

**UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OHIO**



**ANNUAL ASSESSMENT OF THE CIVIL AND CRIMINAL DOCKET**

**PURSUANT TO THE CIVIL JUSTICE REFORM ACT OF 1990**

**FEBRUARY 7, 1995**

**Northern District of Ohio  
Annual Assessment of Civil and Criminal Docket  
Pursuant to Civil Justice Reform Act of 1990  
February 7, 1995**

The Northern District of Ohio adopted a delay and cost reduction plan effective January 1, 1992 pursuant to its role as a Demonstration District under the Civil Justice Reform Act (CJRA) of 1990. The CJRA requires that after adopting a plan, each district court must annually assess the condition of its civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. 28 U.S.C. §475. In compliance with the CJRA, this report shall serve as the assessment of the civil and criminal dockets of the Northern District of Ohio following calendar year 1994.

During 1994, the Northern District of Ohio continued several programs and procedures first implemented in 1992 that were designed to enhance the efficient management of its docket, reduce the pending inventory of cases and motions and avoid unnecessary cost and delay. Among the innovative procedures being used by the Court are: a Differentiated Case Management (DCM) plan, a wide menu of court-annexed Alternative Dispute Resolution (ADR) options, a Pending Inventory Reduction Plan (PIRP), a Master Trailing Docket and a Visiting Judge program. The Court has also made efforts to more fully integrate magistrate judges into the management of civil dockets.

**Executive Summary**

The results after three years of operation under these new programs and procedures are encouraging. The DCM, ADR, PIRP, Visiting Judge and Master Trailing Docket programs implemented in 1992, along with increased utilization of magistrate judges, have greatly assisted the Court in effectively managing its docket during a period in which there was a shortage of judicial resources.

The Northern District of Ohio is authorized 12 district court judgeships and seven magistrate judgeships. Entering 1994, five district court judgeships were vacant with one vacancy existing since 1989. In addition, the seventh magistrate judge position was only recently authorized and has not yet been filled. At no time during the demonstration period has the Court been at full judicial strength.

While five new district judges were appointed to the bench in 1994, another district judge took senior status, leaving one vacancy yet to be filled. The ranks of the senior judges were also reduced by the death of a judge in 1994.

High turnover is expected to continue because the Chief Judge will retire in February, 1995 and two other judges are currently eligible for retirement. In addition two more judges will become eligible for retirement by May of 1996. The situation is critical since one of the district's judgeships is considered temporary and is scheduled to lapse with the first vacancy that occurs on or after December 1, 1995. With five of the 11 active judges eligible for retirement before or near the

lapse date, the district is at great risk of losing the temporary judgeship.

Included among the findings of this report are:

- The number of civil case filings fell 3.61% from 3,550 in 1993 to 3,422 in 1994. Civil filings were 1.06% above the 3,386 civil cases filed in 1991 immediately prior to the implementation of the DCM plan. Civil case filings per full-time equivalent (F.T.E.) judge dropped 14.85% from 430.30 in 1993 to 366.38 in 1994 although they remained 8.2% over the 338.60 filings per F.T.E. in 1991.
- Civil case closings fell 3.93% from 3,485 in 1993 to 3,348 in 1994. Civil case closings in 1993 were 8.4% below the 3,655 cases closed in 1991. Civil case closings per F.T.E. judge also declined by 15.41% from 422.4 in 1993 to 358.96 in 1994. Compared to 1991, civil closings per F.T.E. judge were down 1.93% from 365.5. The drop in case closings per F.T.E. in 1994 reflects the addition of the five newly appointed judges who are only now becoming fully familiar with their dockets.
- The number of pending civil cases rose 4.12% from 3,543 at the end of 1993 to 3,689 at the end of 1994. Since the close of 1991, the number of pending civil actions is up 3.39% from 3,568.
- Criminal case filings rose 3.68% from 462 in 1993 to 479 in 1994. Criminal case filings were 11.4% above the 430 criminal cases filed in 1991. Criminal defendant filings rose 1.2% from 669 in 1993 to 677 in 1994. Criminal defendant filings were 1.02% below the 684 defendant filings in 1991.
- Criminal case closings fell 11.47% from 523 in 1993 to 463 in 1994. However, 1994 criminal case closings were 3.35% higher than the 448 criminal cases closed in 1991. Criminal defendant closings dropped 17.64% from 771 in 1993 to 635 in 1994 which was the same number of closings achieved in 1991.
- The number of pending criminal cases rose 9.45% from 307 at the end of 1993 to 336 at the end of 1994. During the same period the number of pending defendants increased 14.67% from 450 to 516. Since the end of 1991, pending criminal cases increased 10.89% and the number of pending criminal defendants rose 1.57%
- Since the inauguration of the DCM program, 5,313 cases have received track assignments including: 716 (13.5%) expedited track assignments, 2,443 (46%) standard track assignments, 223 (4.2%) complex track assignments, 54 (1%) mass tort track assignments and 1,877 (35.3%) administrative track assignments.
- Cases assigned to tracks are being resolved more quickly, on average, than the guidelines established by the DCM Plan. The

terminated expedited track cases have been completed, on average, within about eight months; standard and administrative track cases have been completed in about 11 months; and complex and mass tort track cases have been completed in about 13 months.

- Some 1,167 cases have now been referred to the district's court-annexed ADR program including: 465 cases to Early Neutral Evaluation; 613 cases to Mediation; 28 cases to Arbitration; 58 cases to Summary Jury Trial; two cases to Summary Bench Trial; and one case to a mini-trial process. Of the 1,062 cases that have now completed ADR, 392 or over 37% were resolved prior to or through the ADR proceeding.
- Over 95% of the civil cases that were pending on December 31, 1991 immediately before the implementation of the new DCM plan were closed by the last day of 1994. Included in this category are many "hard core durable" cases that had been pending several years.
- The number of cases three years and older has been reduced by over 55% since the district initiated its Pending Inventory Reduction Plan at the close of 1991. At the end of 1994 there were 178 cases three years and older compared to 399 in 1991. However, the number of cases three years and older rose 23.61% from 144 in 1993.
- The number of motions pending six months or longer was reduced dramatically from 1,420 in September, 1993 to 280 in September, 1994, down over 80%.
- The number of cases that were inactive for 90 days or longer at the end of the year was reduced from 677 in 1993 to 564 in 1994, down 16.69%.
- The number of cases on the "unassigned" docket was reduced from 12 in 1993 to 6 in 1994. Since 1991, the number of "unassigned" cases has been reduced 93.75%.
- The role of the magistrate judges in the management of civil cases continues to be significant. Magistrate judges currently preside over 348 (9.43%) of the pending civil cases. Magistrate Judges were the presiding judicial officers for 396 (12%) of the civil cases that were resolved in 1994, up 45.58% from the 272 civil cases magistrate judges closed in 1991.

### **Judicial Resources**

#### **District Judges**

The Northern District of Ohio is authorized 12 judgeships and seven magistrate judges with one magistrate judge position being authorized in 1994. Entering 1994, however, the district was suffering under a severe shortage of judicial officers with only seven active judges on duty and with one of the five vacancies existing since 1989. The five vacant



judgeships represented over 41% of the authorized district court judgeships.

During 1994, five new district judges were appointed: one in February, two in May and two more in October. The new additions were offset by the death of one judge in October who had changed from active to senior status in April and by the reduction in caseload of a senior judge from a full to a 25 percent draw. Currently, 11 of the 12 authorized district court judgeships are filled and one vacancy remains. The district is fortunate to receive the continuing support of four senior judges.

On a full-time equivalent (F.T.E.) basis, which accounts for each active and senior judge according to their proportional participation in the civil and criminal draws throughout the year, the number of available judges rose 13.21% from 8.25 F.T.E. in 1993 to 9.34 F.T.E. in 1994. The number of F.T.E. judges was 6.6% below the 10 F.T.E. judges available in 1991.

Full-Time Equivalent (F.T.E.) Judges By Year						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Active Judges	10	8.08	7	8.71	24.43	-12.90
Senior Judges	3	4.42	4	4.54	13.50	51.33
Full-Time Equivalent Judges on Draw	10	8.87	8.25	9.34	13.21	-6.60
<p>Figures for Active and Senior Judges reflect the proportion of the year served in the respective capacity for judge's whose status changed in mid-year.</p> <p>Full-Time Equivalent (F.T.E.) figures reflect the proportion of the year served and account for the partial proportion of the draw allotted to the Chief Judge and Senior Judges.</p>						

Even after the vacant district court judgeship is filled, the district will not be assured of adequate judicial staffing because five of the 11 active judges are already at or near retirement age. For instance: two judges are eligible for immediate retirement and the Chief Judge has announced that he will retire as soon as he is eligible in February, 1995. Two other judges will be eligible for retirement by May, 1996. The situation is critical because the district's temporary judgeship will lapse with the first vacancy occurring on or after December 1, 1995.

In the midst of this rapid judicial turnover, the Court has worked diligently to fulfill its mission as a Demonstration District under the Civil Justice Reform Act of 1990. While the district is putting forth its best efforts to ensure that the case management and alternative

dispute resolution techniques developed and tested here will serve as a nationwide model for reducing cost and delay in civil litigation, that effort has been strained by the continuing judicial vacancies and the anticipated loss of the districts most experienced judges. Under these circumstances, the utilization of efficient case management techniques is all the more important.

Magistrate Judges

The district was authorized six magistrate judges entering 1994 and a seventh magistrate judge to be assigned to the new Youngstown Courthouse was authorized during the year. When all seven magistrate judges are on duty four will be stationed in Cleveland, one in Akron, one in Toledo and one in Youngstown. Only five of the magistrate judge positions were filled throughout 1994. The magistrate judge in Toledo was elevated to a district court judgeship in May and his replacement as magistrate judge entered on duty at the close of September. The magistrate judge stationed in Akron will continue to travel to the Youngstown Courthouse on a regular basis until the Youngstown magistrate judge position is filled.

Civil Docket

Civil Case Filings

Civil case filings in the Northern District of Ohio fell 3.61% from 1993 to 1994 but were 1.06% above the figures for 1991. Some 3,422 non-asbestos civil cases were filed in 1994 compared to 3,550 civil case filings during 1993 and 3,386 cases filed in 1991.

Civil case filings per F.T.E. judge dropped 13.21% from 430.30 in 1993 to 366.38 in 1994. Civil case filings per F.T.E. increased 8.2% from 338.60 in 1991.

Non-Asbestos Civil Case Filings						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Filings	3,386	3,547	3,550	3,422	-3.61	1.06
F.T.E. Judges	10.00	8.75	8.25	9.34	13.21	-6.60
Filings Per F.T.E.	338.60	405.37	430.30	366.38	-14.85	8.20

According to the June 1994 Federal Court Management Statistics Judicial Workload Profile, the district's civil case filings (including asbestos cases) per authorized judgeship jumped over 36% from 496 in 1993 to 676 in 1994 while the national average for all district courts rose only 3.41% from 352 to 364. From 1991 to 1994 case filings per authorized judgeships were up 82.7% in the Northern District of Ohio compared to 13.75% nationally.

Total Civil Case Filings Per Judgeship (Includes Asbestos Cases)						
Source: Federal Court Management Statistics Profile						
	June 30, 1991	June 30, 1992	June 30, 1993	June 30, 1994	% Change 1993-1994	% Change 1991-1994
U.S. Average	320	350	352	364	3.41	13.75
Northern District of Ohio	370	383	496	676	36.29	82.70

The Administrative Office uses a system of weighting cases by case type in order to measure the relative difficulty of various district court case loads. Historically, the Northern District of Ohio had a high weighted caseload due to the large number of complex asbestos-related personal injury claims filed here. However, after all asbestos cases pending in federal court were transferred to the Eastern District of Pennsylvania for MultiDistrict litigation, asbestos cases were removed from the weighting system and the historical statistics were recalculated.

In 1994 the district's 429 weighted civil case filings per authorized judgeship were 2.6% higher than the national average of 418. The degree of difficulty of that caseload has also been increasing at a greater rate than the national average, rising 4.89% from 409 weighted civil filings in 1993 to 429 weighted civil filings in 1994 while the national average for all district courts rose minimally from 417 to 418. Since 1991, the district's weighted case filings are up 24.35% compared to a 10% increase for all district courts.

Weighted Civil Case Filings Per Judgeship (excludes asbestos cases)						
Source: Federal Court Management Statistics Profile						
	June 30, 1991	June 30, 1992	June 30, 1993	June 30, 1994	% Change 1993-1994	% Change 1991-1994
U.S. Average	380	404	417	418	0.24	10.00
Northern District of Ohio	345	368	409	429	4.89	24.35

#### Civil Case Closings

The Northern District of Ohio experienced a 3.93% decline in civil case closings from 3,485 in 1993 to 3,348 in 1994. The 1994 closings are also 8.4% below the 3,655 cases closed in 1991.

Civil cases closings per F.T.E. judge also declined 15.41% from 422.42 in 1993 to 358.46 in 1994. Since 1991, closings per F.T.E. judge are down 1.93%. Case closing figures are expected to rise as the five new district judges become fully familiar with their dockets. Any gains, however, could be offset if experienced judges retire or otherwise cut back on their workload.

Non-Asbestos Civil Case Closings						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Closings	3,655	3,829	3,485	3,348	-3.93	-8.40
F.T.E. Judges	10.00	8.75	8.25	9.34	13.21	-6.60
Closings Per F.T.E.	365.50	437.60	422.42	358.46	-15.14	-1.93

#### Pending Civil Case Load

The number of civil actions pending at the end of the year rose 4.12% from 3,543 in 1993 to 3,689 in 1994. Since 1991, the number of pending civil cases is up 3.39% from 3,568.

With the addition of the five new district judges in 1994, the number of pending civil cases per F.T.E. judge fell 8.03% from 429.45 in 1993 to 394.97 in 1994. However, since 1991 the number of civil cases per F.T.E. increased 10.7% from 356.8.

Non-Asbestos Civil Cases Pending at Year End						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Pending	3,568	3,372	3,543	3,689	4.12	3.39
F.T.E. Judges	10.00	8.75	8.25	9.34	13.21	-6.60
Pending Per F.T.E.	356.80	385.37	429.45	394.97	-8.03	10.70

#### Criminal Docket

##### Criminal Case Filings

While the new case management techniques adopted by the Court are being applied to the civil caseload, the effects of the criminal docket on overall case management cannot be overlooked due to the priority criminal cases are assigned by The Speedy Trial Act of 1974. During 1994, 479 new criminal cases were filed, a 3.69% increase from the 462 cases filed in 1993. Criminal case filings have risen 11.4% since 1991.

The number of defendants in a criminal case is often indicative of the degree of difficulty of the case. The number of defendants in criminal cases filed in 1994 rose 1.2% over the number of defendants in 1993 criminal cases.

Criminal Cases Filings						
	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Cases	430	545	462	479	3.68	11.40
Defendants	684	796	669	677	1.20	-1.02

Criminal case filings per authorized judgeship fell 15.91% during the year ending June 30th from 44 in 1993 to 37 in 1994 while the national average for all district courts dropped 11.11% from 54 to 48. Since 1991, the district's criminal case filings per judgeship have risen 2.7% compared to a 7.69% decrease nationwide.

Total Criminal Case Filings Per Judgeship						
Source: Federal Court Management Statistics Profile						
	June 30, 1991	June 30, 1992	June 30, 1993	June 30, 1994	% Change 1993-1994	% Change 1991-1994
U.S. Average	52	53	54	48	-11.11	-7.69
Northern District of Ohio	36	39	44	37	-15.91	2.78

#### Criminal Case Closings

Criminal case closings decreased 11.47% from 523 in 1993 to 463 in 1994. Criminal case closings have risen 3.35% since 1991. The number of criminal defendant closings also fell 17.64% from 771 in 1993 to 635 in 1994 which was the same number of defendant closings achieved in 1991.

Criminal Case Closings						
	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Cases	448	476	523	463	-11.47	3.35
Defendants	635	731	771	635	-17.64	0.00



### Pending Criminal Case Load

The pending criminal case load rose by 9.45% from 307 at the end of 1993 to 336 at the end of 1994. The pending criminal case load rose 10.89% from the end of 1991.

The number of defendants remaining in criminal cases increased by 14.67% from 450 in 1993 to 516 in 1994. Defendants remaining in pending criminal cases rose by 1.57% from the end of 1991.

Pending Criminal Cases						
	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Cases	303	372	307	336	9.45	10.89
Defendants	508	578	450	516	14.67	1.57

### Civil and Criminal Trials

The Differentiated Case Management plan and the wide menu of Alternative Dispute Resolution options were designed to assist parties resolve their disputes without the necessity of time-consuming and costly trials. Nevertheless, the right to trial continues to be protected. During 1994, 88 civil trials and 54 criminal trials were conducted within the district.

Civil and Criminal Trials						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Civil Trials	100	104	78	88	12.82	-12.00
Criminal Trials	55	56	58	54	-6.90	-1.82
Total Trials	155	160	136	142	4.41	-8.39

### Differentiated Case Management

Under the Civil Justice Reform Act of 1990, the Northern District of Ohio was designated to "experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial." 28 U.S.C. § 482. Section 8 of the Local Rules sets forth the DCM plan. Because the DCM plan was operational by January 1, 1992, the Court also received status as an Early Implementation District under the Act.

The underlying principle of the DCM plan is to make access to a fair and efficient court system available and affordable to all citizens

by reducing costs and avoiding unnecessary delay without compromising the independence or the authority of either the judicial system or the individual judicial officer. The DCM plan attempts to meet these goals by providing early involvement of a judicial officer in each case and by establishing "event-date certainty" for case management conferences, status hearings, final pretrial conferences and trial dates as well as for discovery and motion cut-off dates. The DCM plan also promotes the active and cooperative assistance of counsel in managing all phases of the litigation. The use of alternative dispute resolution is strongly encouraged.

Under DCM, judicial officers review each case and assign it to one of five processing "tracks": expedited, standard, complex, administrative or mass tort. Each track employs case management guidelines tailored to the general requirements of similarly situated cases and case management plans are issued to meet the specific needs of individual cases.

While it may still be too early in the DCM implementation process to determine the effects, if any, of differentiated case management, it is now possible to provide some descriptive statistics related to DCM case processing.

From January 1, 1992 through December 31, 1994 there were 10,674 non-asbestos civil cases filed in the Northern District of Ohio. During that period, 7,159 (67.07%) of those actions were terminated while 3,515 (32.93%) remained pending. The pending actions include 1,411 cases (40.1% of the caseload) that have been filed within the past six months and which have not had time to mature.

Over 78% of the cases assigned to the expedited track since the implementation of DCM were terminated by December 31, as were 61% of the standard track cases, 38% of the complex track cases, 88% of the mass tort track cases and 55% of the administrative track cases. A large number of the cases that had not received a track assignment were also terminated, including 79% of those that have or had been pending less than 90 days. Cases are frequently terminated prior to being assigned to a track through settlements, voluntary dismissals, dismissals based on lack of jurisdiction, remands and transfers to other courts.

Status of Civil Cases Filed From Jan. 1, 1992 through Dec. 31, 1994				
Track	Cases Filed* 1/1/92-12/31/94	Pending	Terminated	Percentage Terminated
Expedited	716	151	565	78.91
Standard	2,443	951	1,492	61.07
Complex	223	138	85	38.12
Administrative	1,877	835	1,042	55.51
Mass Tort	54	6	48	88.89
Unassigned:				
< 90 Days	2,721	555	2,166	79.60
91 + Days	2,640	879	1,761	66.70
Total	10,674	3,515	7,159	67.07
* Includes reopened cases.				

A fundamental purpose of the Case Management Conference is to establish a track assignment. Since the inauguration of the DCM program, 5,313 cases have received track assignments including: 716 cases to the expedited track, 2,443 cases to the standard track, 223 cases to the complex track, 54 cases to the mass tort track and 1,877 cases to the administrative track. Of those 5,313 track assignments, 46% have been to the standard track, 35.3% to the administrative track, 13.5% to the expedited track, 4.2% to the complex track and 1% the mass tort track.

Of the 5,361 cases that have not received track assignments, 2,166 were terminated within the first 90 days after filing before a Case Management Conference and track assignment would typically take place. Another 555 non-assigned cases had not yet been pending 90 days.

#### DCM Tracking System

The heart of the DCM plan is its tracking system. Each track has guidelines for the completion of case processing.

Cases assigned to the **Expedited Track** are to be completed within nine months or less. The 565 terminated expedited track cases were completed, on average, in 247 days, about eight months. However, 197 (34.9%) of the terminated expedited track cases were pending longer than nine months. Of the 259 currently pending expedited track cases, 58 (38.85) have been pending nine months or longer.

Cases assigned to the **Standard Track** are to be completed within 15 months. The 1,492 terminated standard track cases were completed, on average, in 332 days, about 11 months. However, 307 (20.5%) of the terminated standard track cases were pending longer than 15 months. Of the 951 currently pending standard track cases, 277 (29.1%) have been pending 15 months or longer.

Cases assigned to the **Complex Track** are to be completed within 24 months. The 85 terminated complex track cases were completed, on average, in 389 days, about 13 months. However, 8 (9.4%) of the terminated complex track cases were pending longer than 24 months. Of the 138 currently pending complex track cases, 27 (19.6%) have been pending 24 months or longer.

Cases assigned to the **Mass Tort Track** are assigned a Case Management Plan specifically suited to each body of litigation. At year end, 54 cases had been assigned to the mass tort track. The 48 terminated mass tort track cases were completed, on average, in 385 days, about 13 months.

Although the Local Rules set forth no specific timeline, the CJRA Advisory Group recommended that cases assigned to the **Administrative Track** be completed within six months, about 180 days. The 1,042 terminated administrative track cases have been completed, on average, in 346 days, about 11 months. Some 760 (72.9%) terminated administrative track cases took longer than six months to complete. Of the 835 currently pending administrative track cases, 559 (66.9%) have been pending six months or longer.

Differentiated Case Management Track Progress						
Track	Pending	Avg. Days Pending	Closed	Avg. Days Pending	Total	Avg. Days Pending
Expedited	151	259	565	247	716	250
Standard	951	367	1,492	332	2,443	345
Complex	138	509	85	389	223	463
Mass Tort	6	366	48	385	54	383
Administrative	835	332	1,042	346	1,877	340
Unassigned	1,434	219	3,927	115	5,361	143
<b>Total</b>	<b>3,515</b>	<b>299</b>	<b>7,159</b>	<b>209</b>	<b>10,674</b>	<b>239</b>

### **Alternative Dispute Resolution**

Section 7 of the new Local Rules provides a broad menu of non-binding, court-annexed ADR processes designed to provide quicker, less expensive, and generally more satisfying alternatives to traditional

litigation. The rules provide guidelines for the use of Early Neutral Evaluation, Mediation, Arbitration, Summary Jury Trials and Summary Bench Trials. These processes are court-annexed in that the Court manages and supervises the implementation of these ADR procedures. Parties are also encouraged to consider the use of extrajudicial ADR procedures to resolve disputes. The Northern District of Ohio also serves as a Pilot District for a voluntary arbitration program.

From January 1, 1992 through December 31, 1994, judicial officers of the Northern District of Ohio referred 1,167 cases to ADR including: 465 cases to Early Neutral Evaluation, 613 cases to Mediation, 28 cases to Arbitration, 58 cases to Summary Jury Trial and one case to a mini-trial process. Nearly every judicial officer referred at least one case to ADR.

Alternative Dispute Resolution Referrals							
	1992	1993	1994	Total	% Change 1992-1993	% Change 1993-1994	Total as % of Grand Total
ENE	181	158	126	465	-12.71	-20.25	39.85%
MED	141	228	244	613	61.70	7.02	52.53%
ARB	16	7	5	28	-56.25	-28.57	2.40%
SJT	22	14	22	58	-36.36	57.14	4.97%
SBT			2	2			0.17%
OTHER			1	1			0.09%
Grand Total	360	407	400	1,167	13.06	-1.72	

The results of 1,062 cases completing ADR are now known. The remaining 105 cases have not completed the ADR process and are awaiting the selection of a neutral or scheduling of the ADR proceeding.



Results of ADR Referrals						
Status	ENE	Med.	Arb.	SJT	SBT	Total
Withdrawn from ADR	26 6%	40 7%	9 33%	12 23%		87 8%
Resolved Prior to ADR	48 11%	74 14%	8 29%	28 53%	2 100%	160 15%
Resolved Through ADR	85 19%	136 25%	5 19%	6 12%		232 22%
Settlement Negotiations and Case Processing to Continue	279 64%	293 54%	5 19%	6 12%		583 55%
<b>Total</b>	<b>438</b>	<b>543</b>	<b>27</b>	<b>52</b>	<b>2</b>	<b>1,062</b>

Approximately 22% of the cases were resolved through ADR either by settlement or binding arbitration award. Included were 85 cases through ENE, 136 cases through Mediation, 5 cases through Arbitration and 6 cases settled following Summary Jury Trials.

Fifteen percent of the cases were resolved after the actions were referred to ADR but before the ADR proceedings took place. Cases in this category include default judgments and dismissed actions where the parties settled without the necessity of ADR.

Eight percent of the cases referred to ADR were withdrawn from the process prior to the ADR proceedings being conducted. Cases are withdrawn from ADR for various reasons including remands of actions to a state court, automatic bankruptcy stays, parties filing non-consent to voluntary arbitration, the return of actions to chambers for ruling on dispositive motions or reconsideration of the ADR referral by the judicial officer.

Fifty-five percent of the cases completing ADR were returned to chambers for post-ADR settlement negotiations and case processing. Cases returned to chambers should not be considered ADR failures. Frequently, the ADR process places an action in shape for more efficient case processing and sets the stage for future settlement negotiations. This is particularly true of ENE which is primarily designed to prepare a civil case for trial by getting the parties to focus on the issues, organize discovery, work expeditiously and prepare the case for trial.

**Early Neutral Evaluation:** 465 actions have been referred to ENE. Some 438 are no longer in the process: 85 settled as a result of the ENE; 48 were resolved prior to ENE proceedings (6 default judgments, 9 dismissals and 33 settled prior to the designation of a neutral or scheduling of the proceeding); 26 actions were withdrawn from the process (2 stayed due to bankruptcy, 1 pending the resolution of a dispositive motion, 5 remanded to state court and 18 removed upon

consideration of judicial officers); and 279 actions completing the ENE process were returned to chambers for post-ENE settlement negotiations and case processing. Twenty-seven cases are awaiting ENE proceedings.

**Mediation:** 615 actions have been referred to Mediation. Some 543 are no longer in the process: 136 settled as a result of Mediation; 74 were resolved prior to Mediation proceedings (12 dismissals and 62 settlements prior to the designation of a neutral or scheduling of the proceeding); 40 were withdrawn from the process (1 pending a ruling of a dispositive motion, 1 remand and 38 upon consideration of judicial officers); and 293 actions completing Mediation were returned to chambers for post-Mediation settlement negotiations and case processing. Seventy-two cases are awaiting Mediation proceedings.

**Voluntary Arbitration:** 28 actions have been referred to voluntary Arbitration. Some 27 cases are no longer in the process: 5 Arbitration awards were entered; 8 actions were resolved prior to the Arbitration proceeding (4 dismissals and 4 settled prior to selecting the arbitration panel or scheduling of the proceeding); 9 actions were withdrawn from Arbitration when a party opted out pursuant to Local Rule §7:4.2(c); and 5 cases were returned to chambers for further settlement negotiations and case processing. One case is awaiting Arbitration proceedings.

**Summary Jury Trial:** 58 actions were referred to Summary Jury Trial. Some 52 cases are no longer in the process: 6 cases settled following a Summary Jury Trial; 28 actions were resolved prior to the Summary Jury Trial proceeding (8 dismissals and 20 settled prior to the Summary Jury Trial proceeding); 12 cases were removed upon consideration of the judicial officer; and 6 cases were returned to chambers following the Summary Jury Trial for post-Summary Jury Trial settlement negotiations and further case processing. Six cases are awaiting Summary Jury Trial proceedings.

**Summary Bench Trial:** Two actions were referred to Summary Bench Trial and both actions were resolved prior to the Summary Bench Trial being conducted.

**Other Extrajudicial Processes:** One case is awaiting a mini-trial process.

#### Effects of Scheduling a Case for a Summary Jury Trial

In order to determine the effects of scheduling an action for a Summary Jury Trial, the district compared 128 cases scheduled for Summary Jury Trial from April 1990 through May 1993 with comparable cases contained in an historic database of 13,358 civil cases. Each Summary Jury Trial case was compared to every case of same nature of suit that was pending at least as long as the Summary Jury Trial case at the time that the Summary Jury Trial was set to determine which case pended longer from that day on.

It was learned that scheduling an action for a summary jury trial eliminated, on average, 337 days (approximately 11 months) off the time

that the case would typically remain pending. Moreover, 82% of the cases set for Summary Jury Trial remained pending for a briefer period than the average of comparable cases in which Summary Jury Trials were not scheduled.

**Pending Inventory Reduction Plan**

The Northern District of Ohio's Differentiated Case Management plan is primarily applied to cases filed January 1, 1992 or later. To assure the public and the bar that all cases, both new and old, would always receive a fair amount of the Court's attention, the Court also adopted a Pending Inventory Reduction Plan which focuses primarily on the needs of older cases but also addresses the fair and expeditious processing of all cases. The goals of the PIRP are that: 1) no cases be pending which are over three years old, 2) no motions be pending more than six months, 3) no bench trials be awaiting rulings for more than six months, 4) no case be inactive for more than 90 days, 5) the median time from filing to disposition be reduced from the then 14 months to the national average of nine months and 6) the "Unassigned" docket be eliminated.

**Civil Cases Filed Prior to 1992**

While a strong emphasis has been placed on ensuring that the new Differentiated Case Management and Alternative Dispute Resolution programs become successful, civil cases filed prior to January 1, 1992 have not been neglected. The PIRP has assisted the district reduce the number of cases that were pending on December 31, 1991 by over 95% from 3,568 to 178.

Pending Pre-DCM Non-Asbestos Civil Cases					
1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
3,568	1,204	474	178	-62.45	-95.01

**Civil Cases Three Years and Older**

The number of civil cases three years and older has been reduced by over 55% since the PIRP was adopted. At the end of December, 1994 there were 178 civil cases pending three years or longer compared to 144 such cases at the end of 1992 and 399 such cases at the end of 1991. The June 1993 Federal Court Management Statistics Judicial Workload Profile reported that the district's percentage of civil cases that are three years or older was 2.7%, well below the national average of 6.1%. In 1994, the Northern District of Ohio ranked 19th out of 94 districts and 2nd in the Sixth Circuit in terms of the having the lowest percentage of cases three years or older. By comparison, the district ranked 81st with 16.2% of its cases 3 years and older in 1991, 67th with 6.8% of its cases 3 years and older in 1992 and 36th with 4.6% of its cases 3 years and older in 1993.

81  
67  
36  
19



Cases Three Years and Older					
1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
399	177	144	178	23.61	-55.39

#### Motions Six Months and Older

In order to comply with Civil Justice Reform Act reporting requirements, each district court must report the number of motions pending six months or longer twice each year, in March and September. The number of motions pending in the Northern District of Ohio that were six months or older dropped 80% from 1,420 in September, 1993 to 280 in September, 1994, the most recent reporting period. The district continues to work diligently through its Motions Control Program to reach the PIRP goal of resolving all motions within six months.

Motions Six Months and Older				
September, 1992	September, 1993	September, 1994	% Change 1993-1994	% Change 1992-1994
1169	1420	280	-80.28	-76.05

#### Bench Trials

There was one bench trial awaiting a ruling for six months or longer at the end of 1994. That bench trial has since been ruled upon.

Bench Trials Awaiting Rulings Six Months or More					
December, 1991	December, 1992	December, 1993	December, 1994	% Change 1993-1994	% Change 1991-1994
1	0	0	1	--	0.00

#### Inactive Cases

The number of cases which had been inactive for 90 days or more fell 16.69% from 677 at the end of 1993 to 564 at the end of 1994. Automated reports identifying inactive cases are provided to each chambers on a regular basis.

Civil Cases Inactive 90 or More Days				
December 31, 1992	December 31, 1993	December 31, 1994	% Change 1993-1994	% Change 1992-1994
635	677	564	-16.69	-11.18

Median Time to Disposition from Filing

The median time to disposition from filing for all civil cases (including asbestos), as reported by the Federal Court Management Statistics Judicial Workload Profile, showed no change from 1993 to 1994. Since 1991 the median time to disposition was reduced from 14 months to four months. The average for all district courts is eight months. However, it should be noted, that in the past two years the median time statistic has been highly impacted by the transfer of asbestos cases shortly after filing to the E.D. of Pennsylvania pursuant to the ongoing MultiDistrict Litigation pending before that Court.

Median Time in Months From Filing to Disposition Source: Federal Court Management Statistics Profile						
	June 30, 1991	June 30, 1992	June 30, 1993	June 30, 1994	% Change 1993-1994	% Change 1991-1994
U.S. Average	9	9	8	8	0.00	-11.11
Northern District of Ohio	14	19	4	4	0.00	-71.43

Unassigned Docket

The unassigned docket of cases was reduced by 50% from 12 in 1993 to 6 in 1994. Since the inception of the PIRP, the number of unassigned cases has fallen over 93%.

Cases on Unassigned Docket					
December, 1991	December, 1992	December, 1993	December, 1994	% Change 1993-1994	% Change 1991-1994
96	21	12	6	-50.00	-93.75

Magistrate Judge Utilization

The CJRA Advisory Group recognized that the contributions of magistrate judges would be critical to the success of the new case management system. The Advisory Group recommended that the role of the magistrate judges be expanded. Parties are now asked whether they will consent to the jurisdiction of a magistrate judge both at the time they complete the initial Case Information Statement and once again at the initial Case Management Conference.

Magistrate Judges currently preside over 348 of the 3,689 pending civil cases, down 31.76% from the 510 cases presided over in 1993. That decrease reflects, in part, the change in status of the Toledo magistrate judge who was elevated to a district court judgeship and who carried over his substantial consent docket. Magistrate judges now



preside over 58.39% more cases than in 1991. Magistrate judges preside over 9.43% of the pending civil case load compared to 14.39% in 1993 and 9.02% in 1991.

District Wide Civil Dockets at Year End Compared to Magistrate Judge Consent Dockets						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Civil Cases	3,568	3,372	3,543	3,689	4.12	-0.70
Magistrate Judge Consents	322	424	510	348	-31.76	58.39
% Consents	9.02	12.57	14.39	9.43	-34.44	59.53

The number of civil cases closed by magistrate judges fell 12% from 450 in 1993 to 396 in 1994. Those 396 case closings exceeded the 272 cases closed by magistrate judges in 1991 by over 45%. In 1994, magistrate judges were responsible for 12% of all non-asbestos civil case closings.

Non-Asbestos Civil Case Closings by Status of Judicial Officer						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Active Judges	2,743 75%	2,511 66%	2,079 60%	2,189 65%	5.29	-20.20
Senior Judges & Other Dockets	640 18%	926 24%	956 27%	760 23%	-20.50	18.75
Magistrate Judges	272 7%	392 10%	450 13%	396 12%	-12.00	45.63
Total	3,655	3,829	3,485	3,345	-4.02	-8.48

The pending civil case load of magistrate judges at year end 1993 was 348 cases compared to 510 in 1993 and 322 in 1991.

Pending Civil Case Loads at Year End by Judicial Status						
Category	1991	1992	1993	1994	% Change 1993-1994	% Change 1991-1994
Active Judges	2,539 71%	1,978 58%	2,233 63%	2,868 78%	28.44	12.96
Senior Judges & Other Dockets	707 20%	970 29%	800 23%	473 13%	-40.88	-33.10
Magistrate Judges	322 9%	424 13%	510 14%	348 09%	-31.77	8.10
<b>Total</b>	<b>3,568</b>	<b>3,372</b>	<b>3,543</b>	<b>3,689</b>	<b>4.12</b>	<b>3.39</b>

#### Master Trailing Docket

Local Rule 8:5.1 requires that a firm trial date be set at the time of the Status Hearing. The rule further provides that if, for any reason, the assigned judicial officer is unable to hear the case within one week of its assigned trial date, the case shall be referred to the Chief Judge for reassignment to any available judicial officer for prompt trial.

In order to accomplish the objective of maintaining firm trial dates, a list of cases scheduled for upcoming trials is compiled and circulated on a weekly basis. The list permits the Court to easily identify cases which did not go forward as scheduled and which are unlikely to be reached in the upcoming weeks by the presiding judicial officer. These cases comprise the Master Trailing Docket. Procedures have been established to bring cases on the Master Trailing Docket to the attention of available judicial officers who may voluntarily accept assignment of a case for prompt trial.

#### Visiting Judge Program

In addition to the Master Trailing Docket concept, the Court also utilizes visiting judges from other districts to assist in the processing of trial ready cases. Since February, 1992, the Northern District of Ohio has received assistance from judges of the Eastern and Western Districts of Michigan and the Southern District of Ohio, as well as of its own judges who traveled from one division to another. Visiting judges have resolved approximately 46 cases including seven by trial.

#### Asbestos Litigation

On July 29, 1991, the Judicial Panel on MultiDistrict Litigation (MDL) transferred all asbestos cases pending in federal courts to the E.D. of Pennsylvania for pretrial management supervision. Although the MDL transferee judge has assumed overall pretrial management supervision of this complex mass tort litigation, the presence of the asbestos docket continues to influence staff workload in the Northern District of

Ohio. Pursuant to the Judicial Panel's order of transfer, all case files and pleadings continue to be maintained and docketed by the transferor courts. Some 4,163 new asbestos cases were filed and docketed in this district during 1994, an average of 347 per month. The district now maintains over 12,000 pending asbestos case files. Files are also maintained on several thousand other asbestos actions that have been placed on a suspended docket. If the efforts to resolve federal asbestos claims through MDL fail, as many as 17,000 cases could be returned to this district for trial which, in turn, would dramatically increase the need for additional judges.

### **Educational Efforts**

During 1994, the Northern District of Ohio conducted several training seminars and educational programs designed to inform practicing attorneys and the general public about its efforts to reduce cost and delay in civil litigation through the use of DCM and ADR. A federal court walk through was conducted at the Cleveland Courthouse to provide newly admitted attorneys with an introduction to the Court, its procedures and the DCM and ADR programs. Training sessions were also conducted in both the Eastern and Western divisions for members of the **Federal Court Panel** who serve as neutrals in cases referred to Early Neutral Evaluation, Mediation and Arbitration in Cleveland. Training included detailed explanations of how the ADR processes were designed, what the district expects from the neutrals and simulations of ENE and Mediation processes. Separate sessions were conducted for newly admitted panel members and for experienced members of the panel.

### **Study of Litigation Costs**

Upon the recommendation of the CJRA Advisory Group, the Northern District of Ohio began a long range study of litigation costs in 1993. The Advisory Group, nationally recognized case management experts and the Court expended tremendous effort to devise a methodology that will help to determine the effects of the new case management system on litigation costs.

The study seeks to compare the **number of hours** law firms typically spend on various aspects of litigation for samples of cases filed both prior to and following DCM implementation. The study seeks to gather hard data directly from the billing records of area law firms, rather than anecdotal evidence, to ensure that the results obtained are scientifically defensible. To our knowledge no such study of litigation costs has ever been conducted.

The pre-DCM sample will include cases filed from January 1 through June 30, 1990 that were terminated by December 31, 1991. The DCM sample will include cases filed from January 1 through June 30, 1993 that are terminated by December 31, 1994. Due to budget constraints, the study has focused on cases filed in Cleveland that were assigned to either Cleveland or Akron judges.

Attorney response has been overwhelmingly positive despite initial concerns about opening confidential records to court personnel. During 1993 and 1994, data collectors visited attorney offices and gained



access to over 600 billing files on cases litigated prior to and following the implementation of DCM. Data collection for this study is expected to be completed in March, 1995.

### Conclusion

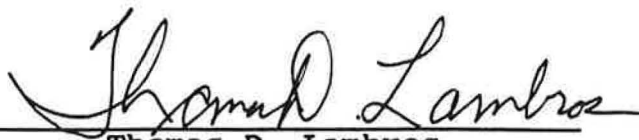
The Northern District of Ohio has been pleased with the progress that has been made during its first three years under the new delay and cost reduction plan. While not all of the district's objectives have yet been achieved, the Court is satisfied that it is headed in the proper direction. Even though the district's designation as a Demonstration District under the Civil Justice Reform Act expired at the end of 1994, the Court plans to continue with the new procedures that it has adopted. If not for the hard work of the district's judicial officers and the assistance that these innovative case management techniques provide to them, the Court would have been unable to keep its docket current during this period of scarce judicial resources. The Court remains hopeful that it will one day operate at full judicial strength. If that occurs, the district will be in an even better position to achieve its goals.

During the upcoming year, the Northern District of Ohio shall:

1. Continue the implementation and monitoring of the new Differentiated Case Management system;
2. Continue to encourage the utilization of Alternative Dispute Resolution;
3. Continue its efforts to meet the goals and objectives of the Pending Inventory Reduction Plan and place additional emphasis on reducing the number of cases pending three years or longer and the number of motions pending six months or longer;
4. Continue its efforts to integrate magistrate judges into the management of civil cases;
5. Continue its efforts to educate the bar and the public about our CJRA delay and cost reduction efforts through continuing legal education seminars and other open meetings; and
6. Complete the long-term study of litigation costs which will help to determine whether the new case processing programs and techniques affect litigation costs.

The three years under the Northern District of Ohio's expense and delay reduction plan have shown promising results. The district intends to continue its efforts to develop the best available system for delivering justice. As a DCM demonstration district, as well as an early implementation district, the Northern District of Ohio hopes that

these programs will become the model for providing fair, timely and cost efficient justice.

A handwritten signature in cursive script that reads "Thomas D. Lambros". The signature is written in black ink and is positioned above a horizontal line.

Thomas D. Lambros  
Chief Judge