

Geri M. Smith  
Clerk of Court

United States District Court  
Northern District of Ohio  
Office of the Clerk  
102 U.S. Courthouse  
201 Superior Avenue  
Cleveland, Ohio 44114-1201

(216)522-4355

May 19, 1997

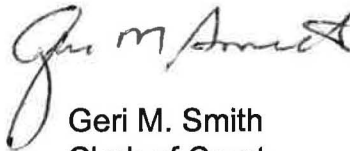
Abel J. Mattos  
Administrative Office of the U.S. Courts  
One Columbus Circle, N.E. - Room 4-532  
Washington, D.C. 20544

Re: Annual Assessment of the Civil and Criminal Dockets 1996  
U.S. District Court, Northern District of Ohio

Dear Mr. Mattos:

Enclosed please find a copy of the U.S. District Court for the Northern District of Ohio Annual Assessment of the Civil and Criminal Dockets for calendar year 1996.

Very truly yours,



Geri M. Smith  
Clerk of Court

GMS:srk  
Enclosure

U.S. Courthouse  
Federal Building, Room 337  
125 Market Street  
Youngstown, Ohio 44503-1787  
(330)746-1906

114 U.S. Courthouse  
1716 Spielbusch Avenue  
Toledo, Ohio 43624-1347  
(419)259-6412

U.S. Courthouse  
Federal Building, Room 568  
2 South Main Street  
Akron, Ohio 44308-1876  
(330)375-5407

**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**

**MARCH 31, 1997**

**Northern District of Ohio**  
**Annual Assessment of Civil and Criminal Docket**  
**Pursuant to Civil Justice Reform Act of 1990**  
March 31, 1997

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 1996.

While the Northern District of Ohio's term as a demonstration district under the CJRA has concluded, the Court continues to manage its docket using the Differentiated Case Management (DCM) Plan, wide menu of Alternative Dispute Resolution (ADR) options and Pending Inventory Reduction Plan (PIRP) that were adopted to reduce unnecessary cost and delay in civil litigation. Those case management tools have effectively enhanced the efficient management of the docket, reduced the pending inventory of older cases and motions and have proven to be popular to the bench and the bar.

**Executive Summary**

The results after five years of operation under the CJRA initiatives are positive. The DCM, ADR and PIRP 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 both a shortage of judicial resources and a large turnover on the bench.

The Northern District of Ohio is authorized 12 district court judgeships and seven magistrate judges. Since 1989, the district has reached full judicial strength only once and then for just a brief six-month period. The district did not reach full judicial strength at any time during which it served as a demonstration district and during one 18-month period during which it served, five district court judgeships were vacant. The turnover on the bench has been so rapid, that only one of the 10 active judges now on board joined this Court prior to December 1991. The high rate of turnover is likely to continue since two active judgeships are now vacant and one active judge is currently eligible to retire or take senior status. The situation is critical since one of the district's judgeships is a temporary position that will lapse with the creation of the next vacancy. Thus, absent adoption of H.R. 977, a bill that would extend the term of the temporary judgeship, the next vacancy created here will not be filled.

Despite operating under a shortage of judicial resources, the Court's docket is in better shape now than it was at the beginning of the DCM demonstration period. Since 1991, the pending civil docket has declined 9.08% and the pending criminal docket decreased 5.94% even though the total number of civil and criminal case filings rose during

four of the past five years. In addition, the overall docket is now more equally distributed among a larger number of judicial officers (resulting in smaller personal dockets) and the number of older cases and motions have been sharply reduced. Unless otherwise noted, references to civil case statistics exclude asbestos cases.

Included among the findings of this report are:

- The number of civil case filings rose 0.56% from 3,601 in 1995 to 3,621 in 1996. Civil filings were 6.94% above the 3,386 civil cases filed in 1991 immediately prior to the implementation of the CJRA efforts.
- Civil rights case filings, which comprised 18% of the new civil cases in 1991, declined somewhat from record level set in 1995 but remain in a general upward trend and now comprise 27% of new civil filings. Death penalty habeas and other prisoner rights case filings have also increased significantly since 1991 and are expected to continue to rise with the construction of three new prison facilities within the eastern division. Conversely, the number of administrative reviews (overwhelmingly social security cases) have declined each of the past four years and now comprise 8% of new civil filings compared to 14% in 1992.
- Civil case closings rose 13.36% from 3,690 in 1995 to 4,183 in 1996. Civil case closings in 1996 were 14% above the 3,655 cases closed in 1991.
- The number of pending civil cases reached the lowest level in the past six years by dropping 13.26% from 3,740 at the end of 1995 to 3,244 at the end of 1996. Since the close of 1991, the number of pending civil actions is down 9.08% from 3,568.
- Criminal case filings dropped 8.7% from 494 in 1995 to 451 in 1996. Criminal case filings were 4.88% above the 430 criminal cases filed in 1991. Criminal defendant filings fell 3.13% from 736 in 1995 to 713 in 1996. Criminal defendant filings were 4.24% above the 451 defendant filings in 1991. For the year ending September 1996, the district ranked 70th in the nation and seventh in the Sixth Circuit in criminal felony case filings per authorized judgeship.
- Criminal case closings decreased 1.58% from 505 in 1995 to 497 in 1996. Criminal case closings were 10.94% higher than the 448 criminal cases closed in 1991. Criminal defendant closings declined 2.94% from 748 in 1995 to 726 in 1996. Criminal defendant closings were 14.33% above the 635 defendants closed in 1991.
- The number of pending criminal cases fell 13.37% from 329 at the end of 1995 to 285 at the end of 1996, the lowest total in the past six years. During the same period the number of pending defendants decreased 2.32% from 518 to 506. Since the

end of 1991, pending criminal cases decreased 5.94% and the number of pending criminal defendants declined 0.39%

- The number of civil trials rose 41.49% from 94 in 1995 to 133 in 1996. The number of criminal trials declined 30.30% from 66 in 1995 to 46 in 1996.
- Since the inauguration of the DCM program, 9,209 cases have received track assignments including: 1,235 (13.4%) expedited track assignments, 4,733 (51.4%) standard track assignments, 379 (4.1%) complex track assignments, 54 (0.6%) mass tort track assignments and 2,808 (30.5%) administrative track assignments.
- Cases assigned to tracks are typically being resolved within the guidelines established by the DCM Plan. On average, terminated expedited track cases have been completed in about nine months; standard track cases in about 13.6 months, complex track cases in about 18 months, mass tort track cases in about 13 months and administrative track cases in about 14.5 months. Since DCM was inaugurated, 7,508 cases that had not been assigned to tracks were also terminated, on average, within 6 months.
- Some 1,894 cases have now been referred to the district's court-annexed ADR program including: 697 cases to Early Neutral Evaluation; 1,097 cases to Mediation; 36 cases to Arbitration; 60 cases to Summary Jury Trial; three cases to Summary Bench Trial; and one case to a mini-trial process. Of the 1,796 cases that had completed ADR by the end of 1996, 672 or 38% were resolved prior to or through the ADR proceeding.
- The number of civil cases three years and older has been reduced by over 63% since the district initiated its CJRA efforts, dropping from 399 cases at the close of 1991 to 145 cases at 1996 year end.
- The number of motions pending six months or longer decreased 9.52% from 546 in September, 1995 to 494 in September, 1996.
- The role of the magistrate judges in the management of civil cases continues to be significant although the number of cases on magistrate judge consent dockets reached a six-year low in 1996. Magistrate judges currently preside over 245 (8%) of the pending civil cases. Magistrate Judges were the presiding judicial officers for 404 (9%) of the civil cases that were resolved in 1996, up 48.52% from the 272 civil cases magistrate judges closed in 1991.
- Although all asbestos cases in the federal courts have been transferred to the Eastern District of Pennsylvania for pretrial supervision under MultiDistrict Litigation, asbestos cases continue to be filed and docketed here. Asbestos case filings rose 15.93% from 5,184 in 1995 to 6,010 in 1996. The district now maintains about 20,000 paper and 6,000 electronic

asbestos cases files. Over 190,000 asbestos-related pleadings were filed here in 1996.

- Since January 1, 1996, the Court has required that all documents submitted in new maritime asbestos cases be filed electronically over the Internet rather than on paper. Over 6,000 new cases and 100,000 documents have been filed electronically since that time. The prototype system, which was developed by the Technology Enhancement Office of the Administrative Office of the U.S. Courts, automatically creates docket entries and makes the updated docket sheets, as well as the documents themselves, immediately available to all parties. The system has not only improved service to the bench and the bar, but has also relieved the clerk's office of a significant workload.

### Judicial Resources

#### District Judges

The Northern District of Ohio is authorized 12 judgeships, 11 permanent and one temporary. The district reached full judicial strength for the first time since 1989 when a new judge joined the bench in January, 1996. The Court did not maintain its full complement of judicial officers for long, however, as one judge took senior status in June and another followed in October, creating two district judge vacancies. In addition, the district is at great risk of losing its temporary judgeship because, absent legislation approving the Judicial Conference recommendation that the position be extended for an additional five years, the position will lapse at the time the next vacancy is created. With one active district judge already eligible for retirement, the potential for losing the temporary judgeship is great. The district is fortunate to receive the continuing support of six senior judges.

The positive impact of the district's CJRA activities is all the more impressive considering that the Court never reached full judicial strength during the period in which it served as a demonstration district and that only one of the 10 currently active district judges was appointed to the bench prior to 1991. Under these circumstances, the development and utilization of practical and efficient case management techniques has been all the more important.

#### Magistrate Judges

The Northern District of Ohio is authorized seven magistrate judges with four assigned to Cleveland and one each to Akron, Youngstown and Toledo. At the beginning of 1997, a magistrate judge vacancy was created in Cleveland when a magistrate entered retired, recalled status.

## Civil Docket

### Civil Case Filings

Civil case filings in the Northern District of Ohio rose 0.56% from 3,601 in 1995 to 3,621 in 1996. Since 1991, civil case filings have increased 6.94%.

Non-Asbestos Civil Case Filings								
Category	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Filings	3,386	3,547	3,550	3,422	3,601	3,621	0.56	6.94

The district's national case filing statistics are heavily weighted by the large number of maritime asbestos cases filed here. According to the preliminary Federal Court Management Statistics Judicial Workload Profile for the year ending September 30, 1996, the district's civil case filings (including asbestos cases) per authorized judgeship increased 11.23% from 721 in 1995 to 802 in 1996 while the national average for all district courts rose only 8.53% from 434 to 471. From 1991 to 1996, case filings per authorized judgeships were up 99.01% in the Northern District of Ohio compared to 24.93% nationally. The district's civil case filings per authorized judgeship ranked third in the nation and first in the Sixth Circuit during 1996.

Total Civil Case Filings Per Judgeship (Includes Asbestos Cases) Source: Federal Court Management Statistics Profile								
	Sept. 1991	Sept. 1992	Sept. 1993	Sept. 1994	Sept. 1995	Sept. 1996	% Change 1995-1996	% Change 1991-1996
U.S. Avg.	377	409	407	413	434	471	8.53	24.93
ND OH	403	412	683	663	721	802	11.23	99.01

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. Although the weighting factor for asbestos cases is small (about 0.19 per case), the large number of asbestos cases filed here has a significant impact on the overall weighted case filings statistic for the district. According to the preliminary 1996 Federal Case Management Statistics Workload Profile, the district's 486 weighted civil case filings per authorized judgeship were 2.9% higher than the national average of 472. Since 1991, the district's weighted case filings are up 39.26% compared to a 22.28% increase for all district courts. The district ranked 34th in the nation and second in the Sixth Circuit in weighted case filings in 1996. Excluding asbestos cases, the district's weighted case filings per judgeship would have been about 399.

Weighted Civil Case Filings Per Judgeship  
(Includes Asbestos Cases)  
Source: Federal Court Management Statistics Profile

	Sept. 1991	Sept. 1992	Sept. 1993	Sept. 1994	Sept. 1995	Sept. 1996	% Change 1995-1996	% Change 1991-1996
U.S. Avg.	386	412	419	419	448	472	5.36	22.28
ND OH	349	370	441	415	424	486	14.62	39.26

The types of civil actions filed in the Northern District of Ohio continue to change. For instance, civil rights case filings rose 57.66% from 633 cases in 1991 to 998 cases in 1996, despite experiencing a 3.76% decrease from the 1,037 cases filed in 1995. Civil rights cases now comprise about 28% of all new non-asbestos civil case filings compared to about 18% in 1991. Habeas Corpus (non §2255) case filings have grown at an even faster rate since 1991, although they also experienced a decline from the high reached in 1995. Continued growth in habeas case filings is expected now that the new federal penitentiary at Elkton is set to receive its first prisoners in June, 1997. In addition, a new private prison is set to open near Youngstown soon and a state "supermax" facility is also in the planning stages for the same area. Death penalty habeas filings have also grown significantly during the past two years. Conversely, several case categories are in a downward trend, particularly administrative reviews (social security cases) which have decreased in number during each of the past four years.



Non-Asbestos Civil Case Filings By Category								
Case Category	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Admiralty	29	20	17	22	16	14	-12.50	-51.72
Antitrust	4	11	15	18	16	3	-81.25	-25.00
Civil Rights	633	725	809	914	1,037	998	-3.76	57.66
Contract	389	370	326	374	340	378	11.18	-2.83
Habeas--non §2255	124	116	148	170	216	201	-6.94	62.10
Labor Relations	435	449	371	386	390	380	-2.56	-12.64
Patent	25	31	34	27	49	39	-20.41	56.00
Personal Injury	370	405	531	363	505	410	-18.81	10.81
Administrative Reviews	450	504	482	447	334	299	-10.48	-33.56
Tax	48	53	43	38	23	37	60.87	-22.92
Unfair Competition	59	75	64	72	69	56	-18.84	-5.08
General Civil	817	787	710	591	593	787	32.72	-3.67
Death Penalty	3	1	0	0	13	19	46.15	533.33
Total	3,386	3,547	3,550	3,422	3,601	3,621	0.56	6.94

### Civil Case Closings

Civil case closings in the Northern District of Ohio reached the highest level in the past six years by rising 13.36% from 3,690 in 1995 to 4,183 in 1996. The 1995 closings were 14.45% above the 3,655 cases closed in 1991.

Non-Asbestos Civil Case Closings								
Category	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Closings	3,655	3,829	3,485	3,348	3,690	4,183	13.36	14.45

#### Pending Civil Case Load

The number of civil actions pending at the end of the year reached the lowest level in six years by declining 13.26% from 3,740 in 1995 to 3,244 in 1996. Since 1991, the number of pending civil cases is down 9.08% from 3,568. Late in 1995, the district determined that it would reduce its backlog of older social security review cases, particularly those that were pending 15 months or longer. By the end of 1996, the number of pending social security cases had reduced from a high of 735 to 291 cases.

Non-Asbestos Civil Cases Pending at Year End								
Category	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Pending	3,568	3,372	3,543	3,689	3,740	3,244	-13.26	-9.08

#### **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 1996, 451 new criminal cases were filed, a 8.70% decrease from the 479 cases filed in 1995. Criminal case filings have increased 4.88% 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 1996 declined 3.13% over the number of defendants in criminal cases filed in 1995. Criminal defendant filings have increased 4.24% since 1991.

Criminal Case Filings								
	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Cases	430	545	462	479	494	451	-8.70	4.88
Defendants	684	796	669	677	736	713	-3.13	4.24

Criminal felony case filings per authorized judgeship decreased 7.69% during the year ending September 30th from 39 in 1995 to 36 in 1996, while the national average for all district courts rose 7.84% from 51 to 55. Since 1991, the district's criminal case filings per judgeship have declined 2.70% compared to a 5.77% increase nationwide. In 1996 the district ranked 70th in the nation and seventh in the Sixth Circuit in criminal felony case filings per authorized judgeship.

Total Criminal Felony Case Filings Per Judgeship Source: Federal Court Management Statistics Profile								
	Sept. 1991	Sept. 1992	Sept. 1993	Sept. 1994	Sept. 1995	Sept. 1996	% Change 1995-1996	% Change 1991-1996
U.S. Avg.	52	54	53	49	51	55	7.84	5.77
ND OH	37	40	45	38	39	36	-7.69	-2.70

#### Criminal Case Closings

Criminal case closings decreased 1.58% from 505 in 1995 to 497 in 1996. Criminal case closings have increased 10.94% since 1991. The number of criminal defendant closings decreased 2.94% from 748 in 1995 to 726 in 1996 but were 14.33% above the 635 criminal defendant closings in 1991.

Criminal Case Closings								
	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Cases	448	476	523	463	505	497	-1.58	10.94
Defendants	635	731	771	635	748	726	-2.94	14.33

#### Pending Criminal Case Load

The pending criminal case load fell by 13.37% from 329 at the end of 1995 to 285 at the end of 1996, the lowest number in the past six years. Since the end of 1991, the pending criminal case load has decreased 5.94%.

The number of defendants remaining in criminal cases decreased 2.32% from 518 in 1995 to 506 in 1996. Since the end of 1991, the number of defendants remaining in pending criminal cases has declined 0.39%.

Pending Criminal Cases								
	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Cases	303	372	307	336	329	285	-13.37	-5.94
Defendants	508	578	450	516	518	506	-2.32	-0.39

### 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 1996, there were 133 civil trials, the highest total during the past six years, and 46 criminal trials.

Civil and Criminal Trials								
Trials	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Civil	100	104	78	88	94	133	41.49	33.00
Criminal	55	56	58	54	66	46	-30.30	-16.36
Total	155	160	136	142	160	179	11.88	15.48

### 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 time frames for the completion of discovery and for trial." 28 U.S.C. § 482. The Local Rules set 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.

From January 1, 1992 through December 31, 1996, there were 17,913 non-asbestos civil cases filed in the Northern District of Ohio. During that period 14,767 (82.44%) of those actions were terminated while 3,146 (17.56%) remained pending. The pending actions include hundreds of cases that have been filed recently and which have not had time to mature.

Since the inauguration of the DCM program, 9,209 cases have received track assignments including: 1,235 cases to the expedited track, 4,733 cases to the standard track, 379 cases to the complex track, 54 cases to the mass tort track and 2,808 cases to the administrative track. Of the 9,209 track assignments, 51.4% have been to the standard track, 30.5% to the administrative track, 13.4% to the expedited track, 4.1% to the complex track and less than 0.6% to the mass tort track.

Of the 8,704 cases that have not received track assignments, 3,793 were terminated within the first 90 days after filing before a Case Management Conference and track assignment would typically take place. Another 525 non-assigned cases had not yet been pending 90 days.

Status of Civil Cases Filed From Jan. 1, 1992 through Dec. 31, 1996				
Track	Cases Filed* 1/1/92-12/31/96	Pending	Terminated	Percentage Terminated
Expedited	1,235	164	1,071	86.72
Standard	4,733	1,186	3,547	74.94
Complex	379	137	242	63.85
Administrative	2,808	463	2,345	83.51
Mass Tort	54	0	54	100.00
Unassigned:				
< 90 Days	4,318	525	3,793	87.84
91 + Days	4,386	671	3,715	84.70
Total	17,913	3,146	14,767	82.44
* Includes reopened cases.				

Of the 3,146 pending civil cases filed since January 1, 1992, 1,950 have received track assignments. Of those, over 23% were assigned to the

administrative track, 60% to the standard track, 8% to the expedited track, 7% to the complex track and none to the mass tort track. Of the 1,196 cases which have not yet been assigned to a track, 671 have been pending 90 days or more and may represent actions that warrant additional judicial attention.

Track Assignments of Pending Civil Cases Filed Since January 1, 1992				
Track	# of Pending Cases	Percentage of Cases	Percentage of Cases Assigned to Tracks	Percentage of Cases Assigned to Non-Administrative Tracks
Expedited	164	5.21	8.41	11.03
Standard	1,186	37.70	60.82	79.76
Complex	137	4.35	7.03	9.21
Mass Tort	0	0.00	0.00	0.00
Administrative	463	14.72	23.74	
Unassigned:				
< 90 days	525	16.69		
90 + days	671	21.33		
Total	3,146			

#### 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 1,071 terminated expedited track cases were completed, on average, in 279 days, about nine months. However, 446 (41.6%) of the terminated expedited track cases were pending longer than nine months. Of the 164 pending expedited track cases, 87 (53.0%) had been pending nine months or longer.

Cases assigned to the **Standard Track** are to be completed within 15 months. The 3,547 terminated standard track cases were completed, on average, in 408 days, about 13.6 months. However, 1,156 (32.6%) of the terminated standard track cases were pending longer than 15 months. Of the pending 1,186 pending standard track cases, 367 (30.9%) had been pending 15 months or longer.

Cases assigned to the **Complex Track** are to be completed within 24 months. The 242 terminated complex track cases were completed, on average, in 544 days, about 18 months. However, 62 (25.6%) of the

terminated complex track cases were pending longer than 24 months. Of the 137 pending complex track cases, 47 (34.3%) had 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, all 54 cases that had been assigned to the mass tort track had been terminated. The 54 terminated mass tort track cases were completed, on average, in 387 days, about 13 months.

Although the Local Rules set forth no specific time line, the CJRA Advisory Group recommended that cases assigned to the Administrative Track be completed within six months. That time frame is unattainable, however, since briefing schedules for these cases are typically not completed in less than a year. The overwhelming majority of cases assigned to the administrative track are reviews of social security actions. In December 1995, the district judges determined that any review of a social security action pending more than 15 months would be considered part of a "social security backlog" and the Court took steps towards reducing that backlog as quickly as possible. The 2,345 terminated administrative track cases have been completed, on average, in 435 days, about 14.5 months. Some 1,120 (47.8%) terminated administrative track cases took longer than 15 months to complete. Of the 463 pending administrative track cases, 66 (14.3%) had been pending 15 months or longer.

Differentiated Case Management Track Progress						
Track	Pending	Avg. Days Pending	Closed	Avg. Days Pending	Total	Avg. Days Pending
Expedited	164	366	1,071	279	1,235	291
Standard	1,186	408	3,547	408	4,733	408
Complex	137	681	242	544	379	594
Mass Tort	0	0	54	387	54	387
Administrative	463	268	2,345	435	2,808	408
Unassigned	1,196	221	7,508	161	8,704	169
<b>Total</b>	<b>3,146</b>	<b>326</b>	<b>14,767</b>	<b>279</b>	<b>17,913</b>	<b>288</b>

### Alternative Dispute Resolution

The Northern District of Ohio 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 Local 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. During 1992 and 1993 the Northern District of Ohio served as a Pilot District for a voluntary arbitration program.

From January 1, 1992 through December 31, 1996, judicial officers of the Northern District of Ohio referred 1,894 cases to ADR including: 697 cases to Early Neutral Evaluation, 1,097 cases to Mediation, 36 cases to Arbitration, 60 cases to Summary Jury Trial, 3 cases to Summary Bench Trial and one case to a mini-trial process. Every judicial officer has referred at least one case to ADR.

Alternative Dispute Resolution Referrals									
	1992	1993	1994	1995	1996	Total	% Change 1995-1996	% Change 1992-1996	Total as % of Grand Total
ENE	181	158	128	135	95	697	-29.63	-47.51	36.80
MED	141	228	244	236	248	1,097	5.08	75.89	57.92
ARB	16	7	5	6	2	36	-66.67	-87.50	1.90
SJT	22	14	22	0	2	60	--	-90.91	3.17
SBT	0	0	2	1	0	3	-100.00	--	0.16
OTHER	0	0	1	0	0	1	--	--	36.80
Grand Total	360	407	402	378	347	1,894	-8.20	-3.61	

The results of 1,796 cases completing ADR are now known. The remaining 98 cases have not completed the ADR process and are awaiting the selection of a neutral or scheduling of the ADR proceeding.

About 24% of the cases were resolved through ADR either by settlement or binding arbitration award. Included were 133 cases through ENE, 274 cases through Mediation, eight cases through Arbitration, seven cases settled following Summary Jury Trials, one case settled following a Summary Bench Trial and one case settled as result of mini-trial process.

Fourteen 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.

Seven 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



state courts, 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 future case processing by getting the parties to evaluate their case, focus on the issues, organize discovery, work expeditiously and prepare the case for trial.

Results of Alternative Dispute Resolution Referrals							
Status	ENE	Med.	Arb.	SJT	SBT	Other	Total
Withdrawn from ADR	34 5%	70 7%	9 25%	15 25%	0 0%	0 0%	128 7%
Resolved Prior to ADR	77 11%	127 12%	12 33%	30 50%	2 67%	0 0%	248 14%
Resolved Through ADR	133 20%	274 27%	8 22%	7 12%	1 33%	1 100%	424 24%
Settlement Negotiations and Case Processing to Continue	434 64%	547 54%	7 19%	8 13%	0 0%	0 0%	996 55%
<b>Total</b>	<b>678</b>	<b>1,018</b>	<b>36</b>	<b>60</b>	<b>3</b>	<b>1</b>	<b>1,796</b>

**Early Neutral Evaluation:** 697 actions have been referred to ENE. Some 678 are no longer in the process: 133 settled as a result of the ENE; 77 were resolved prior to ENE proceedings (six default judgments, 18 dismissals and 53 settled prior to the designation of a neutral or scheduling of the proceeding); 34 actions were withdrawn from the process (two stayed due to bankruptcy, one pending the resolution of a dispositive motion, five remanded to state court and 26 removed upon consideration of judicial officers); and 434 actions completing the ENE process were returned to chambers for post-ENE settlement negotiations and case processing. Nineteen cases are awaiting ENE proceedings.

**Mediation:** 1,097 actions have been referred to Mediation. Some 1,018 are no longer in the process: 274 settled as a result of Mediation; 127 were resolved prior to Mediation proceedings (24 dismissals and 103 settlements prior to the designation of a neutral or scheduling of the proceeding); 70 were withdrawn from the process (one pending a ruling of a dispositive motion, two remanded to state court, 65 upon consideration of judicial officers and two stayed due to bankruptcy); and 547 actions completing Mediation were returned to

chambers for post-Mediation settlement negotiations and case processing. Seventy-nine cases are awaiting Mediation proceedings.

**Voluntary Arbitration:** 36 actions have been referred to voluntary Arbitration. All 36 cases have completed the process: eight arbitration awards were entered; 12 actions were resolved prior to the Arbitration proceeding (five dismissals and seven settled prior to selecting the arbitration panel or scheduling of the proceeding); nine actions were withdrawn from Arbitration when a party opted out pursuant to Local Rule; and seven cases were returned to chambers for further settlement negotiations and case processing (four cases requested a trial *de novo* and three cases were removed by the judicial officer).

**Summary Jury Trial:** 60 actions were referred to Summary Jury Trial and have completed the process: seven cases settled following a Summary Jury Trial; 30 actions were resolved prior to the Summary Jury Trial proceeding (eight dismissals and 22 settlements); 15 cases were removed upon consideration of the judicial officer; and eight cases were returned to chambers following the Summary Jury Trial for post-Summary Jury Trial settlement negotiations and further case processing.

**Summary Bench Trial:** Three actions were referred to Summary Bench Trial. Two actions were resolved prior to the Summary Bench Trial being conducted and one case settled following a Summary Bench Trial proceeding.

**Other Extrajudicial Processes:** One case was referred to a mini-trial process and as a result, the case settled.

#### 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 Three Years and Older

The number of civil cases three years and older has been reduced by over 63% since the PIRP was adopted. At the end of December, 1996 there were 145 civil cases pending three years or longer compared to 163 such cases at the end of 1995 and 399 such cases at the end of 1991. There were 34 cases on the district's civil docket at the close of 1996 that had been filed prior to 1992.

Cases Three Years and Older							
1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
399	177	144	178	163	145	-11.04	-63.66

#### 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 decreased over 9.52% from 546 in September, 1995 to 494 in September, 1996, 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						
Sept. 1992	Sept. 1993	Sept. 1994	Sept. 1995	Sept. 1996	% Change 1995-1996	% Change 1992-1996
1,169	1,420	280	546	494	-9.52	-57.74

#### Bench Trials

There were no bench trials awaiting a ruling for six months or longer at the end of 1996.

Bench Trials Awaiting Rulings Six Months or More							
Dec. 1991	Dec. 1992	Dec. 1993	Dec. 1994	Dec. 1995	Dec. 1996	% Change 1995-1996	% Change 1991-1996
1	0	0	1	0	0	-	-100.00

#### Inactive Cases

The number of cases which had been inactive for 90 days or more fell 23.78% from 551 at the end of 1995 to 420 at the end of 1996. Automated reports identifying inactive cases are available to each chambers at all times.

Civil Cases Inactive 90 or More Days						
Dec. 1992	Dec. 1993	Dec. 1994	Dec. 1995	Dec. 1996	% Change 1995-1996	% Change 1992-1996
635	677	564	551	420	-23.78	-33.86

### 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, declined in 1996. Since 1991 the median time to disposition was reduced from 15 months to three months. The average for all district courts is eight months. However, it should be noted, that in the past five years the median time statistic for the Northern District of Ohio has primarily reflected the regular transfer of newly filed asbestos cases to the E.D. of Pennsylvania pursuant to the ongoing MultiDistrict Litigation pending before that Court.

Median Time in Months From Filing to Disposition (Includes Asbestos Cases) Source: Federal Court Management Statistics Profile								
	Sept. 1991	Sept. 1992	Sept. 1993	Sept. 1994	Sept. 1995	Sept. 1996	% Change 1995-1996	% Change 1991-1996
U.S. Avg.	10	9	8	8	8	7	-12.50	-30.00
ND OH	20	6	2	4	5	3	-40.00	-85.00

### Unassigned Docket

An unassigned case is a matter that does not reside on the docket of any particular judge. The unassigned docket of cases was reduced by 50% from four in 1995 to two in 1996. Since the inception of the PIRP, the number of unassigned cases has fallen over 97%.

Cases on Unassigned Docket							
Dec. 1991	Dec. 1992	Dec. 1993	Dec. 1994	Dec. 1995	Dec. 1996	% Change 1995-1996	% Change 1991-1996
96	21	12	6	4	2	-50.00	-97.92

### 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 245 of the 3,244 pending civil cases, down 23.44% from the 320 cases presided over in 1995 and the lowest number in the past six years.

Pending Civil Case Loads at Year End by Judicial Status								
Judges	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Active	2,539 71%	1,978 58%	2,233 63%	2,868 78%	2,861 76%	2,267 69%	-20.76	-10.71
Senior & Other	707 20%	970 29%	800 23%	473 13%	559 15%	732 23%	30.91	3.51
Magistrate	322 9%	424 13%	510 14%	348 9%	320 9%	245 8%	-23.44	-23.91
Total	3,568	3,372	3,543	3,689	3,740	3,244	-13.26	-9.08

Magistrate judges were the presiding judicial officers for 404 (9%) of the civil cases that were resolved in 1996, seven cases more than in 1995 and up 48.52% from the 272 civil cases resolved by magistrate judges in 1991.

Non-Asbestos Civil Case Closings by Status of Judicial Officer								
Judges	1991	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1991-1996
Active	2,743 75%	2,511 66%	2,079 60%	2,189 65%	2,593 69%	2,744 66%	5.82	0.03
Senior & Other	640 18%	926 24%	956 27%	760 23%	700 20%	1035 25%	47.85	61.71
Magistrate	272 7%	392 10%	450 13%	396 12%	397 11%	404 9%	1.76	48.52
Total	3,655	3,829	3,485	3,345	3,690	4,183	13.36	14.45

### 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 6,010 new asbestos cases were filed and docketed in this district during 1996, an average of over 500 per month, and a 15.93% increase over the 5,184 asbestos cases filed in 1995. The district now maintains over 25,000 asbestos case files. During 1996 and early in 1997, the MDL judge issued orders dismissing, subject to reinstatement, all cases pending on the maritime asbestos docket.

Asbestos Case Filings							
Category	1992	1993	1994	1995	1996	% Change 1995-1996	% Change 1992-1996
Filings	1,523	4,319	4,163	5,184	6,010	15.93	294.62

### Educational Efforts

Throughout the period during which it served as a demonstration district, the Northern District of Ohio conducted several training seminars and educational programs designed to inform the bar and the general public about its efforts to reduce cost and delay in civil litigation through the use of DCM and ADR. Town Hall meetings were held in the Toledo, Lima/Ada and Akron/Canton areas to introduce the district's DCM Plan and wide menu of ADR options to the public. The Court co-sponsored various Continuing Legal Education seminars with the Cleveland, Akron, Toledo, Federal, Mahoning County and Trumbull County bar associations to familiarize practicing attorneys with the Court's Local Rules and new operating procedures. Federal Court Walk Through programs were 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. 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. The district continues to offer and co-sponsor Continuing Legal Education Programs and ADR training seminars.

### Study of Litigation Costs

Upon the recommendation of the CJRA Advisory Group, the Northern District of Ohio conducted a multi-year study to determine whether the DCM and ADR programs affected litigation costs. The study compares the **number of hours** law firms spent on various aspects of litigation for samples of cases filed both prior to and following DCM implementation. The study collected empirical data from law firm time-keeping records, to ensure that the results obtained were scientifically defensible. To our knowledge no such study of litigation costs had been conducted before.

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

Attorney response was overwhelmingly positive despite initial concerns that attorneys would not open their time-keeping records to

court personnel. During 1993, 1994 and 1995, data collectors visited attorney offices and gained access to over 700 time-keeping records. The Civil Justice Reform Act Advisory Group Sub-Committee on Litigation Costs is currently preparing the final report.

While preliminary analysis of the results leads to the conclusion that DCM and ADR had no affect on the overall hours spent litigating cases, the effects of those case management techniques on individual aspects of litigation varied. For instance, the CJRA efforts reduced the number of hours spent on Answers, Counter Claims and Cross Claims (preparing, filing, serving, reviewing, etc.), Discovery Motions (preparing, responding to, arguing, reviewing, etc) and out-of-court Informal Settlement Activity, while increasing the number of hours spent on Alternative Dispute Resolution and Informal Discovery.

Perhaps the most significant accomplishment of the study is that it demonstrates how empirical data on litigation costs can be collected and used to analyze the effectiveness of changes in Court procedures.

### Conclusion

The Northern District of Ohio continues to utilize the case management techniques it adopted pursuant to its designation as a demonstration district under the Civil Justice Reform Act. While the Court did not achieve all its objectives during its term as a demonstration district, the district is satisfied that it is headed in the proper direction with its DCM and ADR systems. If not for the hard work of the district's judicial officers and the assistance that these innovative case management techniques provides to them, the Court would have been hard pressed to keep its docket current during this period of scarce judicial resources.

During the upcoming year, the Court looks forward to filling its vacant magistrate judgeship and it is hopeful that the two vacant district judgeships will be filled. There remains continuing concern, however, that the district's temporary judgeship will be lost. The Court shall also:

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 educate the bar and the public about our CJRA delay and cost reduction efforts through continuing legal education seminars and other open meetings;
5. Continue its efforts to integrate magistrate judges into the management of civil cases; and

6. Expand its electronic filing prototype beyond maritime asbestos cases by permitting electronic filing in other civil case categories.

The Northern District of Ohio's CJRA expense and delay reduction plan has proven to be popular among both the bench and the bar. The district intends to continue its efforts to develop the best available system for delivering justice. As a Civil Justice Reform Act 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.



---

George W. White  
Chief Judge