ten years or more. (Question 1).

Litigators are those who reported at least 40% of their practice devoted to civil litigation, Non-Litigators reported less than 40% civil litigation. (Question 2)

Plaintiff Lawyers reported at least 80% of their civil litigation practice representing plaintiffs, Defense Lawyers 20% or less, mixed 21% - 79%. (Question 8)

Many respondents did not answer one or more questions.

July 27, 1992

13. Have you encountered unreasonable delays?

	<u>Yes</u>	<u>No</u>
Total	70	350
Junior	23	119
Senior	47	231
Non-Litigators	11	68
Litigators	59	282
Plaintiff Lawyer	20	150
Defense Lawyer	39	164
Mixed	11	58

If yes, how much have each of the following contributed to these delays?

	<u>Substantial Contribution</u>	<u>Moderate Contribution</u>
A. Tactics of opposing counsel		
Total	17	21
Junior	5	7
Senior	12	14
Non-Litigators	13	20
Litigators	4	1
Plaintiff Lawyer	3	4
Defense Lawyer	9	13
Mixed	5	4
B. Conduct of clients		
Total	2	8
Junior	1	4
Senior	1	4
Non-Litigators	0	2
Litigators	2	6
Plaintiff Lawyer	0	2
Defense Lawyer	2	4
Mixed	0	2

C. Conduct of insurers

	<u>Substantial Contribution</u>	<u>Moderate Contribution</u>
Total	2	1
Junior	0	0
Senior	2	1
Non-Litigators	1	0
Litigators	1	1
Plaintiff Lawyer	0	1
Defense Lawyer	1	0
Mixed	1	0

D. Personal or office practice inefficiencies

Total	0	4
Junior	0	1
Senior	0	3
Non-Litigators	0	0
Litigators	0	4
Plaintiff Lawyer	0	1
Defense Lawyer	0	2
Mixed	0	1

E. Judicial inefficiencies

Total	11	20
Junior	3	8
Senior	8	12
Non-Litigators	1	2
Litigators	10	18
Plaintiff Lawyer	5	6
Defense Lawyer	4	12
Mixed	2	2

Substantial
Contribution

Moderate
Contribution

F. Inefficiencies in the clerk's office

Total	3	6
Junior	0	2
Senior	3	4
Non-Litigators	0	0
Litigators	3	6
Plaintiff Lawyer	0	2
Defense Lawyer	3	2
Mixed	0	2

G. Unnecessary or inadequate procedural rules

Total	8	9
Junior	3	2
Senior	5	7
Non-Litigators	2	1
Litigators	6	8
Plaintiff Lawyer	1	1
Defense Lawyer	5	6
Mixed	2	2

H. Demands of criminal docket

Total	14	6
Junior	4	3
Senior	10	3
Non-Litigators	1	1
Litigators	13	5
Plaintiff Lawyer	5	3
Defense Lawyer	6	3
Mixed	3	0

14. Have you found such litigation to be unnecessarily costly for your clients?

	<u>Yes</u>	<u>No</u>
Total	94	346
Junior	30	112
Senior	64	234
Non-Litigators	18	81
Litigators	76	265
Plaintiff Lawyer	29	141
Defense Lawyer	50	153
Mixed	15	52

If yes, how much have each of the following contributed to the unnecessary costs?

	<u>Substantial Contribution</u>	<u>Moderate Contribution</u>
A. Conduct of counsel		
Total	27	44
Junior	7	15
Senior	20	29
Non-Litigators	9	4
Litigators	18	40
Plaintiff Lawyer	9	13
Defense Lawyer	15	21
Mixed	3	10
B. Conduct of clients		
Total	5	15
Junior	3	8
Senior	2	7
Non-Litigators	1	1
Litigators	4	14
Plaintiff Lawyer	3	5
Defense Lawyer	2	6
Mixed	0	4

Substantial
Contribution

Moderate
Contribution

C. Conduct of insurers

Total	7	11
Junior	1	4
Senior	6	7
Non-Litigators	1	2
Litigators	6	9
Plaintiff Lawyer	5	7
Defense Lawyer	0	1
Mixed	2	3

D. Personal or office practice inefficiencies

Total	1	5
Junior	0	1
Senior	1	4
Non-Litigators	1	1
Litigators	0	4
Plaintiff Lawyer	0	2
Defense Lawyer	0	1
Mixed	0	1

E. Judicial inefficiencies

Total	7	16
Junior	2	7
Senior	5	9
Non-Litigators	2	3
Litigators	5	13
Plaintiff Lawyer	2	5
Defense Lawyer	4	9
Mixed	1	2

Substantial
Contribution

Moderate
Contribution

F. Inefficiencies in the clerk's office

Total	1	4
Junior	0	2
Senior	1	2
Non-Litigators	1	0
Litigators	0	4
Plaintiff Lawyer	0	1
Defense Lawyer	1	2
Mixed	0	1

G. Unnecessary or inadequate procedural rules

Total	14	15
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Substantial
Contribution

Moderate
Contribution

Junior	3	4
Senior	11	11
Non-Litigators	3	3
Litigators	11	12
Plaintiff Lawyer	3	5
Defense Lawyer	8	7
Mixed	3	3

15. To what extent have tactics of counsel contributed to unreasonable delays or unnecessary cost?

Substantial
Contribution

Moderate
Contribution

Total	110	327
Junior	40	99
Senior	70	228
Non-Litigators	18	78
Litigators	92	249
Plaintiff Lawyer	36	134
Defense Lawyer	55	148
Mixed	19	45

If you selected moderate or substantial, please indicate the extent to which of the following tactics of counsel contributed to your assessment.

	<u>Substantial Cause</u>	<u>Moderate Cause</u>
A. Unnecessary use of interrogatories		
Total	22	26
Junior	4	8
Senior	18	18
Non-Litigators	5	17
Litigators	5	21
Plaintiff Lawyer	9	10
Defense Lawyer	5	14
Mixed	8	2
B. Too many interrogatories		
Total	21	23
Junior	6	6
Senior	15	17
Non-Litigators	5	6
Litigators	16	17
Plaintiff Lawyer	9	11
Defense Lawyer	4	10
Mixed	8	2
C. Too many depositions		
Total	24	20
Junior	5	6
Senior	19	14
Non-Litigators	2	3
Litigators	22	17
Plaintiff Lawyer	9	10
Defense Lawyer	6	7
Mixed	9	4

**Substantial
Cause**

**Moderate
Cause**

D. Too many deposition questions

Total	21	25
Junior	6	8
Senior	15	17
Non-Litigators	3	6
Litigators	18	19
Plaintiff Lawyer	7	8
Defense Lawyer	8	10
Mixed	6	7

E. Overbroad document requests

Total	31	29
Junior	10	7
Senior	21	22
Non-Litigators	4	9
Litigators	27	20
Plaintiff Lawyer	7	10
Defense Lawyer	17	10
Mixed	7	9

F. Overbroad responses to document production requests

Total	14	15
Junior	3	5
Senior	11	10
Non-Litigators	2	2
Litigators	12	13
Plaintiff Lawyer	5	5
Defense Lawyer	5	6
Mixed	4	4

Substantial
Cause

Moderate
Cause

G. Unavailability of witness or counsel

Total	15	20
Junior	9	7
Senior	6	13
Non-Litigators	0	15
Litigators	6	14
Plaintiff Lawyer	2	7
Defense Lawyer	9	8
Mixed	4	5

H. Raising frivolous objections

Total	20	26
Junior	6	4
Senior	14	22
Non-Litigators	3	5
Litigators	17	21
Plaintiff Lawyer	7	13
Defense Lawyer	9	10
Mixed	4	3

I. Failure to comply with time schedules

Total	20	21
Junior	10	7
Senior	10	14
Non-Litigators	2	4
Litigators	18	17
Plaintiff Lawyer	6	8
Defense Lawyer	9	8
Mixed	5	5

Substantial
Cause

Moderate
Cause

J. Failure to attempt in good faith to resolve issues without court
interventions

Total	34	27
Junior	13	8
Senior	21	19
Non-Litigators	3	5
Litigators	31	22
Plaintiff Lawyer	13	11
Defense Lawyer	13	15
Mixed	4	5

K. Unnecessary motions

Total	15	30
Junior	6	6
Senior	9	24
Non-Litigators	2	13
Litigators	4	26
Plaintiff Lawyer	5	11
Defense Lawyer	8	8
Mixed	2	11

L. Unwarranted sanctions motions

Total	3	15
Junior	1	4
Senior	2	11
Non-Litigators	0	1
Litigators	3	14
Plaintiff Lawyer	1	3
Defense Lawyer	1	7
Mixed	1	5

Substantial
Cause

Moderate
Cause

M. Lack of professional courtesy

Total	10	22
Junior	3	7
Senior	7	15
Non-Litigators	1	4
Litigators	9	18
Plaintiff Lawyer	3	8
Defense Lawyer	4	11
Mixed	3	3

N. Unwillingness to engage in settlement negotiations

Total	16	23
Junior	5	7
Senior	11	16
Non-Litigators	1	6
Litigators	15	17
Plaintiff Lawyer	12	10
Defense Lawyer	2	6
Mixed	2	7

O. Other

Total	8	2
Junior	4	0
Senior	4	2
Non-Litigators	1	0
Litigators	7	2
Plaintiff Lawyer	1	0
Defense Lawyer	5	2
Mixed	2	0

16. In general, have you found case management by magistrate judges responsive to the needs of litigants as to both time and costs?

	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>
Total	230	13	197
Junior	79	5	58
Senior	151	8	139
Non-Litigators	43	2	54
Litigators	187	11	143
Plaintiff Lawyer	94	4	72
Defense Lawyer	113	7	83
Mixed	23	2	42

B. To what extent has ineffective case management by magistrate judges contributed to unnecessary delays or unreasonable costs?

	<u>Substantial Contribution</u>	<u>Moderate Contribution</u>
Total	2	7
Junior	1	2
Senior	1	5
Non-Litigators	0	2
Litigators	2	5
Plaintiff Lawyer	0	1
Defense Lawyer	2	6
Mixed	0	0

C. If you selected moderate or substantial, please select the appropriate response for the following court activities:

Number of status conferences

	Far Too Many	Somewhat Too Many	Reasonable Number	Somewhat Too Few	Far Too Few
Total	0	0	6	0	2
Junior	0	0	2	0	1
Senior	0	0	4	0	1
Non-Litigators	0	0	2	0	0
Litigators	0	0	4	0	2
Plaintiff Lawyer	0	0	1	0	0
Defense Lawyer	0	0	5	0	2
Mixed	0	0	0	0	0

D. Deadlines

	Far Too Restv.	Somewhat Too Restv.	Reasonable	Somewhat Prmsble.	Far Too Prmsbl.
Total	1	1	2	1	3
Junior	0	1	1	1	0
Senior	1	0	1	0	3
Non-Litgtrs.	0	0			
Litgtrs.	1	1	1	1	3
Pltf. Lawyer	0	0	1	0	0
Def. Lawyer	1	1	1	1	3
Mixed	0	0	0	0	0

E. Extension of deadlines

	<u>Far Too Many</u>	<u>Somewhat Too Many</u>	<u>Reasonable Number</u>	<u>Somewhat Too Few</u>	<u>Far Too Few</u>
Total	0	2	5	0	0
Junior	0	1	2	0	0
Senior	0	1	3	0	0
Non-Litigators	0	0	1	0	0
Litigators	0	2	4	0	0
Plaintiff Lawyer	0	0	1	0	0
Defense Lawyer	0	2	4	0	0
Mixed	0	0	0	0	0

F. Please indicate the extent to which each of the following possible instances of ineffective case management by magistrate judges contributed to your assessment:

	<u>Substantial Cause</u>	<u>Moderate Cause</u>
Total	5	4
Junior	0	3
Senior	5	1
Non-Litigators	5	2
Litigators	0	2
Plaintiff Lawyer	0	1
Defense Lawyer	0	3
Mixed	0	0

G. Excessive time periods provided for in scheduling orders

Total	0	1
Junior	0	0
Senior	0	1
Non-Litigators	0	1
Litigators	0	0
Plaintiff Lawyer	0	0
Defense Lawyer	0	1
Mixed	0	0

Substantial
Cause

Moderate
Cause

H. Failure to resolve discovery disputes promptly

Total	2	0
Junior	1	0
Senior	1	0
Non-Litigators	0	0
Litigators	2	0
Plaintiff Lawyer	0	0
Defense Lawyer	2	0
Mixed	0	0

I. Failure to resolve other motions promptly

Total	4	1
Junior	3	1
Senior	1	0
Non-Litigators	0	3
Litigators	1	0
Plaintiff Lawyer	0	1
Defense Lawyer	3	0
Mixed	0	0

J. Scheduling too many motions on different cases concurrently

Total	0	0
Junior	0	0
Senior	0	0
Non-Litigators	0	0
Litigators	0	0
Plaintiff Lawyer	0	0
Defense Lawyer	0	0
Mixed	0	0

Substantial
Cause

Moderate
Cause

K. Failure to tailor discovery to needs of the case

Total	0	3
Junior	0	0
Senior	0	3
Non-Litigators	0	1
Litigators	0	2
Plaintiff Lawyer	0	0
Defense Lawyer	0	3
Mixed	0	0

L. Failure by magistrate judge to initiate settlement discussions

Total	0	1
Junior	0	0
Senior	0	1
Non-Litigators	0	0
Litigators	0	1
Plaintiff Lawyer	0	0
Defense Lawyer	0	1
Mixed	0	0

M. Inadequate supervision of settlement discussions

Total	0	1
Junior	0	0
Senior	0	1
Non-Litigators	0	0
Litigators	0	1
Plaintiff Lawyer	0	0
Defense Lawyer	0	0
Mixed	0	0

Substantial
Cause

Moderate
Cause

N. Inadequate judicial preparation for conferences or proceedings

Total	0	1
Junior	0	1
Senior	0	0
Non-Litigators	0	1
Litigators	0	0
Plaintiff Lawyer	0	0
Defense Lawyer	0	0
Mixed	0	0

O. Other

Total	0	1
Junior	0	0
Senior	0	1
Non-Litigators	0	0
Litigators	0	1
Plaintiff Lawyer	0	0
Defense Lawyer	0	0
Mixed	0	0

17. To what extent has ineffective case management by judges contributed to unnecessary delays or unreasonable costs?

Total	11	44
Junior	4	17
Senior	7	27
Non-Litigators	2	9
Litigators	2	42
Plaintiff Lawyer	4	12
Defense Lawyer	6	28
Mixed	2	4

B. If you selected moderate or substantial, please select the appropriate response for the following court activities:

Number of status conferences

	<u>Far Too Many</u>	<u>Somewhat Too Many</u>	<u>Reasonable Number</u>	<u>Somewhat Too Few</u>	<u>Far Too Few</u>
Total	0	1	20	17	11
Junior	0	0	11	7	3
Senior	0	1	9	10	8
Non-Litigators	0	0	1	1	3
Litigators	0	1	19	16	8
Plaintiff Lawyer	0	0	4	7	3
Defense Lawyer	0	1	14	8	7
Mixed	0	0	2	2	1

C. Deadlines

	<u>Far Too Restv.</u>	<u>Somewhat Too Restv.</u>	<u>Renble.</u>	<u>Somewhat Prmsble.</u>	<u>Far Too Prmsble.</u>
Total	4	5	9	17	18
Junior	1	3	5	7	6
Senior	3	2	4	10	12
Non-Litgtrs.	0	0	1	1	3
Litgtrs.	4	5	8	16	15
Pltf. Lawyer	2	1	3	5	4
Def. Lawyer	2	4	4	10	12
Mixed	0	0	2	2	2

D. Extension of deadlines

	<u>Far Too Many</u>	<u>Somewhat Too Many</u>	<u>Reasonable Number</u>	<u>Somewhat Too Few</u>	<u>Far Too Few</u>
Total	6	19	14	6	2
Junior	3	8	6	2	0
Senior	3	11	8	4	2
Non-Litigators	0	3	1	1	0
Litigators	6	16	13	5	2
Plaintiff Lawyer	2	5	3	1	2
Defense Lawyer	3	12	9	5	0
Mixed	1	2	2	0	0

E. Please indicate the extent to which each of the following possible instances of ineffective case management by judges contributed to your assessment:

Delays in entering scheduling orders

	<u>Substantial Cause</u>	<u>Moderate Cause</u>
Total	9	10
Junior	4	3
Senior	5	7
Non-Litigators	1	3
Litigators	8	7
Plaintiff Lawyer	2	2
Defense Lawyer	7	5
Mixed	0	3

F. Excessive time periods provided for in scheduling orders

Total	4	12
Junior	3	4
Senior	1	8
Non-Litigators	1	3
Litigators	3	9
Plaintiff Lawyer	1	4
Defense Lawyer	3	5
Mixed	0	3

Substantial
Cause

Moderate
Cause

G. Failure to resolve discovery disputes promptly

Total	4	12
Junior	3	2
Senior	1	10
Non-Litigators	0	2
Litigators	4	10
Plaintiff Lawyer	0	3
Defense Lawyer	3	7
Mixed	1	2

H. Failure to resolve other motions promptly

Total	20	14
Junior	10	1
Senior	10	13
Non-Litigators	1	2
Litigators	19	12
Plaintiff Lawyer	2	6
Defense Lawyer	14	6
Mixed	4	2

I. Scheduling too many motions on different cases concurrently

Total	4	7
Junior	1	1
Senior	3	6
Non-Litigators	0	1
Litigators	4	6
Plaintiff Lawyer	1	3
Defense Lawyer	3	3
Mixed	0	1

Substantial
Cause

Moderate
Cause

J. Failure to tailor discovery to needs of the case

Total	3	7
Junior	1	1
Senior	2	6
Non-Litigators	0	1
Litigators	3	6
Plaintiff Lawyer	0	2
Defense Lawyer	3	3
Mixed	0	2

K. Failure by judge to initiate settlement discussions

Total	6	13
Junior	1	2
Senior	5	11
Non-Litigators	0	4
Litigators	6	9
Plaintiff Lawyer	4	6
Defense Lawyer	2	5
Mixed	0	2

L. Inadequate supervision of settlement discussions

Total	2	10
Junior	0	1
Senior	2	9
Non-Litigators	0	2
Litigators	2	8
Plaintiff Lawyer	2	5
Defense Lawyer	0	4
Mixed	0	1

Substantial
Cause

Moderate
Cause

M. Inadequate judicial preparation for conferences of proceedings

Total	5	7
Junior	4	1
Senior	1	6
Non-Litigators	1	1
Litigators	4	6
Plaintiff Lawyer	1	1
Defense Lawyer	3	4
Mixed	1	2

N. Failure to judge to assign reasonably prompt trial dates

Total	12	12
Junior	2	4
Senior	10	8
Non-Litigators	3	1
Litigators	9	11
Plaintiff Lawyer	4	6
Defense Lawyer	8	3
Mixed	0	3

O. Failure to judge to meet assigned trial dates

Total	5	8
Junior	3	0
Senior	2	8
Non-Litigators	1	1
Litigators	4	7
Plaintiff Lawyer	1	3
Defense Lawyer	3	5
Mixed	1	0

**Substantial
Cause**

**Moderate
Cause**

P. Failure by judge to give sufficient advance notice of trial

Total	1	3
Junior	0	1
Senior	1	2
Non-Litigators	0	1
Litigators	1	2
Plaintiff Lawyer	0	2
Defense Lawyer	1	1
Mixed	0	0

Q. Failure by judge to manage trial time efficiently

Total	4	11
Junior	3	1
Senior	1	10
Non-Litigators	0	3
Litigators	4	8
Plaintiff Lawyer	1	5
Defense Lawyer	3	5
Mixed	0	1

R. Other

Total	9	1
Junior	2	0
Senior	7	1
Non-Litigators	2	0
Litigators	7	1
Plaintiff Lawyer	3	0
Defense Lawyer	5	1
Mixed	1	0

18. Do you favor the adoption of written local rules in the W.D. Va?

Total	169	271
Junior	62	80
Senior	107	191
Non-Litigators	39	60
Litigators	130	211
Plaintiff Lawyer	56	114
Defense Lawyer	84	119
Mixed	29	38

The following questions describe solutions which have been implemented in other districts or are under active consideration in this or other districts to address concerns regarding unnecessary delays and unreasonable costs in federal litigation. With respect to each proposed solution, please indicate your opinion as to its effectiveness in expediting civil litigation or reducing its cost.

22. GENERAL Shorter time limits for completing the various stages of litigation.

	<u>Substantial Effect</u>	<u>Moderate Effect</u>
Total	102	81
Junior	33	24
Senior	69	57
Non-Litigators	21	14
Litigators	81	67
Plaintiff Lawyer	27	29
Defense Lawyer	62	34
Mixed	13	18

Substantial
Effect

Moderate
Effect

B. Requiring counsel to attempt to resolve issues before court intervention

Total	89	115
Junior	28	41
Senior	61	74
Non-Litigators	18	29
Litigators	71	86
Plaintiff Lawyer	38	45
Defense Lawyer	38	52
Mixed	13	18

C. Permitting pre-motion conferences with the court on any motion at the request of any party.

Total	53	109
Junior	10	41
Senior	43	68
Non-Litigator	14	24
Litigator	39	85
Plaintiff Lawyer	28	46
Defense Lawyer	15	44
Mixed	10	19

D. Requiring pre-motion conferences with the court for the following categories of motions:

Dispositive motions (dismissal, summary judgment)

Total	69	126
Junior	17	51
Senior	52	75
Non-Litigators	15	30
Litigators	54	96
Plaintiff Lawyer	31	56
Defense Lawyer	27	48
Mixed	11	22

Substantial
Effect

Moderate
Effect

E. Discovery motions

Total	42	117
Junior	8	42
Senior	34	75
Non-Litigators	12	27
Litigators	30	90
Plaintiff Lawyer	22	56
Defense Lawyer	11	42
Mixed	9	19

F. Other motions

Total	17	45
Junior	5	15
Senior	12	30
Non-Litigators	5	8
Litigators	12	37
Plaintiff Lawyer	9	23
Defense Lawyer	6	15
Mixed	2	7

G. Permitting the filing of procedural, non-dispositive motions (for example, motions to amend and motions to add parties) by letter rather than formal motion and brief

Total	81	97
Junior	35	26
Senior	46	71
Non-Litigators	20	19
Litigators	61	78
Plaintiff Lawyer	44	42
Defense Lawyer	22	38
Mixed	15	17

Substantial
Effect

Moderate
Effect

H. Providing a 30 page limitation for memoranda of law, except for good cause shown

Total	82	107
Junior	26	34
Senior	56	73
Non-Litigators	22	21
Litigators	60	86
Plaintiff Lawyer	42	46
Defense Lawyer	29	44
Mixed	11	17

I. Requiring Rule 11 sanctions motions to be separately filed and not appended to another motion

Total	55	75
Junior	14	20
Senior	41	55
Non-Litigators	16	14
Litigators	39	61
Plaintiff Lawyer	28	32
Defense Lawyer	17	30
Mixed	10	13

J. Increased availability of telephone conferences with the court

Total	135	147
Junior	39	55
Senior	96	92
Non-Litigators	22	38
Litigators	113	109
Plaintiff Lawyer	52	55
Defense Lawyer	58	72
Mixed	25	20

23. ALTERNATIVE DISPUTE RESOLUTION

Requiring mandatory arbitration of all disputes in which the amount in controversy is less than: \$100,000

	<u>Substantial Effect</u>	<u>Moderate Effect</u>
Total	61	54
Junior	22	18
Senior	39	36
Non-Litigators	14	11
Litigators	97	43
Plaintiff Lawyer	28	22
Defense Lawyer	27	26
Mixed	6	6

B. \$200,000

Total	35	61
Junior	14	17
Senior	21	44
Non-Litigators	10	16
Litigators	25	45
Plaintiff Lawyer	18	24
Defense Lawyer	16	29
Mixed	1	8

C. \$1,000,000

Total	44	35
Junior	17	10
Senior	27	25
Non-Litigators	13	9
Litigators	31	26
Plaintiff Lawyer	22	14
Defense Lawyer	22	17
Mixed	0	2

**Substantial
Effect**

**Moderate
Effect**

**D. Providing court-annexed mediation upon mutual consent of parties
for some or all issues in dispute**

Total	58	87
Junior	16	29
Senior	42	58
Non-Litigators	16	16
Litigators	42	71
Plaintiff Lawyer	25	37
Defense Lawyer	22	39
Mixed	11	11

**E. Making available attorneys who are experts in the subject matters
in settlement negotiations ("early neutral evaluation")**

Total	56	90
Junior	16	30
Senior	40	60
Non-Litigators	14	23
Litigators	42	67
Plaintiff Lawyer	27	34
Defense Lawyer	20	45
Mixed	9	11

**F. Requiring attendance of parties and/or their insurers at court
settlement conferences**

Total	77	105
Junior	25	35
Senior	52	70
Non-Litigators	18	19
Litigators	59	86
Plaintiff Lawyer	35	40
Defense Lawyer	28	53
Mixed	14	12

	<u>Substantial Effect</u>	<u>Moderate Effect</u>
24. DISCOVERY		

A. Requiring automatic disclosure of the following information shortly after joinder of issue: The identity of witnesses reasonably likely to have information which bears significantly upon claims, defenses or damages

Total	138	119
Junior	40	44
Senior	98	75
Non-Litigators	25	31
Litigators	113	88
Plaintiff Lawyer	62	40
Defense Lawyer	44	63
Mixed	32	16

B. General description of documents relied upon in preparing pleadings or contemplated to be used in support of the parties' allegations or calculation of damages

Total	109	123
Junior	27	51
Senior	82	72
Non-Litigators	22	31
Litigators	87	92
Plaintiff Lawyer	44	48
Defense Lawyer	37	57
Mixed	28	18

C. Existence and contents of insurance agreements

Total	114	88
Junior	36	29
Senior	78	59
Non-Litigators	26	20
Litigators	88	68
Plaintiff Lawyer	67	32
Defense Lawyer	24	39
Mixed	23	17

Substantial
Effect

Moderate
Effect

D. Requiring automatic disclosure prior to the final pre-trial conference of the qualifications, the opinions and the basis for those opinions of experts intended to be called as trial witnesses

Total	144	106
Junior	43	40
Senior	101	66
Non-Litigators	27	25
Litigators	117	81
Plaintiff Lawyer	56	37
Defense Lawyer	62	52
Mixed	26	17

E. Conditioning grants by the court of broader discovery upon the shifting of costs in instances where the burden of responding to such requests appears to be out of proportion to the amounts or issues in dispute

Total	117	115
Junior	31	40
Senior	86	75
Non-Litigators	24	27
Litigators	93	88
Plaintiff Lawyer	49	41
Defense Lawyer	56	52
Mixed	22	22

F. Defining the scope of permissible discovery by balancing the burden or expenses of the discovery against its likely benefit

Total	97	111
Junior	32	32
Senior	65	79
Non-Litigators	18	24
Litigators	79	87
Plaintiff Lawyer	38	37
Defense Lawyer	39	56
Mixed	20	18

Substantial
Effect

Moderate
Effect

G. Assessing the costs of discovery motions on the losing party

Total	98	96
Junior	33	34
Senior	65	62
Non-Litigators	19	21
Litigators	79	75
Plaintiff Lawyers	33	31
Defense Lawyer	45	51
Mixed	20	14

H. Providing less time for completion of discovery

Total	73	85
Junior	23	34
Senior	50	51
Non-Litigators	15	15
Litigators	58	70
Plaintiff Lawyer	19	30
Defense Lawyer	39	38
Mixed	15	17

I. Requiring discovery relating to particular issues (e.g., venue, class certification) or a specified stage of the case (e.g., liability) to be completed before permitting discovery respecting other issues or another state (e.g., damages, experts)

Total	61	96
Junior	20	25
Senior	41	71
Non-Litigators	11	24
Litigators	50	72
Plaintiff Lawyer	27	28
Defense Lawyer	23	49
Mixed	11	19

Substantial
Effect

Moderate
Effect

J. Limiting the number of interrogatories presumptively permitted

Total	94	103
Junior	30	34
Senior	64	69
Non-Litigators	17	18
Litigators	77	85
Plaintiff Lawyer	34	35
Defense Lawyer	45	49
Mixed	15	19

K. Limiting the type of interrogatories (.e.g., identification, contention) presumptively permitted at various stages of discovery

Total	55	94
Junior	11	34
Senior	44	60
Non-Litigators	11	21
Litigators	44	73
Plaintiff Lawyer	21	35
Defense Lawyer	19	44
Mixed	15	15

L. Limiting the number of depositions presumptively permitted

Total	62	105
Junior	16	36
Senior	46	69
Non-Litigators	12	22
Litigators	50	83
Plaintiff Lawyer	21	39
Defense Lawyer	25	49
Mixed	16	17

Substantial
Effect

Moderate
Effect

M. Limiting the length of depositions presumptively permitted

Total	54	83
Junior	18	26
Senior	36	57
Non-Litigators	11	16
Litigators	43	67
Plaintiff Lawyer	24	30
Defense Lawyer	17	37
Mixed	13	16

/pl

WESTERN DISTRICT OF VIRGINIA
CIVIL JUSTICE REFORM ACT
ADVISORY GROUP

Results of Attorney Survey
March 1992

Addendum August 26, 1992

10. Please indicate the extent of your experience with the following dispute resolution devices.

A. <u>Arbitration</u>	<u>Substantial</u>	<u>Moderate</u>	<u>Slight</u>	<u>None</u>
<u>Total</u>	22	49	128	201
B. <u>Mediation</u>				
<u>Total</u>	16	22	75	266
C. <u>Other</u>				
<u>Total</u>	2	5	3	131

11. If your answer was substantial or moderate, please give your opinion of the process.

A. <u>Arbitration</u>	<u>Highly Favorable</u>	<u>Somewhat Favorable</u>	<u>Neutral</u>	<u>Somewhat Opposed</u>	<u>Strongly Opposed</u>
<u>Total</u>	17	33	24	15	4
B. <u>Mediation</u>					
<u>Total</u>	20	21	14	4	3
C. <u>Other</u>					
<u>Total</u>	5	1	3	0	2

18. (Cont.) If yes [to question 10 - do you favor local rules?], what areas would you like to see addressed by local rules:

A. Continuity of procedures among divisions

Total	96
Junior	37
Senior	59
Non-Litigator	20
Litigator	76
Plaintiff Lawyer	34
Defense Lawyer	49
Mixed	13

B. Discovery

Total	132
Junior	51
Senior	81
Non-Litigator	29
Litigator	103
Plaintiff Lawyer	44
Defense Lawyer	66
Mixed	22

C. Pre-trial scheduling orders

Total	134
Junior	47
Senior	87
Non-Litigator	31
Litigator	103
Plaintiff Lawyer	44
Defense Lawyer	67
Mixed	23

D. Motions Practice

Total	135
Junior	53
Senior	82
Non-Litigator	31
Litigator	104
Plaintiff Lawyer	47
Defense Lawyer	63
Mixed	25

E. Sanctions

Total	78
Junior	27
Senior	51
Non-Litigator	14
Litigator	64
Plaintiff Lawyer	27
Defense Lawyer	40
Mixed	11

F. Attorney's fees motions

Total	57
Junior	21
Senior	36
Non-Litigator	16
Litigator	41
Plaintiff Lawyer	26
Defense Lawyer	21
Mixed	10

G. Prisoner litigation

Total	19
Junior	10
Senior	9
Non-Litigator	4
Litigator	15
Plaintiff Lawyer	9
Defense Lawyer	9
Mixed	1

H. Social Security litigation

Total	22
Junior	12
Senior	10
Non-Litigator	8
Litigator	14
Plaintiff Lawyer	15
Defense Lawyer	3
Mixed	4

I. Other

Total	1
Junior	0
Senior	1
Non-Litigator	0
Litigator	1
Plaintiff Lawyer	0
Defense Lawyer	1
Mixed	0

19. During the past three years, the cost and time it takes to litigate civil actions has:

	Substantially Improved	Moderately Improved	Remained Unchanged	Moderately Worsened	Substantially Worsened
Total	22	59	221	53	9

20. During the past three years, how many months (on average) has it taken from the time your civil cases were ready for trial to the time that trial actually commenced? _____ months (or NA, if not applicable)

1 - 2	Month Total	34
3 - 4	Month Total	39
5 - 8	Month Total	50
9 - 12	Month Total	45
13 - 18	Month Total	19
19 - 24	Month Total	5

21. The impact of the Court's criminal docket on cost and delay in civil actions is:

	Substantial	Moderate	Slight	No Opinion
Total	34	84	55	183

If you have a criminal practice in the W.D.VA., please answer the following questions (25-27).

25. The sentencing guidelines have had the following effect on likelihood that a criminal case will be tried:

	Far More Likely	Somewhat More Likely	No Effect	Somewhat Less Likely	Far Less Likely	No Opinion
Total	34	29	9	12	5	16

26. Congressional mandatory minimum sentences, in cases to which they apply, have had the following effect on likelihood that a criminal case will be tried:

	Far More Likely	Somewhat More Likely	No Effect	Somewhat Less Likely	Far Less Likely	No Opinion
Total	38	30	7	7	3	18

27. The sentencing guidelines have had the following effect on judicial time devoted to sentencing:

	Substantial Increase	Moderate Increase	No Effect	Moderate Decrease	Substantial Decrease	No Opinion
Total	32	25	12	10	6	18

/p1

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Attorney Survey Responses

Senior/Non-Litigator/Plaintiff

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. State court - familiarity
- 12. State court - Quicker/less complicated/more assistance from Clerk's Office and Courts/service cheaper and less complicated.
- 12. State court - familiarity with procedures
- 12. Federal court - I have had more experience in the Federal System and know Federal Procedure better than state procedure.
- 12. State court.
- 12. Depends upon nature of the case - Time - can't get a decision on trial date in fed. ct.
- 12. Federal court - Issues tend to be more substantial/More experience in federal forum/less local nuances.
- 12. Federal court - more discovery available under FRCP.
- 12. Depends upon nature of the case - Diversity of citizenship; amt. in controversy.
- 12. Depends upon nature of the case - Statutory remedies.
- 12. State court - More accessible since I practice in Lynchburg; familiar with court staff, judges, etc. in state court.
- 12. Depends upon nature of the case - Status of parties.
- 12. Depends upon nature of the case - type of case; amount of damages.

12. Federal court - Most litigation is against local or state governments. Federal court appears more impartial in such cases.
12. Federal court - More orderly procedure; more respect for lawyers; better rules of procedure.
12. Depends upon nature of the case.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Non-Litigator/Plaintiff

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. More rules is not the answer!

28. I do not do enough civil litigation in Federal Court to have an opinion.

28. A lot can be learned from the way Judge Michael runs his court. He treats lawyers and others with respect. He returns order and dignity to the practice. He is organized and efficient without being rushed.

28. I have had superb results, generally with no delays. I think rules would only add to difficulty of litigation from what I hear from lawyers practicing in other districts. The Western District should be the model for other districts.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Litigator/Plaintiff

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

12. State court - venue

12. State court - experience in state court

12. Depends upon nature of the case - Speed of litigation; nature of case; better federal procedure.

12. Federal court - Body of law is more identifiable and more extensive but federal practice is more expensive.

12. Federal court - Accessibility to the judges scheduling of hearings can be done quickly and easily.

12. Federal court - Federal Rules of Civil Procedure; easier summary judgment; use of affidavits and depositions at summary judgment.

12. Depends upon nature of the case - Out of state party; convenience of parties, witnesses and counsel.

12. State court - Having county jurors rather than regional jurors.

12. Depends upon nature of the case - Subject matter of case primarily.....

12. Depends upon nature of the case - Type of claim; geographic location of parties and witnesses; amount in controversy.

12. Depends upon nature of the case - depends upon case.

12. Federal court - Better organized; formality.

12. State court - More familiar with state law (inc. jurisdiction); state courts are less formal.
12. Depends upon nature of the case - complexion of jury; docket.
12. State court - types of cases that I see are typically in State Court.
12. Depends upon nature of the case - Complexity of issues; amount of damages at issue; court backlog; potential jury pool.
12. Federal court -
12. Federal court - The knowledge I have acquired in practicing in the federal court influences my preference.
12. Federal court - quality of the judiciary and fairness of the results.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Litigator/Plaintiff

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. I make this comment as to the nature of your suggested responses. You should have had a block indicating whether this particular action would have worsened the problem or made it better. The discovery in the discrimination area is often horrendous because the employer is the general custodian of personnel records and files. They are most reluctant to disclose culpatory material. If both parties are given a reasonable time to disclose and then a certain penalty for deliberate omissions, we can get to the issues sooner. Waging the nation's battles over discovery is one log jam in most civil cases. Perhaps, there is no easy solution to forcing someone to disclose but the crux of the cases lie there.

29. U.S. District Court cases are much like the state courts in cost excluding discovery battles. However, appeals from district courts are rather cumbersome and generally cost prohibitive for plaintiffs. As a side note, what do having bound copies of briefs and appendixes really do to augment appellate review. A compliment -- simplification of the process of service was greatly needed; and is appreciated by the plaintiffs bar. Anything that eases the burden on the clerk's and makes the process readily understandable by lay people and attorneys alike, I am in favor.

28. It has been my experience that delay has not been a problem in the W.D. Va.

28. Given the substantial criminal docket, the only solution would be appointment of additional judges or increased duties or magistrates.

NOTE: Your questionnaire seems to imply that all measures which speed the civil litigation process or reduce its cost are good. The process must also be fair and provide citizens with a full and fair opportunity to have their grievances addressed and resolved. Unfortunately, this requires time and money.

28. I'm happy with system -- no delays! Leave it alone -- If not broken don't fix it!

29. Not high.

29. Bankruptcy fee of \$120 is too high -- of all the types of cases I file, the highest filing fee is for bankruptcy. This seems inappropriate given the nature of the clients (i.e. their financial standing).

29. The clerks offices in the Big Stone Gap and Abingdon Divisions are staffed with very capable people who make it a pleasure to practice in the W.D. of Virginia.

28. None.

29. No opinion.

28. I do not subscribe to the idea that delay is a problem in the W.D. Va. I do subscribe to the maxim that, if it's not broke, don't fix it. Some of the proposed idea might reduce delay or cost in S.D.N.Y. or other large urban districts. In my experience, however, the W.D.VA operates in a manner which often minimizes cost and time. Introduction of unnecessary new rules or procedures is more likely to make cases take longer and be more contentious than to have the opposite effect.

29. (See 28.)

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Litigator/Mixed

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

12. State court - Ease of access; availability of judges; less rigid state procedures.

12. Federal court - (1) complexity of suit; (2) speed of docket.

12. Federal court - Ability to get summary judgment; better docket control and scheduling, although this is definitely more the case in the E.D. than the W.D.

12. Depends upon nature of the case - nature of case and community.

12. Depends upon nature of the case - summary judgment procedure; evidentiary concerns.

12. Federal court - quality of the bench; speed of docket.

12. Depends upon nature of the case - speed of resolution; subpoena powers and other means of discovery; costs.

12. Depends upon nature of the case - the size of the case and its complexity. The Federal Rules of Procedure are easier to deal with in handling most matters.

12. Federal court - available discovery.

12. Depends upon nature of the case - cost; Rule 11; location.

12. State court - familiarity

12. Federal court - (1) rules; (2) better developed law; (3) judges.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Litigator/Mixed

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. N/A

29. Refer motions for decision on the briefs -- don't let them sit until a hearing is scheduled. Adopt and enforce a no continuance rule like the Eastern District -- it works!

28. More judges; motions day as in E.D.VA.

28. Delay is not a tremendous problem. Do encourage the Judges to give their thoughts on settlement early and often -- this more than any one other factor leads to settlements.

29. The cost of federal litigation is far higher than similar state litigation, but is not as high in W.D.VA as in E.D.VA, as I understand it. Judges encouraging settlement and using telephone conferences helps cut cost. Most of unnecessary cost I see comes from lawyers who don't know when to hush -- maybe Judges could help on that score -- I have seen Judge Turk do it effectively.

28. In the Western District, the Judges, magistrates, and clerks do not contribute to delay. Discovery is the primary cause for delay in moving a case from complaint to trial. Thus, only limitations on discovery will have an effect in reducing civil delay. The adoption of rules in areas other than discovery would have little effect and would diminish the fairness which now characterizes federal court.
29. My experience is, all things being equal, it is far cheaper to try and appeal cases in federal court than in state circuit court, and the quality of justice in federal court is far higher.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Non-Litigator/Defendant

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. Federal court - more streamlined -- less crowded.
- 12. Depends upon nature of the case - jury selection.
- 12. State court - more familiar with state courts.
- 12. Depends upon nature of the case - expertise of judges in cases involving federal law; good law clerks.
- 12. Federal court - familiarity with rules and procedures.
- 12. Depends upon nature of the case -
- 12. State court -
- 12. State court - familiarity with State -- no experience in Fed. Ct.
- 12. State court - more comfortable with state court procedures.
- 12. Federal court - Enforcement of rules; willingness to summarily dispose of cases; support services enabling judges and make more informal decisions.
- 12. Federal court - I know federal practice.
- 12. State court - racial/ethnic.
- 12. Depends upon nature of the case - nature of case; jury make-up; expense.

12. State court - In eastern Va. slower pace and not as many rules and deadlines as imposed by U.S.D.C. for the E.D. - no preference in Western Va.
12. State court - familiarity with rules of civil procedure -- risk of costs of attorney's fees, etc. in federal court -- knowledge of local judges.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Non-Litigator/Defendant

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. I expect to retire very soon.

28. The principal reason for any delay in the Western District is the ever expanding criminal docket. All "reforms" of civil litigation are a waste of time until this problem is addressed.

28. Get rid of the sentencing guidelines.

29. Less costly discovery.

28. Case management in W.D.VA. seems competent and fair from my experience.

29. None.

28. I believe the less structured environment of the W.D. is preferable to the E.D.'s rocket docket and 10,000 rules. Any emphasis on further controls and rules should be directed toward uncooperative, dilatory or recalcitrant attorneys, not the entire bar of the Court.

29. None.

28. I have always found the judges in the Western District to practice excellent case management and to move cases on the docket in a timely manner. Our main complaint is the number of frivolous cases filed against the City and the Court's reluctance to impose sanctions, particularly in pro se cases. I do not see a need for written rules in the Western District.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Litigator/Mixed

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. State court - (1) high cost of pre-trial discovery in federal courts; (2) pro-defendant bias of federal judges in W.D.Va.; (3) lack of character and qualifications for some judges in W.D. Va.
- 12. Federal court - Pre-trial procedure, and the tendency of the court to assist in the timely disposition of collateral and central case issues.
- 12. Federal court - federal rules; Judge Williams.
- 12. Depends upon nature of the case - procedural aspects of case.
- 12. State court - convenience and location; familiarity with judges and procedures; case type.
- 12. Depends upon nature of the case - quality of judge, quality of potential juries, and tight docket control.
- 12. State court - speed of procedural progress of case; otherwise, I would far prefer the federal courts.
- 12. Depends upon nature of the case - nature of cause of action.
- 12. State court - familiarity; convenience.
- 12. Depends upon nature of the case - the type of case.
- 12. Depends upon nature of the case - (1) type of claim and theory of recovery; (2) availability of Motion Sum. JMT; (3) rules of evidence; (4) selection/avoidance of state court judge.
- 12. State court - flexibility in scheduling; availability; location.

12. Federal court - rules; quality of personnel; issues.
12. Depends upon nature of the case - cost to client: ability to obtain reasonable trial date: differences in procedure/formality between state and federal court.
12. Depends upon nature of the case - (1) EDVA's "rocket docket"; (2) ability to use depositions in federal court in support of motion for summary judgment.
12. State court - convenience.
12. Federal court - professional; prompt.
12. Depends upon nature of the case - parties involved, amount at issue.
12. Depends upon nature of the case - (1) time taken to reach trial; (2) presence of federal question; (3) distance to court.
12. State court - State court is more flexible and federal court is very rigid and their requirements are based upon deadlines, large firms, or small practitioners; considerations are not given for attorneys.
12. State court - issues, extent of liabilities of defendants (damages) availability and cost of pretrial discovery and cost and availability of experts.
12. Depends upon nature of the case - generally prefer state court due to factors of geographical proximity and familiarity unless other factors in a particular case outweigh these.
12. State court - I know the jury better; ease of getting in and out; I know VA procedure better.
12. State court - State court procedures are less formal.
12. State court - travel time loss.
12. Federal court - speed to complete case -- procedures enforced uniformly.
12. Federal court - less politics; more uniform rules of procedure.
12. Federal court - clarity of procedure rules; greater clarity of legal precedence; magnitude of available relief.

28. Automatic grant of extension in some social security cases creates delays.

28. I believe local rules similar to E.D.VA. would be helpful with a more moderate attitude toward flexibility. The use of a pre-trial conference or room or issues are joined and upon completion of discovery, pursuant to terms of pre-trial order -- to narrow issues, obtain stipulations, provide encouragement for settlement.

29. Get a trial date established and don't back off for any reason; other than one that will substantially prejudice a party if a continuance is not granted. There is nothing like an early trial date to bring about settlement.

28. Access to the courts is unusually good. It may help to limit other unrelated proceedings during civil jury trials.

NOTE: The practice of law in the W.D.VA. is more relaxed and enjoyable than in the E.D.VA. -- don't put so much structure and so many rules in that you take the enjoyment out of it!

28. I have only had two (2) cases in Western District of Virginia and therefore, I am not in the position to express an opinion as to any delay in each instance found at the Clerk's office; and the Court was quite efficient.

29. Most of my recent litigation experience in the federal system has been in the Bankruptcy Court. My observation has been there that the expense of litigation could be reduced significantly by the Court making use of conference telephone calls rather than Court appearances for some relatively routine matters such as pre-trial conferences to schedule discovery, etc. and final pre-trial conference with Court to resolve any outstanding issues before trial.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Attorney Survey Responses

Senior/Non-Litigator/Mixed

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. Federal court - The Federal Rules of Civil Procedure, far superior way of handling docket control (*i.e.*, setting cases, hearing motions, setting and conducting trials) to the way it's handled in state courts. Also, attitude and demeanor of Clerks and Judges is more palatable in federal courts.
- 12. Depends upon nature of the case - local politics.
- 12. Depends upon nature of the case - rules and judges.
- 12. State court - more familiar in state court.
- 12. Depends upon nature of the case -
- 12. Depends upon nature of the case - arbitration of significant commercial disputes is inordinately expensive and, too frequently, involves the judiciary in jurisdictional and enforcement issues.
- 12. Depends upon nature of the case - perceived judicial reluctance or receptiveness to rules of evidence and summary judgment motions.
- 12. Depends upon nature of the case - actually it depends on the law involved. If I can make a federal case I do so.
- 12. State court - familiarity
- 12. Depends upon nature of the case - type of jury and nature of claim, distance to court.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Non-Litigator/Mixed

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. While the "rocket docket" of the Eastern District has its drawbacks, its advantages are great in that all parties know what and when something is going to happen.

28. NOTE: My practice is limited to tax practice, both civil and criminal. I spend very little time in actual litigation.

29. Costs are too great because discovery is excessive and response is frequently easier and not promptly overseen and corrected by the Court.

28. Delay is not yet a problem.

29. Grant motions for summary judgment.

29. Formal arbitration can take as long and be as expensive as litigation. However, informal mediation or evaluations with the parties present could be a great help -- "bring them to the table."

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Non-Litigator/Plaintiff

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. Federal court - Depends upon nature of the case - minor cases; prefer state general district.
- 12. State court - access to library, distance to travel, rule changes, lack of continuous clients, inability to specialize.
- 12. Depends upon nature of the case - nature of the claim; the parties, whether they are individuals or business entities; the nature was extent to damages.
- 12. Federal court - I think that the decisions from the bench are better as far as the depth of analysis.
- 12. Depends upon nature of the case - temperaments of judges; knowledge of particular field by the judge.
- 12. Depends upon nature of the case - convenience/result to client.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Non-Litigator/Plaintiff

28. **[Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.**
29. **[Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?**
29. **Have an escrow account for Court reporters and refunded by the prevailing party or shared by the settling parties.**
-

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Attorney Survey Responses

Junior/Non-Litigator/Defendant

12. Given the choice, where do you prefer to conduct civil litigation:

[] federal court [] state court [] depends upon nature of the case [] no preference

Optional: What factors influence your preference most strongly?

12. State court -

12. Federal court - (1) rules of procedure; (2) scheduling practice encourages speedy trial - doesn't permit foot dragging techniques used in state court.

12. Depends upon nature of the case - identity of plaintiff and defendant; subject matter of litigation; need for out-of-state process.

12. Federal court - issues addressed; discovery available.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Non-Litigator/Defendant

28. **[Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.**
29. **[Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?**
28. -11.1(J) ED/VA Local Rules -- Court would only be involved in discovery matters after parties had attempted to resolve disputes. Would require parties to work together and present court a much narrower range of issues to resolve. No compliance with rule by a party -- motion to compel denied.
-

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Attorney Survey Responses

Junior/Non-Litigator/Mixed

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

12. State court - familiarity

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Non-Litigator/Mixed

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.
29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?
29. Giving the Court discretion to assess costs of discovery on a party when it appears a deep pocket party (i.e., insurance defense carrier) is trying to outlast and outspend the opposing party.
-

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Litigator/Plaintiff

12. **Given the choice, where do you prefer to conduct civil litigation:**

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. Federal court - Federal Rules of Procedure and Evidence are more dependable when issues arise. Jury is selected from a broader geographical area.
- 12. Depends upon nature of the case - no preference.
- 12. Federal court - Federal Rules of Civil Procedure; independent judiciary; docket control - pretrial procedures; federal law.
- 12. Depends upon nature of the case - prefer federal court for complex and constitutional issues.
- 12. Depends upon nature of the case - type of case; e.g. products (federal); auto accident (state).
- 12. Federal court - My practice is limited to Social Security law and is, of course, exclusively federal.
- 12. Depends upon the nature of the case - Filing deadlines; jury verdict potential; liberal rules of evidence.
- 12. Federal court - Civil Rules of Procedure and Evidence; capable judges.
- 12. Depends upon nature of the case -
- 12. Federal court - Jury bias in state court; appellate review is more accessible.
- 12. Depends upon nature of the case - penalties of practice.
- 12. No preference -

12. Depends upon nature of the case - the parties and state venue.
12. State court - Until recently federal court - however now at least one of the judges' policy to have arbitrary trial scheduled for 8 months from filing - plus setting 2 or 3 cases for same date - render federal court now not to be best forum in which to obtain justice. In fact this policy often results in just the opposite and increases the expense to litigate and greatly expands the benefit of larger law firms and corporate interest with greater "man" power and financial resources and greatly tips the judicial scales in favor of bigger financial interest.
12. Depends upon nature of the case - Rules of Evidence; type of jury.
12. State court - more informal, fewer procedural requirements, fewer supporting documents required in state court.
12. Depends upon nature of the case - type of case; amount sought; local representative of parties.
12. Depends upon nature of the case - the fact finder.
12. State court - The access to the judge and the more informal atmosphere.
12. State court - judge.
12. State court - location; E.D. "rocket docket."
12. State court - Recent rules applications limiting the factual issues which may be decided at trial, when fully litigated by plaintiff and defendant, interfere with a jury's ability to fully and fairly decide a case. (Western District judges so far have been reasonable in the application of these limitations).
12. State court - convenience.
12. State court - 1) Familiarity with the law, rules of the court; 2) Distance to the courthouse.
12. State court - More familiar with state judges and procedures.
12. State court - No metal detectors, frisking, atmosphere of a police state. You feel like you are in a court, instead of a stalinist concentration camp.
12. Federal court - The efficiency, courtesy, and knowledge displayed by the Federal Courts (i.e., Judges/Magistrate Judges/Clerks, etc.) in the Federal Courts of the Western District.
12. No preference - Purely a matter of jurisdiction.
12. Depends upon nature of the case - unless federal law offers some substantial advantage -- such as comparative negligence in admiralty -- I prefer state court.

12. State court - Docket time to jury trial absence of summary judgment in state court fewer rules in state court.
12. Facts involved in the case and type of defendant.
12. Depends upon nature of the case -
12. Depends upon nature of the case - Strength of the case and likelihood that the judge will participate actively in settlement process.
12. State court - more familiar with state courts and more convenient.
12. Federal court - cases proceed faster and more efficiently. Federal Rules of Procedure are more effective.
12. Depends upon nature of the case - 1) Jury selection; 2) Rules of Evidence; 3) Rules of Procedure.
12. Depends upon nature of the case - opposing counsel in identity; type of case.
12. State court - Geography - our office is an hour away from the nearest federal court.
12. Federal court - broader rules of admissibility of evidence.
12. Depends upon nature of the case - jury panel.
12. Federal court - ability to get my case tried quickly.
12. Depends upon nature of the case - 1) Good, fair judges; 2) Federal Rules of Evidence; 3) Speedy efficient trials.
12. State court - distance and variance in state statutes and rules versus federal statutes and rules.
12. Federal court - federal rules.
12. State court - State court moves faster; judges are more accessible; clerks are more helpful.
12. Depends upon nature of the case - Identity of parties; nature of claims; geographic area of courts, rules.
12. State court - familiarity.
12. Federal court - clear rules.

12. Depends upon nature of the case - characteristics of the plaintiff and defendant track record of the respective courts for awards.
12. Depends upon nature of the case - the type of case; the residence of the parties.
12. Depends upon nature of the case -
12. Federal court - quality of judges; nature of my work (bankruptcy); Evidence Rules; jury venue.
12. No preference -
12. Depends upon nature of the case - fewer delays in federal court; better quality judges in federal court; more familiarity by state court judges with certain types of claims.
12. Depends upon nature of the case - nature of case; evidentiary issues; judicial factors.
12. Depends upon nature of the case -
12. Federal court - more intelligent judges; briefing is used more than in state court which results in at least intelligible decisions.
12. Depends upon nature of the case - type of case.
12. Depends upon nature of the case - type of case; amount sued for; multi-state parties.
12. State court - more familiar with rules of court.
12. Depends upon nature of the case - familiarity with state court procedure.
12. Depends upon nature of the case - procedural advantages.
12. Depends upon nature of the case - size of verdicts; presiding judge.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Attorney Survey Responses

Senior/Litigator/Plaintiff

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. Repeal the Federal Sentencing Guidelines. Urge Congress to adopt guidelines similar to those used in Virginia State Courts!

28. Court supervised mediation, more settlement conferences and use of mini trials.

29. Longer cases cost more money; shorter cases - use ADR.

28. I have no problem with the present system. In this area attorneys are generally cooperative in preparing for trial and I have seen no abuses. In any case that I have wanted a trial date, I have been able to obtain one in what I feel is a reasonable amount of time. The problem that I perceive is this new "rocket docket" which the Court is experimenting with is going to quickly put the small firms and sole practitioners out of the Federal System as they do not have manpower or resources to do the things the Court is asking them to do in the time allowed.

29. I have never had a problem with costs anymore so than with the other courts which I appear before.

28. I have been impressed by arbitration proceedings and the cost. My major concern is expense of experts to prove very obvious facts. Arbitration helps both sides get past the cost problems of proving damages by submission of reports and medical bills. It is simple, timely and cost effective. It is not likely to result in outrageous decisions as can come from jury trials. Federal courts should either engage in a medium of arbitration by engaging the

magistrates in such duties or encourage the parties to use arbitration within the civil lawsuit (educate the attorney on the advantages, present contracts enforceable in the federal court suit).

29. Motions to present medical bills and medical reports in lieu of depositions of medical experts. Failure to stipulate charges the nonstipulating with deposition costs unless there is a very great question that only a deposition will resolve.

A single doctor's deposition costs approximately \$1,000 (with travel and reporter). Clients who are unemployed from an injury who made \$12,000 a year cannot ask this up front funding of litigation.

Also, a party who takes a deposition should have the original available by the other party for copying at their own option. Court reporters are taking advantage of this procedure to charge plaintiffs high copy costs which they cannot afford.

-
29. Eliminate practice of setting several trials on same date and not advising counsel and parties that they have been "bumped" until afternoon before; current practice unreasonably increases costs ("re-prepare" for trial; re-subpoena witnesses; cancel non-refundable airline tickets or inability to make non-refundable, "super-saver" airline reservations, etc.).

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29. I like things the way they are -- good job.

-
28. Again delay is not a problem -- bureaucratic interference with our judicial system is, however. In fact this questionnaire perhaps is somewhat suggestive of that fact -- since it is too slanted toward calling for answers that would only increase more paper work and decrease option to allow the judge and jury to dispense justice -- as opposed to some paper pushing bureaucrat trying to enhance their meaning in life by thinking up another form or arbitrary approach without being sensitive to the human factors and the realities of life.

-
28. Delay is not a problem.
-

28. A separate criminal division should be created. It is simply unfair to the judges to have to balance a civil docket with the bulging criminal docket. While it takes less time to sentence in individual cases, the volume of cases requires much more judicial time.

28. No opinion.

29. No opinion.

28. When an attorney asks for a trial date after the parties are at issue, give him one instead of ignoring his requests.

29. I represent indigent plaintiffs in Social Security disability cases. The W.D.VA. allows for the waiver of costs for the indigent with a simple form. My poor clients' cases are given a thorough review and consideration by competent Magistrate Judges and Judges. My clients would prefer a thorough review and well reasoned decision to some form of a "speedy" rule. To have a quick denial is of no benefit to a person who is indigent and has a legitimate claim. My clients prefer the type of system where their cases are considered on an individual basis as is now done. This latest fad of "speed" could be potentially harmful to justice for the many people that I represent. To hear the horror stories from lawyers around the country who practice in districts with rules for everything is not encouraging news (particularly for the people that the courts were set up to serve). In the W.D.VA., the Clerks are most helpful. The Judges and Magistrate Judges will schedule cases to suit everyone. And when a case is argued, a client has the full attention of the Court. The Judges and Magistrate Judges are always familiar with the applicable law. I certainly hope that this study points out the excellence that exists in the W.D.VA. The system we have should be duplicated elsewhere and not changed or experimented with.

29. I believe our procedures are efficient and effective in the W.D.VA. I would have to see more cumbersome and technical rules. The problem facing us is simply the criminal docket is growing and the civil docket suffers. We need less crime, more judges or both.

28. Delay in Big Stone and Abingdon have not been a problem for us.

29. Not applicable.

28. The case management system in the W.D.VA. "ain't broke" please don't try to fix it.

29. Litigating costs in the W.D.VA. are fair and reasonable. It is simply not a factor.

28. I wish I could get motions decided and cases tried in State Court as quickly as they are in Federal Court. I have a case pending in State Court with a motion for Summary Judgment (other side) under advisement for almost 2 years.

28. In the last 5 years I have practiced in the federal courts in 8-10 states. The W.D.VA. has the best court system in the country! The judges are terrific, the court keeps cases moving and overall its simply heavenly to practice here. Please don't tinker with a good thing. If it ain't broke, don't fix it.

28. No problem with delay -- in fact, on most occasions, cases are set for trial too quickly.

28. Not applicable.

29. Not applicable.

28. Delay is not a problem. "If its not broke, don't fix it."

29. They are not unusually high.

28. I don't see the delay.

28. Rules should be flexible so as to be applied based upon a multiple set of variables: Nature of case; desire of counsel to proceed; relationship between counsel (contentions, unprofessional attitudes); needs of client; burden upon clerk's office; desire to "clean" docket.

In my opinion Judge Williams has managed to maintain a most pleasant atmosphere in which to practice law. Why try to change or fix that which is not 'broke'!!

29. To my knowledge costs are not unreasonably high.

-
29. None. I practice mainly in New York State. In my experience, the bankruptcy and district court judges in the W.D.VA. that I appeared before were exceptionally competent and efficient.

-
29. Require civil defendants to admit liability prior to trial or confirm that it won't be admitted. Limit number of experts that "may" testify to one expert per field of expertise who "shall" testify.

-
28. With the "rocket docket" I don't perceive delay as a problem except that there are times when justice is denied when justice (the trial) is rushed.
-

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Litigator/Defendant

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. Depends upon nature of the case - appeal as of right in federal court, use of depositions for summary judgment in federal court.
- 12. Depends upon nature of the case - rules of evidence; grounds for summary judgment; potential for local prejudice.
- 12. Federal court - good judges; predictable procedure; better likelihood of resolution on motions; venue drawn from bigger area.
- 12. Depends upon nature of the case - judge; geographical region, pool for veniremen; docket load of court.
- 12. Federal court - Judge Turk.
- 12. Federal court - availability of summary judgment.
- 12. Federal court - the fact that my client is a large corporation.
- 12. State court - flexibility with trial and discovery schedule. Settlement is not shoved down my throat in state court.
- 12. Federal court - rules of procedure; law clerks and libraries.
- 12. Depends upon nature of the case - more liberal summary judgment rules; broader jury pool; negate "home court" advantage.
- 12. Depends upon nature of the case - if I had my preference, I'd practice exclusively in the U.S.D.Ct. for the W.D.Va.

12. State court - I generally practice in state court therefore I feel more comfortable there.
12. Federal court - rules; adherence to law (substantive); case management.
12. Federal court - willingness of federal district courts to dismiss meritless cases prior to trial.
12. State court - Depends upon nature of the case - I despise the rocket docket.

12. Federal court - quality of the judges and the court staffs, formality of the proceedings.
12. Federal court - quality of the judges and attorneys, prefer Federal Rules to state rules of procedure.
12. Depends upon nature of the case - ability to obtain summary judgment.
12. State court - more comfortable in state court due to better familiarity with state court procedure.
12. Depends upon nature of the case - opposing counsel and party -do I want to get them off of their "home field"
12. Federal court - more familiar with FRCP; overall quality of judges are better; better case law.
12. Federal court - personnel of the court; the judges, accessibility.
12. Depends upon nature of the case - how much of case is factual resolution; decisions are based on "judge shopping"
12. Depends upon nature of the case - complexity of the case -- experience of judges in certain matters; caseload in state court; type of case.
12. Federal court - the rules are more defined; the judges are more astute and less susceptible to influence by the local bars.
12. Depends upon nature of the case - whether the case may be resolved by summary judgment.
12. Depends upon nature of the case - (1) whether a summary judgment motion is available; (2) speed with which client wants matter resolved.
12. Federal court - prefer Fed. R. Civ. P. to Va. civil procedure; docket is less congested than in some counties.
12. Depends upon nature of the case - opposing attorney(s).

12. Depends upon nature of the case - (1) faster docket in E.D.Va. -- good if a plaintiff or a defendant against a plaintiff n/a weak case; (2) state court is generally better for defendants.
12. Did not answer this question.
12. State court - familiarity.
12. Depends upon nature of the case - size of case; need for quick resolution (federal); possibility for summary judgment.
12. Federal court - efficiency, speed, rules you can depend upon!
12. Depends upon nature of the case - possibility of the use of depositions for summary judgment; reputation of judge; federal ct. venue giving impression case is more important or valuable than it really is.
12. Federal court - quality of judges.
12. Federal court - (1) quality of judges and their decisiveness; (2) fewer plaintiff-oriented procedural devices (e.g., state rules re: summary judgment and non-suit).
12. Depends upon nature of the case -
12. Federal court - Federal Rules of Civil Procedure.
12. Federal court - trial date availability; Rule 56.
12. State court - less docket control; more flexible.
12. Federal court - favorable federal procedures.
12. Depends upon nature of the case - personalities of potential judge; complexity of issues and expected rulings.
12. Depends upon nature of the case - availability of summary judgment on depositions and affidavits in fed. ct.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Junior/Litigator/Defendant

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.

29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. I don't think there is an unnecessary delay problem in the W.D.Va.

28. Having the judge issue rulings on Motion for Summary Judgment early enough for defense to avoid cost of preparation for trial if motion is granted. Have opinions and orders entered faster after trials or motions heard.

29. Same as 28.

28. Adoption of local procedural rules with strict discovery deadlines and strict court enforcement of deadlines. Swift court action on dispositive motions.

28. Judge Kiser's method of docket control (setting a case for trial shortly after the answer is filed) goes farther to relieve delay problems, in my opinion, than anything discussed above.

29. Convince the bar to charge lower fees.

28. In my opinion, delay is not a problem in the W.D.Va. for disposing of civil cases.
29. Costs associated with civil litigation in the W.D.Va. are not any higher and are probably less than they are in other jurisdictions. Two reasons: (1) the bar; and, (2) the judiciary and clerk's office.
-

28. (a) The docket should be checked periodically to see that things are moving. If there is a delay, often one side or the other has found a weakness and judge should offer the parties a conference. (b) A pre-motion leaving appeals useless. Why not hear the motion and limit the length of briefs and number of witnesses?
29. (a) Setting case six deep generally is a good idea because the parties will often settle. However, a numerical priority should be set-up so that attorneys can monitor and not have to prepare several times before the case is tried. That preparation runs up the costs. (b) Narrow the issues early so that the discovery is directed to those issues. The court should help weed out weaker cases.
-

28. It is not! We do not need your rocket docket in S.W. Va. We enjoy a gentlemanly practice of law. I believe the rocket docket fosters contempt among the bar.
29. They are not!
-

28. Judges should rule on summary judgment within a reasonable time (one month). It should be impermissible for a judge to rule on summary judgment the morning of trial. Time limits on attorneys are ineffectual if there are not corresponding time limits on judges.
-

28. I do not personally feel that delay is a problem at present.
29. I do not personally feel that present costs are too high.
-

29. I do not believe that the costs are high in W.D.Va. I have prior experiences in E.D.Va. where things are put on docket quickly. Thus, discovery has to be done hastily and is less likely to be tailored to the specifics of the case. As a defense attorney, we require an opportunity to discover the essentials of the plaintiff's case. (The plaintiff has presumably prepared his case before he filed it.) However, motions by telephone or through only written pleadings could greatly reduce expenses if making discovery motions and move the case more quickly. The only real delays in Western District come from delays due to the criminal docket. Otherwise, the cases move along appropriately.

28. In my opinion, the best way to reduce delay is to adopt strict judicial control over litigation on the model of the E.D.Va. Attorneys are not self-policing, and indeed may have a responsibility to delay where it serves their clients' interests. Judicial management of litigation will do far more to reduce delay than alternative dispute resolution, which can promote delay. Strict adherence to discovery and motion deadlines and a reasonable early trial date are the best methods to promote settlement and reduce delay.

29. See #28.

28. I compare the Eastern and Western Districts because I practice so much in the Eastern District. The rules in the Eastern District are followed even when the result is draconian. However, the lawyers all know the rules and the penalties for breaking them. Thus, cases are by necessity prepared in a timely fashion often without the need for substantial pre-trial intervention by the Court. I think this system works well and overall cost to the litigants is less. I do not, however, agree that the Court should effectively "force" settlements in any case, as the Eastern District is want to do.

28. Many of those proposed solutions would certainly reduce the cost of litigation in federal courts, but at what cost. These questions ask us to assess the effect each will have on efficiency -- but they do not address the effect each will have on achieving a just solution or resolution to disputes. Tremendous savings in litigation expense will be of little consolation to a litigant who does not feel that he received a full and fair hearing.

28. Setting trial date shortly after case is filed.

29. Strict adherence to the federal rules.

28. A certain judge takes too long to try a case. That's the biggest problem in the Harrisonburg division.

23. (Note: answer to question 23, which concerns effectiveness of ADR in cost and delay reduction) Alternative Dispute Resolution is merely the creation of another court system. It ignores our responsibilities to the law to make the judicial process work. If the courts are broken, they should be fixed -- not scrapped or have another, parallel, court system created. ADR will not save costs -- it will only shift costs to those seeking quicker or private justice. We don't need ADR. We need for society to realize that more litigation will cost more by way of taxes to pay more judges, create more courts, and expand the judicial system. As the adage goes: "You get what you pay for."

28. No motion for summary judgment should remain pending more than 45 days following oral argument. Judges should be encouraged to follow federal policy and grant those motions where well-taken. Withholding these rulings to "encourage" settlement is unfair to the litigants.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

Attorney Survey Responses

Senior/Litigator/Defendant

12. Given the choice, where do you prefer to conduct civil litigation:

federal court state court depends upon nature of the case no preference

Optional: What factors influence your preference most strongly?

- 12. State Court - familiarity with procedures.
- 12. Federal Court - Presiding Judge
- 12. Federal Court - Rules of evidence are established and written down.
- 12. Depends upon nature of the case - availability of summary judgment on affidavits and depositions; reputation of opposing party where he/she lives; generally better "quality" of jurors in federal court; closer proximity and greater familiarity with federal court than opposing counsel.
- 12. Depends upon nature of the case - geography of case; subject matter of case.
- 12. State Court - higher caliber judges; less judicial interference.
- 12. Depends upon nature of the case - Factors which influence my preference relate to merits for the particular case; aside from this consideration, the most important consideration is knowing the judge and the personnel of the Court.
- 12. Federal Court - quality of judges; procedural system.
- 12. Depends upon nature of the case - My opponent's experience (or lack of it) in federal court practice; the need for a more educated jury (ex: in a product liability case).
- 12. Depends upon nature of the case.
- 12. Depends upon nature of the case - Complexity; source of law; need for speed.

12. Federal Court - Easier to get hearings; use of discovery on pretrial motions.
12. No preference - Location of witnesses and other discovery matters; substantive and evidentiary legal issues.
12. Depends upon nature of the case - Local jury reputation; identity of parties.
12. Federal Court - Discovery; summary judgment options; procedure - law and equity in one form.
12. State Court - Distance from situs of court; familiarity with procedures.
12. Depends upon nature of the case - availability of summary judgment; expertise on legal issues.
12. State Court - convenience.
12. Federal Court - judicial experience; docket control; magistrate system - discovery disputes.
12. No preference.
12. Depends upon nature of the case - judges.
12. Federal Court - federal rules; docket; ability of judges to rule quickly.
12. Depends upon nature of the case - speed, prefer fed. court if plaintiff, discovery, who other lawyer is.
12. Depends upon nature of the case - Whether or not the case is one where summary judgment may be an option. Whether I feel as if I can get it ready in time to comply with Judge Wilson's "rocket docket". Whether I think my client will get a fair trial in state court in the particular jurisdiction.
12. State Court - Presence of sitting judge in Lynchburg at all times.
12. Depends upon nature of the case - Substantive law; availability of summary judgment; inability of plaintiff to non-suit.
12. State Court - More familiarity with state court rules and procedures.
12. State Court.
12. Depends upon nature of the case.
12. Federal Court - Clerks help the court accurately consider the law.

12. Depends upon nature of the case - Chances of local bias, particularly in smaller, more rural state circuit courts.
12. Federal Court - Quality of the Court; Consistency of rules and rules interpretation; access to appellate process; flexibility of scheduling.
12. Depends upon nature of the case - Availability of appeal of right in Fed. Court; jury profile; time to trial (in E.D. Va.).
12. Federal Court - Quality of judges and juries - no non suits available; In E.D. Va. docket moves sometimes too fast but generally good.
12. Federal Court - Pretrial procedures are consistent. Greater opportunity to resolve a case short of a trial proceeding.
12. Federal Court - Speed of the docket; availability of depositions for summary judgment.
12. Federal Court - Speed of docket; certainty of rules; ability to get summary judgment.
12. Depends upon nature of the case - Access to state courts and familiarity.
12. Federal Court - Federal Rules provide structure to proceedings and provide consistency (knowing same rule followed in each federal court).
12. Federal Court - I have never practiced in state courts.
12. Federal Court - Consistent and clear rules of practice; sophistication of judiciary; time limitations.
12. Federal Court - Judges are fair and "no-nonsense"; will hold both parties to scheduling orders; plaintiff's can't play games with non suit like state court.
12. Federal Court - Quality of judges.
12. Federal Court - Quality of the judiciary; less likelihood of bias in favor of plaintiffs; more attention paid to legal motions.
12. Depends upon nature of the case - Extended delays in federal court; rules of evidence - FRE more reduced and defined; summary judgment available on basis of denos. in fed. ct., not state.
12. Federal Court - Magistrate is available for prompt resolution of discovery matters. Written opinions in all important matters.

12. Federal Court - Quality of judges; rules of procedure; speed; standard of practice (i.e. better attorneys).
12. Federal Court - Pretrial Orders.
12. Depends upon nature of the case - litigation cost; jury.
12. Federal Court.
12. Federal Court - Rules are clear and predictable.
12. Depends upon nature of the case - complexity of subject matter; location of parties.
12. Depends upon nature of the case - Federal Court is desired for prompt resolution, for complex issues and for more neutral forum.
12. Depends upon nature of the case - Type of law involved; rules of evidence; local v. out-of-state foreign parties.
12. Federal Court - Quality of judges and their support staffs and facilities; FRCP; convenience.
12. Depends upon nature of the case - Perceived quality of jurors; perceived ideas of judge.
12. Federal Court - Procedure; jury selection; court personnel.
12. Depends upon nature of the case - Availability of effective summary judgment procedure in federal court.
12. No preference.
12. Depends upon nature of the case - Where prompt result desired and cost of litigation no factor; USDA-EDs, Richmond Div. is a good choice for complex cases.
12. Depends upon nature of the case - Substance of the case; "make-up" of parties; Jury composition; Opposing counsel.
12. Depends upon nature of the case - Parties; nature of dispute; federal rules; federal judges.
12. State Court - Avoidance of rocket docket; fewer local rules of court.
12. Federal Court - Predictability of rules and judicial attitude.
12. Depends upon nature of the case - Plaintiff v. Defendant; discovery considerations; speed of resolution.

12. Depends upon nature of the case - The identity of the client; the speed in which a result is sought; the applicable body of law.
12. Federal Court - Broader discovery; better juries from defense standpoint; current docket.
12. Depends upon nature of the case - In large document cases I'd rather be in federal court; defending damages actions with a jury I'd rather be in federal court.
12. Depends upon nature of the case - Whether technical defenses are available and chance for motion for summary judgment.
12. Depends upon nature of the case - Type of case; personality of parties.
12. Depends upon nature of the case - Strength of case; complexity of issues; client wishes; whether early summary judgment desirable.
12. Federal Court - Better judicial support structure (e.g. law clerks); better pretrial procedures (e.g. possibility of summary judgment).
12. Federal Court - Quality of the judges.
12. Federal Court - Short time to trial; well established pre-trial practice; competence of judges.
12. Federal Court - Federal rules of civil procedure; quality and impartiality of judges.
12. Depends upon nature of the case.
12. Depends upon nature of the case - Helpfulness/responsiveness of clerk's office if better in state court.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

Attorney Survey Responses

Senior/Litigator/Defendant

28. [Optional] If delay is a problem in the W.D.VA for disposing of civil cases, what additional suggestions or comments do you have for reducing those delays.
29. [Optional] If costs associated with civil litigation in the W.D.VA are unreasonably high, what additional suggestions or comments do you have for reducing those costs?

28. Delay is not a problem in the WD of Va. Our current system has the flexibility to meet the demands of each case. If an early trial date is needed, one can be obtained. If additional time is needed to prepare the case for trial, it usually can be obtained. Imposition of additional formal, "trendy" devices will only make federal practice more complex for attorneys and ultimately more costly for litigants.
29. See #28.

-
29. My answers do not appear to be very helpful. This is because my overall experience with litigation in the Western District has been positive. I have not encountered what I would consider either unreasonable delays or costs in the Western District. There are several reasons. The judges in this District area all fairly reasonable and blessed with common sense. For the most part, the attorneys in this District are the same. As a result, I do not think we have any significant problems in this regard.

You should know that the litigation I have generally been involved with in federal court has been fairly straight forward and without "high stakes". (High stakes: \$500,000 and above.) If I was involved in different types of cases, I may have encountered more problems with delay and unnecessary costs.

-
28. Delay is not a problem.
-

28. I hate the thought of written local rules because the ones I've dealt with before (in the Eastern District in Minnesota) make the lawyer's life a nightmare but don't resolve the problems. I would like to see earlier status conferences with discovery schedule established to suit the type of case and wider use of dispositive motions.

29. Greater assessment of costs against losing parties.

29. Costs are not high, precisely because there are not extensive and complex rules and rigid pre-trial requirements. Slightly more active judicial management (setting discovery cut-offs, trial dates, status and settlement conferences) would resolve any delays I've encountered.

28. The question in items 23 and 24 [concerning effectiveness of ADR and discovery limits in reducing cost and delay] would not allow us to comment that their adoption would increase cost and make litigation more inefficient. The W.D. Va. _____ well now. Reducing interrogatories, limiting depositions, etc., with arbitrary rules would be counterproductive. The pre-trial conference and rescheduling order are most effective in placing litigation in an efficient and timely path.

29. Where costs get high in cases with many documents that are requested by opponent. My worst experiences have been in representing non-parties served with subpoenas. Upon motions, some limitations should be placed in document examination.

28. I believe WDVa does an excellent job in case management. I do not believe any changes are needed or warranted.

28. I do not believe that delay is a great problem. To the extent it is, it is more of a lawyer problem than a court problem.

29. I do not believe the costs are unreasonably high.

28. I do not think we have any problem with delay in civil litigation in the Abingdon & Big Stone Gap Divisions. These rules and limitations may be appropriate where there is a problem but are unnecessary and I think unnecessarily restricts parties and counsels ability to proceed with their cases. If the system is not broke, why try and fix it. We have always been able

to move cases as quickly as either party wants to move the case and have not been forced to go forward with development of the damages aspect of the evidence before we know whether liability is there. Now, we are forced to take depositions on damages before we get a ruling on motions for summary judgment so that we can be prepared for trial if we lose on summary judgment.

I think a status conference early in the case where the court sets realistic deadlines for discovery on liability, filing of motions for summary judgment, rulings on the motions by the court would be helpful. However, the deadlines need to be appropriate for the particular case. If the case gets past the summary judgement stage, then another status conference where realistic deadline for the development of damages evidence and a trial date are set should be held. Then, a third hearing could be scheduled at the option of the parties shortly before the trial to take care of routine pre-trial matters.

I think the manner in which we are proceeding in cases handled by Judge Wilson at the present time unnecessarily increases the cost of litigation by forcing development of evidence on damages prematurely. I think the loose system employed by Judge Williams works fine in this area.

-
- 28. I honestly don't believe delay is a problem in the WD of Va and that the lawyers and judges have a good working relationship to effectively get cases through the system.
 - 29. More utilization of "offers of judgment".

-
- 28. An apparent serious backlog exists with respect to ability of some court reporters to provide required transcripts within a reasonable period of time.
 - 29. I do not believe costs in the Western District are unreasonably high.

-
- 29. Generally, the WDVa is effective. I think experimenting with ADR is not a good idea. Just move the docket faster and that's the best dispute resolution.

-
- 28. See response to #29. Seems to be resistant difficulty in getting a date to be heard on dispositive motions.

Suggest local rule requiring filing of memorandum with the motions. Fewer/shorter motions would be filed.

29. Greater availability of magistrate judges who, by general exercise, expedite dispute resolution. Suggest automatic referral of all discovery disputes and non-dispositive motions by magistrate with initial pleading of complaint and summaries.

28. Deadline should be established for completion of discovery. Trial dates should be established when defendant files his answer and continuances should not be granted unless the parties mutually agree.

29. Eliminate delays.

28. I think local rules of court for civil practice dealing with such things as discovery, motion practice, etc., is very helpful.

28. I do not find delay to be a problem, generally. The current system seems to work well. I suggest and request that the Big Stone Gap Court be kept open - it serves the needs of a lot of people who are not at all well-located with respect to the other court sites.

You may use my name - (signed) Ronald G. Thomason.

28. It is a pleasure to litigate in the Abingdon and Big Stone Gap Divisions of this Court.

We get cases tried or the disputes otherwise resolved without rules and timetables, etc. - in as timely a fashion as the parties and their counsel desire. Nothing more should be required - although cases generally more quite fast.

The system here works. It is not broken; please don't try to fix it.

29. I don't need confidentiality. (signed) Jackson A. White.

29. More aggressive use of Rule 11 sanctions. There are too many frivolous suits and too many frivolous claims and courts in suits which have a non-frivolous complaint.

29. Discovery has turned out to be one of the worst things that the mind of man could have devised. It is time consuming, a way to run up huge legal costs, and an utter and complete waste of time. We were much better off without it than we are with it.

28. Present system works quite well. Don't mess with it!

29. Litigation costs are currently not unreasonable as a rule. In those rare instances of unusual expenses, I have found the attorneys and judges amenable to cost reduction suggestions.

29. W. District judges have from time to time accommodated counsel with telephone hearings - that's a big help.

29. Implement the English system, whereby the losing party pays the winner's costs and attorney's fees.

28. Have not encountered unreasonable delay in W.D.Va.

29. Have not encountered unreasonable costs.

28. Additional judges, more expeditious rulings on dispositive motions.

28. Force early trial dates. Then, the lawyers do only that which they must do in discovery. They also focus quickly in settlement.

Settlement conferences just don't work. Deadlines do.

28. Have experienced delay primarily on U.S. Bankruptcy Court. I do not know if they are participating in survey or not, but they should be.

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA

CIVIL JUSTICE REFORM ACT ADVISORY GROUP

PRE-INTERVIEW QUESTIONNAIRE

Name _____

Scheduling

1. Do you receive frequent requests for extensions of time? (please circle) yes no
If yes, what percentage of these motions are meritorious? _____

2. Do you hold Rule 16(b) scheduling conferences in all cases? (please circle) yes no
If not, in approximately what percentage of cases? _____

3. Do you use a standard scheduling order as outlined in Rule 16(b) or some modification of the standard order? (please circle) standard modification
In approximately what percentage of cases do you modify the order you ordinarily use?

Discovery

4. Do you set discovery cut-off dates? (please circle) yes no
If yes, in approximately what percentage of cases do you give extensions? _____

5. Do you use a standard discovery scheduling order? (please circle) yes no
If so, in approximately what percentage of cases do you modify the order you ordinarily use?

6. In approximately what percentage of cases do you order that requests for production of documents, responses, or other discovery material not be filed with the Clerk's Office?

7. Do you hold Rule 26 discovery conferences? (please circle) yes no
If yes, in approximately what percentage of cases? _____

Motions

8. Do you make oral rulings on motions? (please circle) yes no
If yes, in approximately what percentage of cases? _____
9. Do you monitor the timing of the filing of motions and responses?
(please circle) yes no

Pretrial

10. Do you hold frequent pretrial or status conferences? (please circle) yes no
If yes, do you use telephone conferences? (please circle) yes no
If yes, in approximately what percentage of cases? _____

11. Do you on occasion discuss alternative dispute resolution with counsel?

(please circle) yes no

If yes, in approximately what percentage of cases? _____

12. Do you hold a final pretrial conference in all cases under Rule 16(d)? (please circle) yes no

If not, in approximately what percentage of cases? _____

13. Do you use a standard final pretrial order in civil cases? (please circle) yes no

In approximately what percentage of cases do you modify your standard order? _____

Trial

14. Do you routinely bifurcate trials (e.g. separate liability and damage issues)?

(please circle) yes no

15. When presiding over a trial...

(a) Approximately how many days per week is the trial convened?

Bench Trial _____ Jury Trial _____

(b) Do you hear motions in other cases while the trial is underway?

Bench Trial (please circle) yes no Jury Trial (please circle) yes no

(c) Do you hold conferences in other cases while the trial is underway?

Bench Trial (please circle) yes no Jury Trial (please circle) yes no

(d) Do you usually sit consecutive days until the trial is completed?

Bench Trial (please circle) yes no Jury Trial (please circle) yes no

(e) How many hours in a day do you usually sit during a trial?

Bench Trial _____ Jury Trial _____

16. In a bench trial, in approximately what percentage of cases do you rule from the bench immediately following trial? _____

General

17. Approximately how many work days per year do you spend in divisions of the Western District other than your resident division? _____

18. Approximately how many work days per year do you spend sitting in other districts?

19. Approximately how many work days per year do you spend sitting with the Fourth Circuit?

20. Approximately how many work days per year do you spend at administrative and educational programs outside of the Western District? _____

If you use standard orders as noted in questions #3 (scheduling), #5 (discovery), and #13 (final pretrial), please attach them to this questionnaire.

Please return the completed questionnaire to Joan Shaughnessy in the envelope provided. Thank you for your time.

/lt

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

OUTLINE OF QUESTIONS FOR JUDICIAL OFFICER INTERVIEWS

1. Are there problems of excessive cost and delay in the processing of civil cases in the Court? Why? What specific solutions would you recommend?
2. What are the most effective measures you have employed for preventing excessive cost and delay that are not case-specific? What measures would you like to see instituted in this Court to deal with excessive cost and delay?
3. Is the allocation and coordination of work among judicial officers effective? Is there sufficient backup for a judicial officer who has an unusually burdensome case?
4. What role should a judicial officer play in the settlement process? When? Would it make sense to have a judicial officer other than the one to whom the case is assigned assume the role of a settlement judge?
5. How effective would alternative dispute resolution processes be in this Court? Are there specific ADR processes which should be used here?
6. Is civil discovery a cause of excessive cost? Excessive delay? What actions can a judicial officer take to reduce excessive cost and delay in discovery?
7. What impact does the criminal caseload have on the processing of civil cases? Are there administrative improvements that would assist judges in handling their civil cases without delaying the disposition of criminal cases? Are there procedures that would expedite criminal trials and permit more time for consideration of civil cases?
8. How should a district judge or magistrate judge decide the priority to be given to various cases and motions? What is the best method for handling the hearing and disposition of motions?
9. Are there specific actions that you have taken to manage the trial of civil cases that expedite trials and reduce costs?
10. Does this Court have unique problems because of its geographic size and the number of divisions in the district?
11. Are there additional resources which would assist you in cost and delay reduction?

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

ISSUES TO BE DISCUSSED IN INTERVIEWS WITH JUDICIAL OFFICERS

- 1. Are there problems of excessive cost and delay in the processing of civil cases in the Court? Why? What specific solutions would you recommend?**

Is delay a problem in all types of cases? In certain types of cases? Which ones? Why?

To what extent is delay the fault of the parties or the lawyers? The Court? Are there certain steps in the process where delay is most serious? Which ones? Why? What can be done?

What costs are excessive? Who is responsible for excessive costs? Can the Court act to lower the costs to the parties? How?

Are the attorneys adequately prepared? At all stages in the process?

- 2. What are the most effective measures you have employed for preventing excessive cost and delay that are not case-specific? What measures would you like to see instituted in this Court to deal with excessive cost and delay?**

Should a judge try to provide "hands-on" management of a case?

Should the judge manage cases more actively at some stages of pretrial than at other stages? Which stages require active management?

Should the Court resist requests for extensions of time to respond to complaints? To motions?

How frequently should the Court meet with counsel? With the parties?

Should argument on motions be discouraged? Encouraged?

How formal should a Rule 16 conference be? What form should a Rule 16 order take? Should the conference or order be modified in some types of cases?

When should a final pretrial conference occur? What form should the pretrial order take?

- 3. Is the allocation and coordination of work among judicial officers effective? Is there sufficient backup for a judicial officer who has an unusually burdensome case?**

Is more centralized planning and case assignment desirable in our district?
Possible?

Are there sufficient magistrate judges? Are they used appropriately?

For what functions do you use magistrate judges? [What functions are you, as magistrate judge, asked to serve?] Are there additional ways in which they can be used?

Should other judges be used more frequently to relieve a judge whose trial schedule results in a conflict?

- 4. What role should a judicial officer play in the settlement process? When? Would it make sense to have a judicial officer other than the one to whom the case is assigned assume the role of a settlement judge?**

How does the Court promote settlement? When is the best time for the Court to facilitate settlement?

What are the advantages and disadvantages of having one or more judges or magistrate judges focusing on settlement?

Do ADR techniques facilitate settlement? Should ADR be used in our district to promote settlement?

Should parties be required to attend settlement conferences? What is your practice?

Should the judge or magistrate judge meet with counsel or parties separately or together? In all cases? In jury cases? In nonjury cases?

- 5. How effective would alternative dispute resolution processes be in this Court? Are there specific ADR processes which should be used here?**

Have you ever referred a case to an ADR process? If not, why not? If so, do you have an opinion as to the success of the process?

What types of cases are most appropriate for ADR? Least appropriate?

Would ADR reduce cost and delay? Increase cost and delay?

What forms of ADR should be considered?

Should more ADR processes be available in our district?

Should ADR be required in certain cases? Which cases? What form of ADR should be required?

6. Is civil discovery a cause of excessive costs? Excessive delay? What actions can a judicial officer take to reduce excessive cost and delay in discovery?

What discovery cutoffs should be set?

Should each judge use a standard discovery scheduling order?

How frequently does the Court have to resolve discovery disputes?

When should Rule 26(g) conferences be held?

Are the costs imposed on parties adequate to deter discovery abuse?

Should the Court monitor discovery by requiring periodic reports?

What are the advantages of having discovery requests and responses filed with the Clerk's Office? The disadvantages?

What parts of discovery generate excessive costs? Excessive delay?

What measures can the Court take to reduce costs and delay? Will prompt rulings on discovery disputes help?

Should the judge be active in managing the discovery process? What steps best prevent excessive cost, delay, and abuse in the discovery process? What level of management of the discovery process is optimal?

Should there be limits (by rule or court order) on the number of interrogatories? The number of depositions? The time permitted for depositions? In all cases? In certain types of cases?

Should automatic disclosure be required? In all cases? In certain types of cases? Of what information?

Should the discovery process be shortened? In all cases? In certain types of cases?

Is the discovery process a cause of delay in civil litigation? A cause of undue cost of litigation? In certain kinds of cases?

What types of cases generate a disproportionate number of discovery disputes? How do you handle them? How can such disputes be resolved expeditiously?

Should there be changes to procedures concerning discovery sanctions? Such as requiring the moving parties to certify that a good faith attempt has been made to resolve the discovery dispute before filing the motion? Replacing the motion with a two page letter to the judge or magistrate judge?

Are sanctions an effective tool in the area of discovery disputes? Should they be used more frequently?

7. **What impact does the criminal caseload have on the processing of civil cases? Are there administrative improvements that would assist judges in handling their civil cases without delaying the disposition of criminal cases? Are there procedures that would expedite criminal trials and permit more time for consideration of civil cases?**

Should certain cases not be brought by the U.S. attorney?

Can prosecutors better assist the Court in moving cases forward? How?

Should defense counsel be required to do more to assist the Court? How?

Should pretrial motions in criminal cases be expedited? Which motions?

Can magistrate judges assist in this process?

Can pretrial hearings be expedited? How?

Should motions be decided without oral argument? When?

Can sentencing proceedings be expedited? In what way?

Are there any recommendations the Advisory Group should make to the executive or legislative branches?

8. **How should a district judge or magistrate judge decide the priority to be given to various cases and motions? What is the best method for handling the hearing and disposition of motions?**

What procedures should be used for deciding which motions should be disposed of first? Last?

Should motions be handled the same way in criminal and civil cases?

Are some types of motions particularly responsible for delay or for increasing the costs of litigation? How can motions practice be modified to reduce cost and delay?

Should opinions in support of rulings be encouraged? Discouraged?

Should there be a separate motions day?

Can motions be handled by conference call? In which types of cases?

Is the time between argument and disposition a cause of undue delay in the system? Is there a time limit by which all motions should be decided?

Should page limits be set on motion papers? Should some motions be heard without supporting papers? What types of motions?

Should pre-motion conferences and/or leave of court be required for certain motions? If so, what types of motions?

9. Are there specific actions that you have taken to manage the trial of civil cases that expedite trials and reduce costs?

How should trial dates be set?

Should trial dates be kept firm?

If so, how can this be accomplished?

Who should serve as backup for a judge who has a conflict when a trial is scheduled?

Can bifurcation expedite trials?

What other procedures have you tried? Have they been successful?

10. Does this Court have unique problems because of its geographic size and the number of divisions in the district?

Is it unusually difficult to manage caseload allocation and trial and motion calendars in this district?

Is the allocation of support personnel, particularly court reporters, among the divisions a problem?

Do you spend a substantial amount of time in travel within the district?

Do you find it more difficult to sit outside your resident division?

11. Are there additional resources which would assist you in cost and delay reduction?

Would more judicial education programs be helpful? Of what sort?

Is there a need for additional personnel in the Western District? In what positions?

Is there a need for additional space or equipment in the Western District? Of what sort?

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE, VIRGINIA

ADVISORY GROUP
CIVIL JUSTICE REFORM ACT
PHILLIP C. STONE, CHAIRMAN
JOAN M. SHAUGHNESSY, REPORTER

P. O. BOX 809
HARRISONBURG, VA. 22801
(703) 434-0316
(703) 463-8512

NOTICE OF PUBLIC HEARING

**CIVIL JUSTICE REFORM ACT COMMITTEE
WESTERN DISTRICT OF VIRGINIA**

The Civil Justice Reform Act Committee for the Western District of Virginia, a Committee appointed at the direction of Congress to study the efficiency of the federal courts, will conduct a public hearing at the following time and place:

Monday, September 14, 1992 - 7:30 p.m.

**Poff Federal Building
Third Floor
210 Franklin Road
Roanoke, Virginia 24011**

The public is invited to attend and participate. The purpose of the hearing will be to permit the community to make observations and suggestions as to how civil litigation in the federal courts in the Western District of Virginia could be improved, particularly as to savings in cost and time.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE, VIRGINIA

ADVISORY GROUP
CIVIL JUSTICE REFORM ACT
PHILLIP C. STONE, CHAIRMAN
JOAN M. SHAUGHNESSY, REPORTER

P. O. BOX 809
HARRISONBURG, VA 22801
(703) 434-0318
(703) 463-0512

PRESS RELEASE

FEDERAL COURTS COMMITTEE TO CONDUCT PUBLIC HEARING

In 1990, Congress passed legislation requiring each of the 94 federal court districts to name a committee of judges, lawyers and lay people to study the federal courts in each district and to make recommendations as to how civil litigation could be handled in a more expeditious and less costly manner. The Civil Justice Reform Advisory Committee for the Western District of Virginia, has been working for more than a year interviewing judges and others, reviewing dockets and cases, evaluating statistical data, collecting responses from questionnaires from lawyers and evaluating the operations of the federal courts in the western part of Virginia. Members of the Committee come from various parts of the district. The Committee Reporter is Professor Joan Shaughnessy of the Washington and Lee Law School who will take the lead in compiling the eventual report containing the Committee's plan or changes.

The Committee has announced that on Monday, September 14, 1992 at 7:30 p.m. it will conduct a hearing in the Poff Federal Building (Third Floor) in Roanoke to permit individuals and representatives of community organizations, civic clubs, businesses and any others having an interest in presenting their views as to how the administration of justice could be done in a more orderly, expeditious and less costly manner. The meeting is open to the public.

While the Committee has a deadline of December 31, 1993 to complete its work and file its report with the Federal Court, the Committee spokesman indicated the Committee for the Western District of Virginia will probably finish its work by the end of 1992.

Contact person:

Professor Joan Shaughnessy
Washington and Lee University
School of Law
Lexington, Virginia 24450
703/463-8512.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE, VIRGINIA

ADVISORY GROUP
CIVIL JUSTICE REFORM ACT
PHILLIP C. STONE, CHAIRMAN
JOAN M. SHAUGHNESSY, REPORTER

P. O. BOX 809
HARRISONBURG, VA. 22801
(703) 434-0316
(703) 463-8512

August 12, 1992

Dear Sir or Madam:

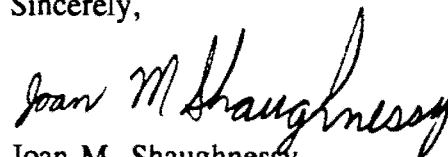
In 1990, Congress passed the "Civil Justice Reform Act of 1990" (CJRA) which requires a study of the operations of the federal courts in each of the 94 districts in the United States to see how litigation might be made less costly and take less time. The CJRA Committee appointed for the Western District of Virginia has been at work for over a year interviewing judges, analyzing data, looking at alternative methods for resolving disputes and generally evaluating the federal courts in the Western District of Virginia.

Because your organization may well have an interest in and experience with the federal courts in the Western District, the Committee would like to hear from you, your organization or others associated with you and your organization. The opportunity will be given at a public hearing to be held in Roanoke on Monday, September 14, 1992, at 7:30 p.m. on the Third Floor of the Poff Federal Building, 210 Franklin Road, Roanoke, Virginia. You and all others in attendance will be given an opportunity to express any opinions or comments you have about how the federal courts operate and how civil litigation in the courts could be made less expensive and take less time. The Committee also welcomes correspondence from interested individuals and organizations.

Shortly after the hearing, the Committee will conclude its work and propose a plan for changes in how civil litigation ought to be handled in our district. Your contribution to this effort at the public hearing will be very helpful to our work.

If you have any questions about the procedures, please feel free to contact me at Washington and Lee University, School of Law, Lexington, Virginia 24450 - 703/463-8512.

Sincerely,



Joan M. Shaughnessy
CJRA Committee Reporter

/lt

WESTERN DISTRICT OF VIRGINIA
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

Mailing List for Public Hearing

Nancy E. Quynn
Virginia Farmworkers Legal
Assistance Project
Post Office Box 306
Belle Haven, Virginia 23306

Piper Durell
Virginia Tech Student
Legal Services
Squires Student Center
Virginia Tech
Blacksburg, Virginia 24061

Hugh F. O'Donnell
Client Centered Legal Services
of Southwest Virginia, Inc.
Post Office Box 147
Castlewood, Virginia 24224

Edward M. Wayland
Charlottesville-Albemarle
Legal Aid Society
Post Office Box 197
Charlottesville, Virginia 22902

Legal Assistance Society
University of Virginia
School of Law
Charlottesville, Virginia 22901

Frederick S. Middleton, III
Southern Environmental
Law Center, Inc.
201 West Main Street, Suite 14
Charlottesville, Virginia 22901

Judith Herndon
Student Legal Services
1908 A Lewis Mountain Road
Charlottesville, Virginia 22903

Professor Richard D'Balnave
University of Virginia Civil
Clinical Program
School of Law
University of Virginia
Charlottesville, Virginia 22901

Debra K. Sifford
Legal Aid Society of
The New River Valley, Inc.
111 West Main Street
Christiansburg, Virginia 24073

Susan Perry
Virginia Legal Aid Society, Inc.
Masonic Temple Building, Suite 517
Danville, Virginia 24541

Betty Jean Hall
Coal Employment Project
16221 Sunny Knoll Lane
Dumfries, Virginia 22026

Hester Honda
Virginia Legal Aid Society, Inc.
129 South Main Street
Post Office Box 640
Halifax, Virginia 24558

John E. Whitfield
Blue Ridge Legal Services, Inc.
Post Office Box 551
204 North High Street
Harrisonburg, Virginia 22801

Terry M. Burt
Legal Aid Society of Roanoke Valley
203 North Main Street
Lexington, Virginia 24450

Legal Practice Clinic
Washington & Lee University
School of Law
Lexington, Virginia 24450

Robert Golcheski
Virginia Legal Aid Society, Inc.
501 Church Street
Post Office Box 6058
Lynchburg, Virginia 24505

David B. Neumeyer
Virginia Legal Aid Society, Inc.
Post Office Box 6058
Lynchburg, Virginia 24505

Eileen McIlvane
Southwest Virginia
Legal Aid Society, Inc.
554 South Main Street
Marion, Virginia 24354

Susan Perry
Virginia Legal Aid Society, Inc.
Post Office Box 882
36 1/2 Franklin Street
Martinsville, Virginia 24112

Raleigh Campbell
Council of Community Services
Lawyer Referral Service of Roanoke
Post Office Box 496
Roanoke, Virginia 24003

Henry Woodward
Legal Aid Society of Roanoke Valley
416 Campbell Avenue, S.W.
Roanoke, Virginia 24016-3627

Nancy Glickman
Blue Ridge Legal Services, Inc.
Post Office Box 436
Winchester, Virginia 22601

Webster Hogeland
Public Defender Commission
202 North Bridge Street, Suite B
Bedford, Virginia 24523

Harold Krent
Post-Conviction Assistance
Project (P-Cap)
University of Virginia
Law School
Charlottesville, Virginia 22901

Lawrence D. Gott
Public Defender Commission
711 Masonic Building
105 South Union Street
Danville, Virginia 24541

Roxie O. Rosemond
Public Defender Commission
Post Office Box 1010
Halifax, Virginia 24558

Roger D. Groot
Alderson Legal Assistance Program
Washington & Lee University
School of Law
Lexington, Virginia 24450

James M. Hingeley, Jr.
Public Defender Commission
The Krise Building
203 9th Street, Suite 401
Lynchburg, Virginia 24505

G. Richard Beck
Public Defender Commission
29 South Jefferson Street
Petersburg, Virginia 23803

Roy D. Warburton
Public Defender Commission
2 Third Street, N.W.
Pulaski, Virginia 24301

Overton P. Pollard
Public Defender Commission
Seventh & Franklin Building
701 East Franklin Street, Suite 910
Richmond, Virginia 23219

Raymond F. Leven
Public Defender Commission
Suite 4b, S.W. Virginia Bank Bldg.
Campbell & 2nd Streets, S.W.
Roanoke, Virginia 24011

William E. Bobbitt, Jr.
Public Defender Commission
Post Office Box 715
Curry Carter Law Building
Staunton, Virginia 24401

William A. Crane
Public Defender Commission
17 West Boscawen Street, Second
Floor
Winchester, Virginia 22601

Charles Breckenridge Arrington, Jr.
Executive Vice-President
The Virginia Bar Association
Suite 1515, 701 East Franklin Street
Richmond, Virginia 23219

Thomas A. Edmonds
Executive Director
& Chief Operating Officer
The Virginia State Bar
801 East Main Street, Suite 1000
Richmond, Virginia 23219

Jack L. Harris
Executive Director
Virginia Trial Lawyers Association
700 East Main Street, Suite 1510
Richmond, Virginia 23219

Thelma E. Bland, Director
Office of Aging
830 East Main Street, Suite 950
Richmond, Virginia 23219

S. Mason Carbaugh, Commissioner
Department of Agriculture and
Commerce
1100 Bank Street
Richmond, Virginia 23219

Wallace N. Davis, Executive Director
Air Pollution Control Office
801 9th Street Office Bldg.
Richmond, Virginia 23219

Edward W. Murray, Director
Department of Corrections
4615 West Broad Street
Richmond, Virginia 23219

Clarence L. Jackson, Jr., Chairman
Parole Board
3122 West Marshall Street
Richmond, Virginia 23219

Hugh Keogh, Director
Department of Economic Development
1000 Washington Bldg.
Richmond, Virginia 23219

Keith J. Buttleman, Administrator
Council on the Environment
903 9th Street Office Bldg.
Richmond, Virginia 23219

Bud Bristow, Executive Director
Commission of Game
and Inland Fisheries
4010 West Broad Street
Richmond, Virginia 23219

Dr. C. M. G. Buttery, Commissioner
Department of Health
927 Madison Bldg.
Richmond, Virginia 23219

Lawrence D. Tarr, Chief Deputy
Industrial Commission
1000 DMV Drive
Richmond, Virginia 23219

Dr. King E. Davis, Commissioner
Department of Mental Health
and Mental Retardation
109 Governor Street
Richmond, Virginia 23219

Larry D. Jackson, Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23219

Linda L. Canyock, Senior Secretary
Division of War Veterans Claims
807 East Broad Street
Richmond, Virginia 23219

Robert E. Hadley
Department of Veterans Affairs
Office of District Counsel
210 Franklin Road, S.W.
Roanoke, Virginia 24011

Clare Cherkasky
Immigration Services
Hogar Hispano
Arlington, Virginia 22204

W. Randolph Carter
Virginia-Carolina Peanut
Association 14652
Post Office Box 499
Suffolk, Virginia 23434

Tommy Stanley
Virginia Poultry Breeders
Association 4707
Route 3, Box 672
Ashland, Virginia 23005

Roanoke Regional Chamber of Commerce
310 First Street
Roanoke, Virginia 23223

NAACP - Roanoke
802 Loudon Avenue
Roanoke, Virginia 24016

AFL-CIO - VA State
3315 West Broad Street
Richmond, Virginia 23230

NAACP - VA State Conference
112 East Clay Street
Richmond, Virginia 23219

Mr. Joseph C. Sargeant, Director
Alleghany Highlands
Community Services Board
601 Main Street
Clifton Forge, Virginia 24422

Mr. Augustine J. Fagan, Director
Central Virginia Community Services
2235 Landover Place
Post Office Box 2497
Lynchburg, Virginia 24501Mr. F.

Will Rogers, Director
Crossroads Services Board
Route 5, Box 1258
Bush River Manor, Suite 1
Farmville, Virginia 23901

Mr. Ronald A. Allison, Director
Cumberland Mountain Community
Services
Post Office Box 810
Cedar Bluff, Virginia 24609-0810

Mr. Lenard D. Lackey, Jr., Director
Danville-Pittsylvania MH Services
Board
245 Hairston Street
Danville, Virginia 24540

Mr. Richard E. Troyer, Director
Dickenson County
Community Services Board
Post Office Box 309
Clintwood, Virginia 24228

Mr. C. Joseph Sharrer, Director
Harrisonburg-Rockingham
Community Services Board
1241 North Main Street
Harrisonburg, Virginia 22801

Mr. E. Wally Cline, Jr., Director
Mount Rogers Community
MH&MR Services Board
770 West Ridge Road
Wytheville, Virginia 24382

Mr. H. Lynn Chenault, Director
New River Valley
Community Services Board
210 Third Avenue, Second Floor
Radford, Virginia 24141

Mr. David M. Ziegler, Director
Northwestern Community Services
1855 Front Royal Road, Suite 200
Winchester, Virginia 22601

Mr. James M. Tobin, Director
Peidmont Regional
Community Services Board
213 East Main Street
Martinsville, Virginia 24112

Mr. Sam Dillon, Director
Planning District I
Community Services Board
Building E, Suite 5
Cloverleaf Square
Post Office Box 537
Big Stone Gap, Virginia 24219

Mr. C. Eldon Taylor, Director
Rappahannock-Rapidan
Community Services Center
401 South Main Street
Culpeper, Virginia 22701

Mr. James R. Peterson, Director
Region Ten Community Services Board
413 East Market Street, Suite 103
Charlottesville, Virginia 22910-
5213

Fred P. Roessel, Jr., Ph.D.,
Director
Mental Health Services
of the Roanoke Valley
Elm Plaza Building
301 Elm Avenue, S.W.
Roanoke, Virginia 24016-4026

L. Michael Gilmore, Ph.D., Director
Rockbridge Area Community
Services Board
315 Meyers Street
Lexington, Virginia 24450

Mr. Cesar M. Perez, Director
Valley Community Services Board
141-C East Broad Street
Waynesboro, Virginia 22980

Director
Virginia CURE
Post Office Box 19453
Alexandria, Virginia 22320

Mr. R. Kent Willis
American Civil Liberties
Foundation Of Virginia
6 North 6th Street, Suite L12
Richmond, Virginia 23219-2378

Mr. Douglas A. Scott
Legal Services Corporation of
Virginia
1001 East Broad Street, Suite L1-35
Richmond, Virginia 23219

Mr. David B. Rubinstein
Virginia Poverty Law Center
9 West Main Street
Richmond, Virginia 23220

Mrs. Mary Ann Bergeron
Executive Director
Virginia Association of
Community Service Boards, Inc.
615 Twin Ridge Lane
Richmond, Virginia 23235

Mr. Ken Disselkoen, Chairman
Fairfax-Falls Church
Community Services Board
Human Services Center, Suite 800
12011 Government Center Parkway
Fairfax, Virginia 20035-1105

Mr. Mike Hite, Chairman
Northwestern Community Services
1855 Front Royal Road, Suite 200
Winchester, Virginia 22601

Ms. Margo Kiley, Chairman
Mental Health Services
of the Roanoke Valley
Elm Plaza Building
301 Elm Avenue, S.W.
Roanoke, Virginia 24016-4026

Roscoe B. Stephenson, III, President
Alleghany-Bath Bar Association
Post Office Box 138
Covington, Virginia 24426

Kenneth W. Farrar, Esq., President
Amherst-Nelson County Bar
Association
Post Office Box 354
Lovingston, Virginia 22949

G. William Watkins, Jr., Esq.
President
Augusta County Bar Association
Post Office Box 1558
Waynesboro, Virginia 22980

William W. Berry, Esq., President
Bedford County Bar Association
Post Office Box 526
Bedford, Virginia 24523

Cyndi M. Roe, Esq., President
Botetourt County Bar Association
Post Office Box 158
Fincastle, Virginia 24090

Thomson Lipscomb, Esq., President
Bristol Bar Association
Post Office Box 25
Bristol, Virginia 24203

Sandra K. McGlothlin, Esq.
President, Buchanan County
Bar Association
Post Office Box 810
Grundy, Virginia 24614

Aubrey J. Rosser, Jr., Esq.
President
Campbell County Bar Association
Post Office Box 655
Altavista, Virginia 24517-0655

James T. Ward, Esq., President
Carroll County Bar Association
Post Office Box 637
Galax, Virginia 24333

Francis McQ. Lawrence, Esq.
President, Charlottesville-
Albemarle County Bar Association
416 Park Street
Charlottesville, Virginia 22902

Susan E. Bishop, Esq., President
Charlottesville Area
Women's Bar Association
Post Office Box 197
Charlottesville, Virginia 22902

Mary Ellen Kerr, Esq., President
Clarke County Bar Association
24 East Main Street
Berryville, Virginia 22611

R. Lee Yancey, Esq., President
Danville Bar Association
Post Office Box 8200
Danville, Virginia 24543

Buddy H. Wallen, Esq., President
Dickenson County Bar Association
Post Office Box 705
Clintwood, Virginia 24228

James R. Bresee, Esq., President
Fluvanna County Bar Association
Post Office Box 308
Palmyra, Virginia 22963

Timothy W. Allen, Esq., President
Franklin County Bar Association
105 South Main Street
Rocky Mount, Virginia 24151

Phillip C. Steele, Esq., President
Giles County Bar Association
Post Office Box 608
Pearisburg, Virginia 24134

J. Colin Campbell, Esq., President
Grayson-Galax Bar Association
Post Office Box 128
Independence, Virginia 24348

James W. Watson, Jr., Esquire
President, Halifax Bar Association
Post Office Box 157
Halifax, Virginia 24558

Franklin R. Blatt, Esquire
President, Harrisonburg
-Rockingham Bar Association
Post Office Box 1449
Harrisonburg, Virginia 22801

Sue Ella Kobak, Esquire
President, Lee County
Bar Association
Post Office Box 367
Jonesville, Virginia 24363

Areliia S. Langhorne, Esq.
President, Lynchburg
Bar Association
Post Office Box 2453
Lynchburg, Virginia 24501

Eleanor A. Putnam Dunn, Esq.
President, Lynchburg
Bar Young Lawyers
Post Office Box 60
Lynchburg, Virginia 24505

John M. Powell, Esquire
President, Madison-Greene
Bar Association
Post Office Box 220
Madison, Virginia 22727

R. Reid Young, III, Esquire
President, Martinsville-Henry
County Bar Association
Post Office Drawer 2248
Martinsville, Virginia 24113

Robert R. Donlan, Esquire
President, Page County
Bar Association
12 South Court Street
Luray, Virginia 22835

Arthur A. Anthony, Esquire
President, Patrick County
Bar Association
Post Office Box 1300
Stuart, Virginia 24171

Frank W. Sommerville, Esquire
President, Piedmont County
Bar Association
Post Office Box 629
Orange, Virginia 22960

Michael G. Turner, Esquire
President, Pittsylvania
County Bar Association
Post Office Box 150
Gretna, Virginia 24557

Deborah Wood Dobbins, Esq.
President, Pulaski
County Bar Association
Post Office Box 878
Pulaski, Virginia 24301

John J. Curry, Jr., Esq.
President, Radford/Floyd/Montgomery
Bar Association
Post Office Box 225
Christiansburg, Virginia 24073

James W. Fletcher, III, Esq.
President, Rappahannock
County Bar Association
Post Office Box 298
Sperryville, Virginia 22740

James F. Johnson, Esq.
President, Roanoke Bar Association
Post Office Box 2200
Roanoke, Virginia 24009

Diane M. Baun, President
Roanoke, New River Valley
Chapter of VWAA
Post Office Box 14125
Roanoke, Virginia 24038-4125

Anita Filson, Esq.
President, Rockbridge-Buena
Vista Bar Association
31 West Washington Street
Lexington, Virginia 24450

Teresa M. Chafin, Esq.
President, Russell
County Bar Association
Post Office Box 1721
Lebanon, Virginia 24266

Vincent Lilley, Esq.
President, Salem-Roanoke
County Bar Association
103 South College Road
Salem, Virginia 24153

Terry G. Kilgore, Esq.
President, Scott County
Bar Association
109 East Jackson Street
Gate City, Virginia 24251

Barry D. Murphy, Esq.
President, Shenandoah County
Bar Association
122 North Main Street
Woodstock, Virginia 22664

John H. Tate, Jr., Esq.
President, Smyth County
Bar Association
Post Office Box 26
Marion, Virginia 24354

Thomas P. Walk, Esq.
President, Tazewell County
Bar Association
Post Office Box 30
Tazewell, Virginia 24651

Robert E. Clement, Esq.
President, 10th Judicial
Circuit Bar Association
Post Office Box 513
Victoria, Virginia 23947

Trenton G. Crewe, Jr., Esq.
President, 27th Judicial
Circuit Bar Association
Post Office Box 320
Wytheville, Virginia 24382-0320

Joseph F. Silek, Esq.
President, Warren County
Bar Association
109-A East Main Street
Front Royal, Virginia 22630

David L. Scyphers, Esquire
President, Washington County
Bar Association
189 Valley Street
Abingdon, Virginia 24210

Douglas M. Swift, Jr., Esq.
President, Winchester-Frederick
County Bar Association
Post Office Box 2740
Winchester, Virginia 22601

Gregory M. Stewart, Esq.
President, Wise County
Bar Association
Post Office Box 770
Norton, Virginia 24273

Franklin P. Slavin, Jr., Esq.
President, Wythe County
Bar Association
Post Office Box 628
Wytheville, Virginia 24382

President, Buena Vista
Chamber of Commerce
2202 Magnolia Avenue
Buena Vista, Virginia 24416

President, Lexington
Chamber of Commerce
312 South Main Street
Lexington, Virginia 24450

President, Bedford
Chamber of Commerce
305 East Main Street
Bedford, Virginia 24523

President, Lynchburg
Chamber of Commerce
2015 Memorial Avenue
Lynchburg, Virginia 24506

President, Roanoke
Chamber of Commerce
310 First Street, S.W.
Roanoke, Virginia 24022

President, Salem
Chamber of Commerce
75 College Avenue
Salem, Virginia 24153

President, Galax
Chamber of Commerce
405 North Main Street
Galax, Virginia 24333

President, Radford
Chamber of Commerce
1126 Norwood Street
Radford, Virginia 24141

President, Covington
Chamber of Commerce
241 West Main Street
Covington, Virginia 24426

President, Clifton Forge
Chamber of Commerce
403 East Ridgeway
Clifton Forge, Virginia 24422

President, Waynesboro
Chamber of Commerce
301 West Main Street
Waynesboro, Virginia 22980

President, Winchester
Chamber of Commerce
1360 South Pleasant Valley Rd.
Winchester, Virginia 22601

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Chamber of Commerce
511 Thorn Rose Avenue
Staunton, Virginia 24401

President, Harrisonburg
Chamber of Commerce
800 Country Club Road
Harrisonburg, Virginia 22801

President, South Boston
Chamber of Commerce
515 Broad Street
South Boston, Virginia 24592

President, Martinsville
Chamber of Commerce
115 Broad Street
Martinsville, Virginia 24115

President, Danville
Chamber of Commerce
635 Main Street
Danville, Virginia 24541

President, Charlottesville
Chamber of Commerce
East Market & Fifth Avenue, N.E.
Post Office Box 1564
Charlottesville, Virginia 22902

President, Norton
Chamber of Commerce
765 Park Avenue, S.W.
Norton, Virginia 24273

Dr. Goulah
Medical Surgical Associates
North Main Street
South Boston, Virginia 24592

Dr. Ira Wile
Clinch Valley Physicians
Post Office Box CVPI
Richland, Virginia 24641

Dr. Kelly Taylor
130 Maple Avenue
Pennington Gap, Virginia 24277

Dr. Douglas Shiflett
Danville Medical Academy
101 Holbrook Street
Danville, Virginia 24541

Dr. W. B. Rutherford
Roanoke Academy of Medicine
Lewis Gale Clinic
Salem, Virginia 24153

Dr. Newell Falkinburg
1117 South Jefferson Street
Roanoke, Virginia 24016

Dr. Ellington
Rockbridge County Medical Society
146 South Main Street
Lexington, Virginia 24450

Dr. Joyce Shultz
Rockingham County Medical Society
765 East Market Street
Harrisonburg, Virginia 22801

Dr. Wayne T. Hutchison
Bedford County Medical Society
1700 Whitfield Drive
Bedford, Virginia 24523

Tom James
COVER
Post Office Box 1284
Charlottesville, Virginia 22902

Donnie Lowe
United Mine Workers
Post Office Box 28
Castlewood, Virginia 24224

AFL CIO
200 East Main Street
Abingdon, Virginia 24210

Mr. Mel Short
Mountain Empire Central
Labor Council Local #166
Post Office Box 2166
Abingdon, Virginia 24210

Dr. Anne Tucker
Albemarle Medical Society
Box 146
University of Virginia
Medical Hospital
Charlottesville, Virginia 22908

Dr. Joseph Leming
Post Office Box 29
Waverly, Virginia 23890

Dr. A. Arthur Steele
Augusta County Medical Society
42 Lambert Street, Suite 414
Staunton, Virginia 24401

Lynchburg Academy of Medicine
2225 Tate Springs Road
Lynchburg, Virginia 24501

Sidney Johnson, Executive Sec.
Southwestern Virginia Medical
Society
Post Office Box 3527
Radford, Virginia 24143

Dr. James E. Gardiner
Northern Virginia Medical Society
230 North Boscowlen Street
Winchester, Virginia 22601

Dr. Alan Adkins
R. J. Reynolds Hospital
Route 2, Box 71
Stuart, Virginia 24171

Dr. L. V. Marshall
Floyd County Medical Society
Post Office Box 197
Floyd, Virginia 24091

Chair, School Board
Albemarle County Public Schools
401 McIntire Road
Charlottesville, Virginia 22901

Chair, School Board
Amherst County Public Schools
Post Office Box 1257
Amherst, Virginia 24521

Chair, School Board
Augusta County Public Schools
Route 1, Box 252
Fishersville, Virginia 22939

Chair, School Board
Bedford City Public Schools
Post Office Box 807
Bedford, Virginia 24523

Chair, School Board
Bristol City Public Schools
222 Oak Street
Bristol, Virginia 24201

Chair, School Board
Buena Vista City Public Schools
Post Office Box 110
Buena Vista, Virginia 24416

Chair, School Board
Charlotte County Public Schools
Post Office Box 790
Charlotte Court House, Virginia
23923

Chair, School Board
Covington City Public Schools
340 East Walnut Street
Covington, Virginia 24426

Chair, School Board
Danville City Public Schools
Post Office Box 9600
Danville, Virginia 24543

Chair, School Board
Appomattox County Public Schools
Post Office Box 548
Appomattox, Virginia 24522

Chair, School Board
Bath County Public Schools
Post Office Box 67
Warm Springs, Virginia 24484

Chair, School Board
Bland County Public Schools
Post Office Box 339
Bland, Virginia 24315

Chair, School Board
Buchanan County Public Schools
Box 833
Grundy, Virginia 24614

Chair, School Board
Campbell County Public Schools
Post Office Box 99
Rustburg, Virginia 24588

Chair, School Board
Charlottesville City Public Schools
1562 Dairy Road
Charlottesville, Virginia 22903

Chair, School Board
Craig County Public Schools
Post Office Box 245
New Castle, Virginia 24127

Chair, School Board
Dickenson County Public Schools
Post Office Box 1127
Clintwood, Virginia 24228

Chair, School Board
Alleghany Highlands Public Schools
110 Rosedale Avenue
Covington, Virginia 24426

Chair, School Board
Arlington County Public Schools
1426 North Quincy Street
Arlington, Virginia 22207

Chair, School Board
Bedford County Public Schools
Post Office Box 748
Bedford, Virginia 24523

Chair, School Board
Botetourt County Public Schools
Post Office Box 309
Fincastle, Virginia 24090

Chair, School Board
Buckingham County Public Schools
Post Office Box 24
Buckingham, Virginia 23921

Chair, School Board
Carroll County Public Schools
Post Office Box 1328
Hillsville, Virginia 24343

Chair, School Board
Clarke County Public Schools
309 West Main Street
Berryville, Virginia 22611

Chair, School Board
Culpeper County Public Schools
1051 North Main Street, Etd.
Culpeper, Virginia 22701

Chair, School Board
Floyd County Public Schools
220 New Town Road
Floyd, Virginia 24091

Chair, School Board
Frederick County Public Schools
Post Office Box 3508
Winchester, Virginia 22601

Chair, School Board
Grayson County Public Schools
Post Office Box 219
Independence, Virginia 24348

Chair, School Board
Harrisonburg City Public Schools
317 South Main Street
Harrisonburg, Virginia 22801

Chair, School Board
Lee County Public Schools
5 Park Street
Jonesville, Virginia 24263

Chair, School Board
Montgomery County Public Schools
Post Office Box 29
Christiansburg, Virginia 24073

Chair, School Board
Pittsylvania County Public Schools
Post Office Box 232
Chatham, Virginia 24531

Chair, School Board
Fluvanna County Public Schools
Post Office Box 419
Palmyra, Virginia 22963

Chair, School Board
Galax City Public Schools
223 Long Street
Galax, Virginia 24333

Chair, School Board
Greene County Public Schools
Post Office Box 98
Stanardsville, Virginia 22973

Chair, School Board
Henry County Public Schools
Post Office Box 8958
Collinsville, Virginia

Chair, School Board
Lexington City Public Schools
300-A White Street
Lexington, Virginia 24450

Chair, School Board
Manassas Park City Public Schools
One Park Center Court, Suite A
Manassas Park, Virginia 22111

Chair, School Board
Nelson County Public Schools
Post Office Box 276
Lovingston, Virginia 22949

Chair, School Board
Page County Public Schools
735 West Main Street
Luray, Virginia 22835

Chair, School Board
Franklin County Public Schools
102 Bernard Road
Rocky Mount, Virginia 24151

Chair, School Board
Giles County Public Schools
Route 1, Box 52
Pearisburg, Virginia 24134

Chair, School Board
Halifax County Public Schools
Post Office Box 1849
Halifax, Virginia 24558

Chair, School Board
Highland County Public Schools
Post Office Box 250
Monterey, Virginia 24465

Chair, School Board
Madison County Public Schools
Post Office Box 647
Madison, Virginia 22727

Chair, School Board
Martinsville City Public Schools
Post Office Box 5548
Martinsville, Virginia 24115

Chair, School Board
Norton City Public Schools
Post Office Box 498
Norton, Virginia 24273

Chair, School Board
Patrick County Public Schools
Post Office Box 346
Stuart, Virginia 24171

Chair, School Board
Pulaski County Public Schools
44 Third Street, N.W.
Pulaski, Virginia 24301

Chair, School Board
Roanoke City Public Schools
Post Office Box 13145
Roanoke, Virginia 24031

Chair, School Board
Rockingham County Public Schools
304 County Office Building
Harrisonburg, Virginia 22801

Chair, School Board
Scott County Public Schools
261 East Jackson Street
Gate City, Virginia 24251

Chair, School Board
South Boston City Public Schools
Post Office Box 1849
Halifax, Virginia 24558

Chair, School Board
Warren County Public Schools
111 East Criser Road
Front Royal, Virginia 22630

Chair, School Board
Winchester City Public Schools
Post Office Box 551
Winchester, Virginia 22601

Chair, School Board
Radford City Public Schools
Post Office Box 3698 FFS
Radford, Virginia 24143

Chair, School Board
Roanoke County Public Schools
526 College Avenue
Salem, Virginia 24153

Chair, School Board
Russell County Public Schools
Post Office Box 8
Lebanon, Virginia 24266

Chair, School Board
Shenandoah County Public Schools
Post Office Box 488
Woodstock, Virginia 22664

Chair, School Board
Staunton City Public Schools
Post Office Box 2626
Staunton, Virginia 24401

Chair, School Board
Washington County Public Schools
812 Thompson Drive
Abingdon, Virginia 24210

Chair, School Board
Wise County Public Schools
Post Office Box 1217
Wise, Virginia 24293

Chair, School Board
Rappahannock County Public Schools
Post Office Box 273
Sperryville, Virginia 22740

Chair, School Board
Rockbridge County Public Schools
417 Morningside Drive
Lexington, Virginia 24450

Chair, School Board
Salem City Public Schools
19 North College Avenue
Salem, Virginia 24153

Chair, School Board
Smyth County Public Schools
Post Office Box 987
Marion, Virginia 24354

Chair, School Board
Tazewell County Public Schools
Post Office Box 469
Tazewell, Virginia 24651

Chair, School Board
Waynesboro City Public Schools
301 Pine Avenue
Waynesboro, Virginia 22980

Chair, School Board
Wythe County Public Schools
1570 West Reservoir Street
Wytheville, Virginia 24382

Department of Veterans Affairs
Commonwealth of Virginia
210 Franklin Road, S.W., Room 1012
Post Office Box 809
Roanoke, Virginia 24004

Mr. Charles Tonn
Disabled American Vets Association
United States Courthouse
Federal Building
210 Franklin Road, S.W.
Roanoke, Virginia 24011

NVLSP
2001 South Street, S.W., Suite 610
Washington, DC 20009

MHLP
1101 15th Street, N.W., Suite 1212
Washington, DC 20005

Dr. Sue Sturgill
Wise County Medical Society
Highway 1000
Big Stone Gap, Virginia 24219

Dr. Dan Patel
Buchanan County Medical Society
124 U.S. 460 East
Grundy, Virginia 24614

/lt

WESTERN DISTRICT OF VIRGINIA
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

Additional Mailing List for Public Hearing

August 26, 1992

Richard C. Austin
Route 1, Box 267
Dungannon, Virginia 24245

Pete Castelli
CCHW
Post Office Box 639
Floyd, Virginia 24091

Anthony Flaccavento
Post Office Box 660
St. Paul, Virginia 24283

Gerald Gray Law Firm
Post Office Box 929
Clintwood, Virginia 24228

Maxine Kenny
306 Madison Street
Whitesburg, Kentucky 41858

David Monsma, Esq.
Toxics Project
6930 Carroll Avenue, Suite 600
Takoma Park, Maryland 20912

Barney Reilly
Route 1, Box 602
Clinchco, Virginia 24226

Geraldine Scardo
Box 248
Clintwood, Virginia 24228

Arthur Smith
100 Otari Drive
Kingsport, Tennessee 37664

Darlene Wilson
Central University of Virginia
Wise, Virginia 24293

/lt

Marie Deans
Virginia Coalition on Jails and Prisons
1806 Chantilly Street, Suite 202
Richmond, VA 23230

KILGORE & PHILLIPS

Attorneys at Law

Russell Street
P. O. Drawer 1210
St. Paul, Virginia 24283

A Professional Corporation Incorporated Under the Name Frank Kilgore, P. C.

FRANK KILGORE
CLARENCE E. "BUD" PHILLIPS

TELEPHONE (703) 762-2201
FAX (703) 762-5593

October 20, 1992

Philip Stone, Chairman
U. S. Civil Advisory Committee
P. O. Box 809
Harrisonburg, Virginia 22801

Dear Phillip:

On October 15, 1992, Jim Jones and I conducted a public hearing in St. Paul, Virginia regarding comments and suggestions for our committee. In attendance were the mayors of the towns of St. Paul and Castlewood, Delegate Bud Phillips, and members of the press. We also received a letter from Gregory M. Stewart, president of the Wise County Bar Association, which I am enclosing herewith.

The consensus of the speakers was that the federal courthouse in Big Stone Gap should not only remain open, but should be expanded to help accommodate the activities there, especially when bankruptcy court and the magistrate are holding hearings simultaneously with the district court. As we found in Roanoke, the members of the public in attendance were complimentary of the general nature of the handling of civil cases in the Western District. I think this speaks well for our district and everyone present at the public hearing was very gratified that the committee saw fit to hold a public hearing in the coalfields.

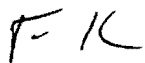
Delegate Jackie Stump had intended to attend to discuss the overlapping of jurisdictions of state and federal court during labor hearings but called at the last minute to state that he had to go to Richmond in his capacity as a member of the Virginia General Assembly for a meeting. Therefore, we did not have any direct input at the public hearing regarding this particular issue.

I would like to personally thank the committee for allowing the public hearing to be held in our area. The hearing was well publicized on radio, T.V., and the print media. The only conclusion I could reach after the public hearing is that our federal court system in the Western District is not broken and therefore we are not receiving many comments on how to fix it. The overriding concern is that the Big Stone Gap courthouse not be closed because of the terrible inconvenience that would pose to parties and jurors in the farthest reaches of the outlying counties.

Page Two
Phillip Stone, Chairman
October 20, 1992

I hope that you will share this report and attachment with the other members of our committee and I will see each of you at our next scheduled meeting.

Very truly yours,



Frank Kilgore

FK/cdm

Enclosure

cc: Jim Jones (with enclosure)
Joan Shaughnessy (with enclosure) ✓

STURGILL & STEWART

A Professional Corporation Incorporated Under the Name Sturgill & Sturgill, P.C.

ATTORNEYS AT LAW
464 PARK AVENUE
NORTON, VIRGINIA 24273WILLIAM J. STURGILL
GREGORY M. STEWARTP. O. BOX 770
TELEPHONE (703) 679-4477
FAX (703) 679-7238

October 15, 1992

Mr. Frank Kilgore
Attorney at Law
P. O. Box 1210
St. Paul, Virginia 24283

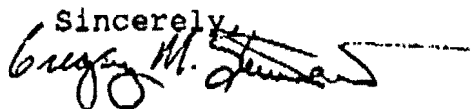
Dear Frank:

I apologize for not being able to attend the committee meeting in regard to improvements to the Federal Court in our area. However, I request that you please accept this letter in behalf of the Wise County Bar Association.

The Wise County Bar Association has found the United States District Court for the Western District of Virginia to be very efficient and we trust that the Court will continue in a similar manner. We further trust that the Clerk's Office and Federal Courthouse in Big Stone Gap will remain operational.

We suggest that in order to alleviate the overcrowding situation in the Big Stone Gap Courthouse during the numerous bankruptcy, social security, magistrate, and other hearings and/or trials which are regularly scheduled simultaneously in that Courthouse, the Courthouse facility should be expanded to provide enough courtrooms for these various hearings and/or trials.

I trust this information and suggestion will be helpful to the committee in its endeavors to improve upon the Federal Court for our area.

Sincerely,
Gregory M. Stewart, President
Wise County Bar Association

sdg

Cross-Reference Table

CJRA Statutory Directive*

Response in Report

§ 472 (c) (1) (A) & (B)
(condition of docket and trends
in case filing)

Chapter III

§ 472 (c) (1) (C)
(causes of cost and delay
identified)

Chapters V and VI.A

§ 472 (c) (1) (D)
(impact of legislation)

Chapter VI. G
(discussing effect of
legislation on criminal docket)

§ 472 (c) (2)
(particular needs and
circumstances of Western
District of Virginia)

Chapters II, VI.H and VI.I.1
(discussing number of
divisions, size of social
security and prisoner petition
docket and absence of local
rules)

§ 472 (c) (3)
(contributions by court,
litigants and attorneys)

Chapter VI.I.4

§ 473 (a) (1)
(differential case management)

Chapter VI.B

§ 473 (a) (2) (A)
(early involvement of judicial
officer in case)

Chapter VI.C.4 and VI.D
(recommending early reference
of cases to Magistrate Judges)

§ 473 (a) (2) (B)
(early, firm trial dates)

Chapter VI.C.1 and VI.F
(recommending early setting of
trial date and means for
managing trial calendar)

§ 473 (a) (2) (C)
(control of discovery)

Chapter VI.C and VI.D
(recommending discovery cut-
off, discovery limits and
reference to magistrate judge
for supervision of discovery)

§ 473 (a)(2)(D)
(disposition of motions)

Chapter VI.C and VI.E
(recommending time limit for motions and guidelines for decisions on dispositive motions)

§ 473 (a)(3)
(complex case management)

Chapter VI.C.4 and VI.D
(recommending that Magistrate Judge be authorized to engage in ongoing supervision of cases which require such treatment)

§ 473 (a)(4)
(voluntary disclosure and cooperative discovery)

Chapter VI.C.3 and VI.C.4
(recommending discovery limits, subject to change by magistrate judge. No recommendation for voluntary exchange of information)

§ 473 (a)(5)
(certification of effort to resolve discovery dispute)

Chapter VI.D.3
(recommending that attorneys be expected to attempt resolution of discovery disputes; rejecting certification requirement)

§ 473 (a)(6)
(alternative dispute resolution)

Chapter VI.D and VI.J
(recommending discussion of ADR, if desirable, at initial conference with magistrate judge and further study of ADR)

§ 473 (b)(1)
(presentation of discovery - case management plan at initial pretrial conference)

Chapter VI.D.1
(recommending discussion of discovery plans and anticipated problems at initial conference. Not recommending preparation of formal document before conference)

§ 473 (b)(2)
(requirement that attorney at pretrial conference be authorized to bind party)

(Not recommended. See below for recommendation that magistrate judge be authorized to require attendance of parties)

§ 473 (b)(3)
(requests for extensions be signed by attorney and party)

(Not recommended; Chapter VI.c recommends initial consultation with counsel on deadlines, with discretion in the magistrate judge, in consultation with the district judge, to alter deadlines as needed)

§ 473 (b)(4)
(early neutral evaluation)

Chapter VI.D.1
(recommending initial
conference before magistrate
judge in lieu of formal early
neutral evaluation program)

§ 473 (b)(5)
(authority to require presence
of parties at settlement
conference)

Chapter VI.D.2
(recommending that magistrate
judge have such authority)

§ 475
(continuing assessment)

Chapter VI.J

§ 478
(membership of advisory group)

Chapter V.4

* All references are to sections of Title 28 of the United States
Code.

ADR RESOURCES AVAILABLE IN THE WESTERN DISTRICT OF VA, 1992

<u>LOCATION</u>	<u>PROVIDER</u>	<u>SERVICES RENDERED</u>
Abingdon	28th Dist. Juv. C.S.U.	M(DR),A,ND
Appomattox	10th Dist. J&DR C.S.U.	M(DR)
Campbell	Hawkins, David A.	A,MT,SC,SJT
Charlottesville	16th Dist. Juv. C.S.U. Emery, Robert FOCUS/The Mediation Center Institute for Environmental Neg.	M(DR) M(DR) M,T M,MT,NA
Gate City	30th Dist. Juv. C.S.U.	M(DR)
Giles	29th Dist. Juv. C.S.U.	M(DR)
Harrisonburg	Center for Mediation (JMU) Community Mediation Center Fairfield, Kathryn Hess, Susan Hoover, Eliza Hoover, Lawrence H., Jr. Wettstone, Richard P.	C,M,A,NA,SC,T C,M,NA,F,T C,M,A C,M,NA M,NA,SC C, M,A,T C,M,NA
Lynchburg	24th Dist. C.S.U. Mediation Center for Central VA Morrison, Frank West	M(DR),ND M,T M(DR)
Martinsville	21st Dist. Juv. C.S.U.	M(DR),Criminal,ND
Montgomery	27th Dist. C.S.U. Mullen, David W.	M(DR),ND A,NA,SC
Nelson	Willett, Fehrunissa	M(DR),ND
Orange	Ellerson, H. Watkins	C,M,MT,NA
Patrick	Corbett, Christopher A.	C,M,A,MT,NA,SC,SJT
Pittsylvania	Lucy G. Moore and Assoc.	M(DR)
Pulaski	Sadler, Philip M.	C,M,NA
Roanoke	Conflict Resolution Center,Inc. Family Mediation Services Peters, Holly S. Roanoke City Dept. of Soc. Ser.	M,C,A,T M(DR),T M(DR) M(DR)
Salem	Roanoke Co. Dept. of Soc. Ser.	M(DR)

ADR RESOURCES, cont.

Staunton	25th Dist. Juv. C.S.U. Augusta Center for Mediation Seltzer, Curtis	M(DR),C C,M,A,NA M.A
Tazewell	Henderson and deCourcy,P.C.	C,M,NA

KEY

A	Arbitration
C	Conciliation
(DR)	Domestic Relations
F	Facilitation
M	Mediation
MT	Mini Trial
NA	Neutral Advisor
ND	Neighborhood Dispute
SC	Settlement Conference
SJT	Summary Jury Trial
T	Training