

Appendix M

Circuit-Based Meetings: Sample Report

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**REPORT ON THE FINDINGS OF
THE FIRST CIRCUIT DISTRICT COURT CASE WEIGHTS CONSENSUS MEETING
HELD OCTOBER 21-22, 2003 IN BOSTON, MA**

I. Civil Case Worksheet Comment and Recommendations

A. Consensus Values (Refer to Attachment A)

B. Event Types

Other Non-Evidentiary Hearing	Participants note from examination of the JS-10 that this event includes jury selection in cases which settle before evidence is introduced.
Order on Any Other Enumerated Motion	<p>Memorandum opinion should be removed from the list and the category should be divided into the following: 1) Order on a Dispositive/Substantive Motion and 2) Order on Any Other Enumerated Motion. Participants provided estimates for the reorganized categories and, additionally, indicated a formula to be used to determine cell entries for the original, broad category (i.e., combine estimates according to a 3:1 ratio). Staff performed the calculation and entered the estimate in the matrix, rounded to the nearest 10-minutes. Participants identified the motions contained in the reorganized subcategories (see Attachment A).</p> <p>Removal of memorandum opinion was recommended because participants determined that the time associated with the opinion has already been accounted for in the estimate of the work on the order. This decision reflects a docketing practice difference among the courts.</p>
Trial Prep	<p>The estimate should encompass time spent preparing as the trial is ongoing. The consensus estimates of the circuit include this additional time.</p> <p>Participants discussed and calibrated their estimates through reference to the data-based trial time averages.</p>

C. Civil Case Adjustments

All Adjustments	No more than one adjustment should apply to any individual case. Apply the single highest adjustment.
Multiple Parties (5 or more)	Apply a 10% increase.
Class Action	Apply a 4% increase to <i>certified</i> class actions.
Motions (more)	Apply a 7% increase.

than 50)	
Record Review / Appeal	Create an adjustment reflecting Record Review / Appeal. Apply the adjustment to the following six case types: Bankruptcy Appeals (but not Withdrawals) (480 mins), Social Security (240 mins), FOIA cases (360 mins), IDEA cases (480 mins), Telecommunication cases (480 mins), and Administrative Procedures Act cases (840 mins). Application to the last three case types assumes the cases can be distinguished using information on the JS-44.

D. Case Types

IDEA cases	Distinguish IDEA cases for the purpose of allocating time for record review.
Telecomm Act cases	Distinguish Telecommunications Act cases for the purpose of allocating time for record review.
Administrative Procedures Act cases	Distinguish Administrative Procedures Act cases for the purpose of allocating time for record review.

E. Specific Combinations of Civil Case Types and Events

As noted, participants recommend applying a Record Review / Appeal adjustment to IDEA, Telecommunications Act, and Administrative Procedures Act, FOIA, and Social Security cases as well as Bankruptcy Appeals.

Participants noted that the estimate for Bankruptcy Appeals and Withdrawals in the Other Non-Evidentiary Hearing category includes argument on the merits of an appeal.

II. Criminal Case Worksheet Remarks and Recommendations

A. Consensus Values (Refer to Attachment B)

B. Event Types

Arrestment or Plea Hearing	The category should be divided into the following: 1) Arrestment Hearing and 2) Plea Hearing. Participants provided estimates for the reorganized categories only. One participant requested that the meeting report reflect that waiver of indictment is included.
Order on Any Other Enumerated Motion	The category should be divided into the following: 1) Order on a Dispositive/ Substantive Motion and 2) Order on Any Other Enumerated Motion. Participants provided estimates for both the reorganized categories and a formula to apply to the original, broad category. Participants identified the motions contained in the reorganized categories. See Attachment B for the breakout of listed motions.
Trial Prep	The estimate should encompass time spent preparing as the trial is ongoing. The consensus estimates of the circuit include this additional time. Participants discussed and calibrated their estimates through reference to the data-based trial time averages.

C. Criminal Case Adjustments

Multiple Defendants	Apply a substantial discount to the events of cases involving multiple defendants, except for the arrestment, plea hearing, and sentencing hearing events. Participants suggested a discount in the range of 30-60% as appropriate.
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D. Case Types None.

E. Specific Combinations of Criminal Case Types and Events None.

III. General Remarks and Recommendations on the Methodology

None not already noted.

§2254 Habeas Corpus	20					(240/240)240	120			
§2255 Vacate Sentence	20					(240/120)210	120			
Mandamus										
Deportation / Immigration										
Social Security	30		60					60		
Copyright and Trademark		60		720	45	(240/60)200	400	90		
Patent	90	90	120	1200	60	(600/90)470	750	120		
Land Condemnation							150			
Foreclosure	30			120		(80/30)70	60			
Other Property Actions										
ERISA		60		480						
All Other Labor										
Forfeiture and Penalty							120			
Freedom of Information Act										
Federal Tax Suits							120			
Environmental Matters	60	60		720	45	(480/45)370	750	60		
All Other Actions										

¹The estimates in parentheses reflect the recommendation to remove memorandum opinion from the list of included activities and then divide the category into: 1) order on substantive or otherwise time-consuming motions and 2) order on the remaining enumerated motions. The estimates following the parentheses conform to the original instruction. Per the instruction of participants, they are calculated according to a 3:1 ratio. Staff rounded to the nearest 10 minutes.

Recommended classification:	<u>Order on a dispositive/ substantive motion</u>	<u>Order on any other enumerated motion</u>
	order on motion to dismiss case	order on motion for declaratory judgment
	order on motion to dismiss for lack of jurisdiction	order on motion to remand
	order on motion for judgment on the pleadings	order on motion for change of venue
	order on motion for temporary restraining order	order referring case to arbitration
	order on motion for preliminary injunction	order on motion to withdraw reference
	order on motion for permanent injunction	order on motion for judgment as a matter of law
	order on motion to intervene	order on motion in limine
	order on motion to certify class	judgment
	findings of fact and conclusions of law	order on motion to vacate/set aside/correct sentence (2255)
		order adopting report and recommendations
		order on motion for reconsideration
		contempt order
		order on motion for new trial
		order on motion for certificate of appealability
		order on motion for judgment of attorney fees

² Record Review / Appeal time to be applied to IDEA cases (480 mins), Telecommunications Act cases (480 mins), Administrative Procedures Act cases (840 mins), FOIA cases (360 mins), and Social Security cases (240 mins), as well as Bankruptcy Appeals (but not withdrawals) (480 mins).

Circuit ID = 1

CRIMINAL	Non-Evidentiary Proceedings					Chambers Activities				Adjust.
Case Type	Confer- ence	Motion	Arraign- & Plea ¹	Senten- cing	Other	Suppres- sion	Other Order ²	Trial Prep	Hearing Prep	Multi- Defendant ³
Judge's Consensus Default	20	35	(10/40)	45	30	120	(120/20)95	180	60	30-60% discount
Murder, Manslaughter	40	60	(10/60)	90				360		
Assault, Kidnapping	40	60	(10/60)	90				240		
Sexual Offenses	30	45		60		150		240		
Robbery and Burglary										
Larceny and Theft										
Embezzlement, Forgery										
All Fraud	30	45	(10/50)	60				240		
Alien Smuggling								60		
Other Immigration								60		
Sell or Distribute				60						
Import / Export				60						
Manufacture				60						
Possession				30						
Continuing Criminal Enterprise	40	60	(10/50)	90				360		
Firearms										
All Extortion, Threats, RICO	40	60	(10/50)	60				360		
Espionage and Terrorism	40	60	(10/60)	120				360		
All Other Felonies										
Misdemeanor & Petty			(10/30)	30		60	(60/10)48	60	30	
TSR/Probation Evidentiary									30	
TSR/Probation Non-Evidentiary									30	

¹ The estimates in parentheses reflect the recommendation to divide the category into: 1) arraignment hearing and 2) plea hearing.

² The estimates in parentheses reflect the recommendation to remove memorandum opinion from the list of included activities and then divide the category into: 1) order on substantive or otherwise time-consuming motions and 2) order on the remaining enumerated motions. The estimates following the parentheses conform to the original instruction (and are calculated according to a 3:1 ratio as directed by participants).

Recommended classification:

Order on a dispositive/ substantive motion
order on motion to dismiss case
order on motion to dismiss/speedy trial
order on motion for a judgment of acquittal (Rule 29)
order on motion to bifurcate
order on motion to sever defendant
order on motion to disqualify counsel
findings of fact
memorandum opinion

Order on any other enumerated motion
order on motion for speedy trial
order on motion to withdraw as attorney
order on discovery motion
order on motion to exclude
order on motion for forfeiture of property
order on motion in limine
order on motion to quash
order on motion for protective order
order on motion for psychological or psychiatric exam
order on motion for reconsideration
order on motion for release from custody
order on motion to appoint expert
order on motion to withdraw plea
order on motion to modify conditions of release
judgment
order on motion for new trial
order on motion to seal
order on motion to reduce sentence
contempt order
order adopting report and recommendations
order authorizing payment of CJA voucher
order on motion for certificate of appealability
order on motion for judgment on attorney fees

³ The circuit recommends a substantial discount be applied to events in cases involving multiple defendants, except for arraignment, plea hearing, and sentencing hearing events.