Civil Justice Reform Act Advisory Group for the Middle District of Tennessee

APPENDICES

VOLUME II

of

FINAL REPORT

Civil Justice Reform Act Advisory Group
for the Middle District of Tennessee

November, 1993

TABLE OF CONTENTS

VOLUME II

VOLUME II

Civil Justice Reform Act Advisory Group
for the Middle District of Tennessee

APPENDIX D: Assessment of the Criminal Docket

Exhibit 1: Types of Felony Cases Filed 1984-1992
Exhibit 2: Number of Civil & Criminal Trials 1985-1992
Exhibit 3: Thornburgh Memo
Exhibit 4: Guidelines for Request by State Authorities for Federal Prosecution

APPENDIX E: Assessment of Prisoner Litigation

Exhibit 1: Prisoner Filings From 1984-1992
Exhibit 2: Prisoner Cases Pending as of the Beginning and End of Calendar Year 1991
Exhibit 3: Report of Fees Paid or Cases not Pursued by Prisoners After Full or Partial Denial of IFP Status
Exhibit 4: Proposed Order (directing defendants to notify Court of related cases)

APPENDIX F: Statistical Information on the Condition of the Civil and Criminal Dockets, Trends in Filings, and Demands on Court Resources

Exhibit 1: Total Case Filings 1984-1992
Exhibit 2: Civil Case Filings 1984-1992
Exhibit 3: Types and Number of Civil Case Filings 1984-1992
Exhibit 4: Criminal Felony Case Filings 1984-1992
Exhibit 5: Ratio of Pending Cases to Terminated Cases 1980-1992
Exhibit 6: Ratio of Cases Terminated to Cases Filed 1980-1992
Exhibit 7: Civil Cases Filed, Terminated, and Pending by Active District Judge 1987-1992
Exhibit 8: Civil Cases Filed, Terminated, and Pending by Type of Case 1987-1992
Exhibit 9: Magistrate Judge Workload 1988-1992

APPENDIX A

JUDICIAL OFFICERS OF THE MIDDLE DISTRICT OF TENNESSEE

As of November 1993

Chief Judge John T. Nixon. Appointed United States District Judge May 16, 1980. Appointed Chief Judge August 1, 1991. Eligible to retire or take senior status January 9, 1998.

Judge Thomas A. Wiseman, Jr. Appointed United States District Judge August 1, 1978. Served as Chief Judge from August 1, 1984, until August 1, 1991. Eligible to retire or take senior status November 3, 1995.

Judge Thomas A. Higgins. Appointed United States District Judge December 3, 1984. Eligible to retire or take senior status December 3, 1998.

Judge Robert L. Echols. Appointed United States District Judge April 20, 1992. Eligible to retire or take senior status January 13, 2007.

Senior District Judge L. Clure Morton. Appointed United States District Judge October 26, 1970. Served as Chief Judge from August 15, 1977, until July 31, 1984. Became a Senior Judge July 31, 1984. Presides over the Northeastern Division in Cookeville.

Magistrate Judge Kent Sandidge III. Appointed United States Magistrate September 7, 1972. Reappointed to second term October 31, 1980. Reappointed to third term October 31, 1988. Eligible for full retirement December 28, 1994.

Magistrate Judge William J. Haynes, Jr. Appointed United States Magistrate December 7, 1984. Reappointed December 7, 1992. Eligible for full retirement September 5, 2014.

Bankruptcy Judge George Paine. Appointed United States Bankruptcy Judge October 15, 1981. Reappointed October 1, 1986. Eligible for full retirement October 31, 2010.

Bankruptcy Judge Keith Lundin. Appointed United States Bankruptcy Judge May 25, 1982. Reappointed October 1, 1986. Eligible for full retirement May 25, 2016.

APPENDIX B

MEMBERS OF THE CIVIL JUSTICE REFORM ACT ADVISORY GROUP

R. Dale Grimes, Chair. Partner, Bass, Berry & Sims. Former law clerk to Honorable L. Clure Morton, U.S. District Court, Middle District of Tennessee. B.A., University of the South, 1975. J.D., University of Tennessee College of Law, 1978. Past Chair, Federal Court Committee, Nashville Bar Association. Chairman, Board of Regents, University of the South.

George E. Barrett. Partner, Barrett, Johnston & Parsley. B.S.S., Spring Hill College, 1952. Diploma in Economics and Politics, Oxford University, England, 1953. J.D., Vanderbilt University School of Law, 1957. Past Secretary, Tennessee Advisory Committee, United States Commission on Civil Rights. Past President, Nashville Council on Human Relations. Past President, Tennessee Council on Human Relations. Past Member, Governor's Commission on Human Relations. Past Member, Tennessee Supreme Court Committee on Appellate Court Jurisdiction. Past Member, Advisory Commission to the Tennessee Supreme Court on the Rules of Civil Procedure. Past Chair, Labor Law Section, Tennessee Bar Association. Life Member, Sixth Circuit Judicial Conference.

Barbara Bennett. Assistant General Counsel, Vanderbilt University. Former associate, Liskow & Lewis, New Orleans, Louisiana. Former associate, Barham & Churchill, New Orleans, Louisiana. Former law clerk to Honorable Thomas A. Wiseman, Jr., U.S. District Court, Middle District of Tennessee. B.A., Vanderbilt University, 1973. J.D., Vanderbilt University, 1983. Member, Board of Directors, National Association of College and University Attorneys. Reporter, Tennessee Supreme Court Commission on Dispute Resolution. Chair, Nashville Bar Association Committee on Alternative Dispute Resolution. Past Chair, Corporate Counsel Committee of the Nashville Bar Association. Past member, Tennessee Bar Association Commission on the Status of Women and Minorities in the Profession.

Andrée Sophia Blumstein. Partner, Sherrard & Roe. Lecturer in Law, Vanderbilt University Law School. Former partner, Trabue, Sturdivant & DeWitt. B.A., Vassar College, 1967. Ph.D. in German Literature, Yale University, 1973. J.D., Vanderbilt University School of Law, 1981. Past Chair, Antitrust & Business Regulation Section, Tennessee Bar Association. Past Chair, Appellate Practice Committee, Nashville Bar Association. Former Tennessee Bar Association representative to the Tennessee Codes Commission. Vice-President Elect, Nashville Chapter, Federal Bar Association. Leadership Nashville, class of 1993.

G. Gordon Bonnyman. Attorney, Legal Services of Middle Tennessee, Inc. Former clinical law instructor, Vanderbilt University Law School. B.A., Princeton University, 1969. J.D., University of Tennessee School of Law, 1972. Past member, Nashville Bar Association Board of Directors. Member, Tennessee Governor's Medicaid Task Force. Member, Tennessee Supreme Court Commission on the Future of the Courts. Member, Nashville Mayor's AIDS Task Force. Member, Poverty & Race Research Action Council. Member, Nashville Council on Aging.

Edmund L. Carey, Jr. Associate, Neal & Harwell. Former Lecturer in law, Vanderbilt University School of Law. Former law clerk to the Honorable Thomas A. Wiseman, Jr., U.S. District Court, Middle District of Tennessee. Former law clerk to the Honorable Gilbert S. Merritt, United States Court of Appeals for the Sixth Circuit. B.A., Holy Cross College, 1965. M.D., Harvard Medical School, 1970. J.D., Vanderbilt University Law School, 1986. Past Chair, Federal Court Committee, Nashville Bar Association.

Fred Cloud. Adjunct Professor of Sociology and Psychology, American Baptist College. Editor-in-Chief, Journal of Intergroup Relations. Past Executive Director, Metro Human Relations Commission. Former pastor, United Methodist Churches in Middle Tennessee. B.A., Vanderbilt University, 1944. M.Div., Vanderbilt University Divinity School, 1947. M.A., Scarritt College, 1961. D.Min., Vanderbilt Divinity School, 1990. Member, Tennessee Master Plan Committee on Mental Health. Past President, National Association of Human Rights Workers. Past President, Tennessee Association of Human Rights Workers. Past Vice-President, Nashville Association of Rabbis, Priests and Ministers. Past Chair, Mayor's Committee on Refugee and Immigration Affairs.

Jerry C. Colley. Partner, Colley & Colley, Columbia, Tennessee. Former partner, Colley, Blank & Jack, Columbia, Tennessee. Former partner, MacFarland & Colley, Columbia, Tennessee. George Peabody College. J.D., Vanderbilt University School of Law, 1951. Past President, Maury County Bar Association. Fellow, American College of Trial Lawyers. Member, Board of Professional Responsibility for the Tennessee Supreme Court.

Waverly D. Crenshaw, Jr. Associate, Waller, Lansden, Dortch & Davis. Former Assistant Tennessee Attorney General. Former law clerk to Honorable John T. Nixon, U.S. District Court, Middle District of Tennessee. Former law clerk to Honorable C. Allen High, Robert S. Brandt and Irvin H. Kilcrease, Jr., Chancery Court, Davidson County, Tennessee. B.A., Vanderbilt University, 1978. J.D., Vanderbilt University School of Law, 1981. President, Napier-Looby Bar Association. Past Secretary-Treasurer, Nashville Bar Association.

Bettye D. Daugherty. Assistant Corporate Secretary, Hospital Corporation of America and Vice-President of its affiliated companies. Former paralegal, Butler, Tune & Entrekin. University of Tennessee at Nashville. M.B.A., Jack C. Massey Graduate School of Business, Belmont University, 1991. Member, Dispute Resolution Section, American Bar Association. Adviser, Center for Public Resources Alternative Dispute Resolution Project. Member, Nashville Child Advocacy Task Force. Consultant, Center for NonProfit Management. Director, Rape and Sexual Abuse Center. Member, Board of Advisers and Admissions Committee, Southeastern Institute for Paralegal Education, Inc.

John A. Day. Shareholder, Branham & Day, P.C. Former Partner, Boult, Cummings, Conners & Berry. B.A., University of Wisconsin, 1978. J.D., University of North Carolina, 1981. President, Tennessee Trial Lawyers Association. Member, Statewide Legal Committee, American Civil Liberties Union. Member, Tennessee Supreme Court Commission on Dispute Resolution. Member, Federal Rules, Jurisdiction and Venue Committee, Association of Trial Lawyers of America. Trustee, Lawyers Involved for Tennessee. Past Chair, Nursing Home Litigation Group, Association of Trial Lawyers of America. Past Chair, Circuit and Chancery Court Committee, Nashville Bar Association. Member, Harry Phillips American Inns of Court.

Kimberly J. Dean. Deputy Attorney General, Civil Rights & Claims Commission Division, Office of the Tennessee Attorney General & Reporter. Former attorney, Office of Legal Services for the Tennessee General Assembly. Former law clerk, Honorable Ben Cantrell, Tennessee Court of Appeals. B.A., University of Georgia, 1976. J.D., Vanderbilt University Law School, 1979.

Richard H. Dinkins. Partner, Williams & Dinkins. B.A., Denison University, 1974. J.D., Vanderbilt University School of Law, 1977. Commissioner, Davidson County Election Commission. Cooperating Attorney, NAACP Legal Defense and Educational Fund, Inc. Cooperating Attorney, Minority Business Enterprise Legal Defense and Educational Fund, Inc. Member, Board of Governors, Tennessee Trial Lawyers Association. Past President, Napier-Looby Bar Association. Barrister, Harry Phillips American Inns of Court. Past Member, Middle Tennessee Chapter, American Civil Liberties Union Board of Directors. Past member, Board of Directors, Nashville Bar Association. Past President, Legal Services of Middle Tennessee, Inc. Leadership Nashville, class of 1986. Trustee, First Baptist Church.

Barry Friedman. Professor of Law, Vanderbilt Law school. Former associate, Davis, Polk & Wardwell, Washington, D.C. Former adjunct professor, Georgetown University Law Center. Former law clerk to Honorable Phyllis A. Kravitch, United States Court of Appeals for the Eleventh Circuit. A.B., University of Chicago, 1978. J D., Georgetown University Law Center, 1982. Vice-Chair, Charter Revision Commission, Nashville-Metropolitan Davidson County. Member Executive Committee and Board of Directors, American Judicature Society. Member, Advisory Board, State and Local Legal Center of the Academy for State and Local government. Former Consultant, Federal Courts Study Committee. Former Consultant, Advisory Commission on Intergovernmental Relations, Legislative Solutions to Preemption Doctrine. Former Consultant, National Institute of Municipal Law Officers, Subcommittee on Tenth Amendment. Former Consultant, National Conference of State Legislatures' Law and Justice Committee.

C.J. Gideon, Jr. Partner, Gideon & Wiseman. A.B., Duke University, 1975. J.D., Vanderbilt University School of Law, 1978. Tennessee Hospital Attorneys Association. Member, Harry Phillips American Inns of Court. Medical-Legal Committee, Defense Research Institute.

Richard Banner Hart. Special Counsel, Bowne of Nashville, Inc. Former Vice-President, Secretary and General Counsel, Intereal Co. Former Vice-President, Secretary and Associate General Counsel, American General Insurance Companies. Former Secretary and Counsel, NLT Corp. and National Life and Accident Insurance Company. A.B., University of North Carolina, 1957. J.D., University of North Carolina, 1959.

Joseph L. (Jack) May. Private practitioner. Businessman and former President and Chairman, May Hosiery Mills. Central Intelligence Agency, 1951-55. B.A., Yale College, 1951. J.D., New York University, 1958. Director, various Merrill Lynch mutual funds. Panel member, American Arbitration Association.

Thomas R. McCoy. Professor of Law, Vanderbilt University School of Law. B.S., Xavier University, 1964. Former Associate Dean for academic affairs, Vanderbilt University School of Law. J.D., University of Cincinnati College of Law, 1967. LL.M., Harvard Law School, 1968. Member, Tennessee Supreme Court Commission on Dispute Resolution. Member, Alternative Dispute Resolution Committee, Tennessee Bar Association. Member, American Arbitration Association Complex Case Program Advisory Council. Member, American Arbitration Association Complex Case Panel. Past Consultant, Metropolitan Nashville Development and Housing Authority, mediation and community dispute resolution programs.

George B. McGugin. Partner, Watkins, McGugin, McNeilly & Rowan. B.A., Vanderbilt University, 1962. J.D., Vanderbilt University School of Law, 1965. Former member, Board of Directors, Nashville Bar Association. Past President, International Association of Defense Counsel. Past member, Board of Directors and member of Executive Committee, Defense Research Institute. Fellow, American College of Trial Lawyers. Member, Board of Trustees, Montgomery Bell Academy.

Barbara J. Moss. Partner, Gullett, Sanford, Robinson & Martin. Former associate, Boult, Cummings, Conners & Berry. Lecturer in Law, Vanderbilt University School of Law. B.A., Vanderbilt University, 1972. J.D., Vanderbilt University School of Law, 1977. Member, Board of Professional Responsibility for the Tennessee Supreme Court. Member, Board of Directors, Nashville Bar Association. President-Elect, Lawyers Association for Women, Marion Griffin Chapter.

Dan L. Nolan. Partner, Daniel, Harvill, Batson & Nolan, Clarksville, Tennessee. J.D., University of Tennessee, 1964. B.S., University of Tennessee, 1966. Past President, Montgomery County Bar Association. Past Vice-President, Tennessee Bar Association. Member, Board of Governors, Tennessee Bar Association. Member, American Board of Trial Advocates. Fellow, Tennessee Bar Foundation. Fellow, American College of Trial Lawyers. Member, Tennessee Supreme Court Hearing Committee for State of Tennessee Board of Professional Responsibility.

Jimmie Lynn Ramsaur. Assistant United States Attorney, Middle District of Tennessee. Former partner, Shipley & Behm. Former Assistant Metropolitan Public Defender, Nashville, Tennessee. Former Managing Attorney, Legal Services of Middle Tennessee, Inc. B.A., Lambuth College, 1973. J.D., University of Tennessee College of Law, 1977. Fellow, Nashville Bar Foundation. Past Chair, Federal Court Committee, Nashville Bar Association. Past Chair, General Sessions Committee, Nashville Bar Association. Past Secretary, Lawyers Association for Women, Marion Griffin Chapter. Past Member, University of Tennessee College of Law Alumni Advisory Committee. Past President, Board of Directors, Opportunity House.

William P. Redick, Jr. Director, Capital Case Resource Center of Tennessee. Former Assistant Federal Public Defender, Middle District of Tennessee. Former private practitioner. Former Director of Treatment Alternatives to Street Crime Project, Office of Davidson County District Attorney. Former Legal Counsel, Court's Task Force of the National Advisory Commission on Criminal Justice Standards and Goals, United States Department of Justice. Former law clerk to Honorable Alfred Burka, Superior Court of the District of Columbia. B.A., Centre College, 1965. J.D., University of Tennessee College of Law. Chair, Death Penalty Committee, Tennessee Association of Criminal Defense Lawyers.

David Randolph Smith. Private practitioner. Former partner, Kinnard and Smith. Former Assistant Professor, Vanderbilt University School of Law. B.A., Harvard University, 1975. J.D., University of Texas, 1978. Past Research Scholar, Vanderbilt University Medical Center for Clinical and Research Ethics. Former Commentator, Law and Medicine Committee, Tort and Insurance Practice Section, American Bar Association.

Thomas O.H. Smith, Jr., In-House Counsel, United States Fidelity and Guaranty Insurance Company. Former partner, Smith, Davies, Smith & Cantrell. B.A., University of the South. J.D., Vanderbilt University School of Law.

Robert C. Watson. Assistant United States Attorney and Chief of Civil Division, Middle District of Tennessee. Lecturer in Law, Vanderbilt University School of Law. Former Assistant United States Attorney, Middle District of Alabama. Former private practitioner with Woods, Bryan, Woods & Watson. Former law clerk to the Honorable Robert Varner, Middle District of Alabama. B.A., Vanderbilt University, 1967. J.D., Vanderbilt University School of Law, 1974. M.S. in criminal justice, Vanderbilt University, 1978. Past President, Nashville Chapter, Federal Bar Association. Past member, Sixth Circuit Pattern Jury Instructions Committee.

Mariah A. Wooten. Deputy Federal Public Defender, Middle District of Tennessee. Former private practitioner. Former Assistant Metropolitan Public Defender, Nashville, Tennessee. B.A., Fisk University, 1972. J.D., University of Tennessee College of Law, 1978. Member, Metropolitan Nashville Beer Board. Past President, Napier-Looby Bar Association. Past Secretary-Treasurer, Nashville Bar Association. Past Board Member, Tennessee Association of Criminal Defense Lawyers. Past Board Member, Lawyers Association for Women, Marion Griffin Chapter.

Juliet Griffin, Reporter. Clerk, United States District Court, Middle District of Tennessee. Former staff attorney, Legal Services of Middle Tennessee, Inc. Former law clerk to Honorable Thomas A. Wiseman, Jr., Middle District of Tennessee. B.A., Oberlin College, 1971. J.D., University of Tennessee, 1978. Fellow, Tennessee Bar Foundation. Fellow, Nashville Bar Foundation. Past President, Nashville Bar Association.

APPENDIX C

METHODOLOGY UTILIZED BY CJRA ADVISORY GROUP FOR COLLECTION OF DATA AND ASSESSMENT OF THE CIVIL AND CRIMINAL DOCKETS

The Advisory Group collected and studied considerable data concerning the docket in this District. It distributed questionnaires to counsel in a sample of 180 cases and to the litigants in those cases. It studied the results of these questionnaires, together with thorough reviews of the cases themselves. It also reviewed the multitude of statistical information about this District. Other data was collected and studies conducted to evaluate the civil and criminal dockets in this District and to assist in the assessment of the causes of cost and delay. Finally, statistics compiled periodically by the Administrative Office of the United States Courts and the Court of Appeals for the Sixth Circuit on workload, motions and pending cases were reviewed and analyzed.

1. Sample Study of Civil Cases

The initial step of the Advisory Group was to devise, with the assistance of the Federal Judicial Center, a sample of 180 civil cases closed within a 21 month period between July 1, 1989, and March 31, 1991. During that period, 2663 civil cases were closed. Of that number, 312 were PCB products liability cases, accounting for 11.7% of the cases closed. Because those cases represented an anomaly in filings and closures, they were excluded from the total study sample, reducing the total study sample to 2351. Of the 2351 cases closed during the study period, excluding the PCB cases, prisoner litigation accounted for 32.3% of the cases closed during the period of study. Because prisoner litigation was studied separately, they were not included in the sample study. Also excluded because of the lack of concern with cost and delay were student loan cases and recovery of veterans benefit overpayments, comprising together 3.7% of the cases closed. Also excluded from the study because of the specialized nature of the type of cases were Bankruptcy appeals and withdrawals of references from Bankruptcy Court, comprising 2.3%, and Social Security cases, comprising 4.1%, The remaining civil cases were chosen for study by case category with a number within each category that was proportionate to the number of total cases closed within the sample period. The ten categories of cases chosen for study are listed in Exhibit 1 to this Appendix.

The study included cases assigned to active District Judges Wiseman, Nixon, and Higgins. The study did not include cases assigned to Senior District Judge Morton because of the low number of Northeastern Division cases in the above categories and because of the lack of any empirical or anecdotal indication that there was any incidence of undue cost and delay in the Northeastern Division. Cases were chosen within each category in an approximately equal number for each judge. To permit a comparative assessment of cases with a longer life span to cases with more moderate life spans, in each category of cases, one-half of the cases were selected from those cases whose life span was in the 20th highest percentile and one-half of the cases were selected from those cases whose life span was within the 50th to 70th percentile of each case category.

a. Questionnaires to Lawyers

A comprehensive, twenty page questionnaire was developed with the assistance of a Professor of Sociology at Vanderbilt University. It was designed to solicit information concerning the causes of cost and delay, activities that increased or reduced cost and delay, and other information not discernible from the docket sheets. A copy of the questionnaire is attached as Exhibit 2 to this Appendix. Almost 460 questionnaires were distributed to all lawyers of record in the 180 sample cases. The return rate was 44.5%, reflecting 205 returned questionnaires.

With the assistance of a computer programmer from Vanderbilt University, the Advisory Group correlated the questionnaire responses and analyzed the data. The report of the data analysis is attached as Exhibit 3 to this Appendix.

b. Questionnaires to Litigants

After the attorney questionnaires were returned, a follow-up letter and questionnaire were distributed to the attorneys who returned questionnaires, requesting that they forward the litigant questionnaire to their clients in the specific cases. The response rate for return of the litigant questionnaire was minimal and not deemed to be significant enough to consider. A copy of the litigant questionnaires is attached as Exhibit 4 to this Appendix.

c. Docket Sheet Review

In each of the 180 sample cases, the Clerk's office prepared a Docket Sheet Review, which listed general information about the case, including the reason the case was closed and total time for disposition, as well as specific information on the length of time for various stages of the case, including discovery, motion filing, and scheduling

order information. A sample of a completed docket sheet review form is attached as Exhibit 5 to this Appendix. In addition, the Clerk's office prepared a form for Motion Disposition Time for each substantive motion filed in each of the 162 sample cases. A sample of a completed Motion Disposition Time form is attached as Exhibit 6 to this Appendix.

The Docket Sheet Review forms, the Motion Disposition Time forms, and copies of the docket sheets in each of the 180 cases were provided to the Advisory Group committee members for their review and analysis.

2. Survey of Litigants in Prisoner Cases

A short survey was sent to frequent prisoner litigants, defendants frequently sued by prisoners, counsel who regularly appear in prisoner cases, and others with substantial interest in prisoner litigation. A copy of the survey and the categories of respondents to the questionnaire are attached as Exhibit 7 to this Appendix.

3. Assessment of Criminal Docket & Study of Trials & In-Court Time

The Clerk's office collected data reflecting the average time per criminal trial, the average time per civil trial, the total number of civil and criminal trials and in-court time spent on civil and criminal matters in the years 1985 through 1992, for Judge Nixon, Judge Wiseman, Judge Higgins, and for 1992, for Judge Echols.[1] This data was further broken down into time spent in court on pleas and sentencings, and whether such pleas and sentencings were subject to the Sentencing Guidelines. The year 1985 was chosen as a baseline year because it preceded the Sentencing Guidelines and mandatory minimum legislation and because it was Judge Higgins' first full year on the bench. This data is attached as Exhibit 8 to this Appendix.

4. Data Collected on Dispositive Motions & Referrals to Magistrate Judges

The Clerk's office collected data reflecting the dispositive motions pending as of June 18, 1992, for each active District Judge, indicating the type of motion, filing date, whether or not it had been referred to a Magistrate Judge for a Report and Recommendation, whether the motion had been pending over six months, and the dates the case had been scheduled for trial by orders entered prior to June 19, 1992. This data is attached as Exhibit 9 to this Appendix. In addition, the Clerk's office collected data

---

[1] Judge Echols took the bench on April 20, 1992. Therefore, the data collected on his cases includes the last eight months of calendar year 1992.

on referrals of cases and motions to the Magistrate Judges during the period October 1, 1991, through May 31, 1992, and those referrals that were still active during that period even though the referrals were initially made prior to October 1, 1991. This data is attached as Exhibit 10 to this Appendix.

5. Data Collected on Trial Settings

To determine how firmly trial dates were set, the Clerk's office collected data for each active District Judge during the period October 1, 1991, through May 31, 1992, on the criminal and civil cases scheduled for trial, the cases actually tried on the scheduled dates, and the reason for the cases not being tried on the scheduled dates, if applicable. This data is attached as Exhibit 11 to this Appendix.

6. Data Collected on Trial Interruptions

To determine how frequently trials were interrupted by other matters, the courtroom deputies maintained logs of courtroom activity during a three-month period between June 29, 1992, and September 30, 1992. This data and bar graphs are attached as Exhibit 12 to this Appendix.

7. Interviews with Judicial Officers and Court Personnel

Members of the Advisory Group met with each active District Judge, each Magistrate Judge, the Judges' staff, including law clerks and secretaries, the United States Attorney, and members of the Clerk's office staff, including courtroom deputies, docket clerks, the pro se law clerk, and the systems administrator.

EXHIBIT 1 TO APPENDIX C

TYPES OF CASES INCLUDED IN SAMPLE STUDY

Of Cases Closed Between July 1, 1989, and March 31, 1991

The attached chart shows the total number of cases closed during the study period for each category of cases, the percentage of cases closed during the study period represented by the number of cases closed in each case category, the number in the sample for each case category, and the range of the lifespan (i.e., the age of the case at the time the case is closed) for each category of case used in the sample.

The listing of the specific cases used in the sample study is on file in the Clerk's office.

SAMPLE OF
CASES CLOSED DURING JULY 1, 1989, AND MARCH 31, 1991
USED IN SURVEY

	NUMBER OF CASES CLOSED			RANGE OF LIFESPAN OF SAMPLE CASES IN MONTHS	
CATEGORY	Total	Percentage of Total Cases Closed	Number in Sample*	50th - 70th Percentile	Highest 20th Percentile
Civil Rights - Jobs	88	3.7%	12	10.4 - 13.6 mo.	24.9 - 78.3 mo.
Other Non-Prisoner Civil Rights	165	7.0%	24	7.3 - 9.9 mo.	14.7 - 40.4 mo.
Labor	92	3.9%	12	8.2 - 11.8 mo.	22.1 - 36.8 mo.
Insurance	68	2.9%	12	12.2 - 14.3 mo.	21.0 - 108.1 mo.
Contract (Other than Insurance)	295	12.6%	36	6.6 - 9.8 mo.	14.2 - 59.2 mo.
Tax	63	2.7%	12	6.4 - 9.0 mo.	11.9 - 26.1 mo.
Motor Vehicle Personal Injury	78	3.3%	12	10.3 - 13.6 mo.	15.8 - 24.8 mo.
All Other Tort	253	10.8%	24	10.0 - 14.5 mo.	21.6 - 45.2 mo.
Possibly Complex	161	6.9%	24	10.6 - 16.4 mo.	22.9 - 51.5 mo.
All Other	89	3.8%	12	6.1 - 9.7 mo.	13.6 - 14.1 mo.

*One-half of the cases was taken from the 50th to 70th percentile
and one half from the 80th to 100th percentile

EXHIBIT 2 TO APPENDIX C

QUESTIONNAIRE FOR ATTORNEYS IN SAMPLE CIVIL CASES

The attached questionnaire was distributed to all attorneys of record (approximately 460) in the 180 sample civil cases closed between July 1, 1989, and March 31, 1991.

The questionnaire responses are on file in the Clerk's office. However, the respondents were assured confidentiality. Therefore, the individual responses cannot be released.

QUESTIONNAIRE FOR ATTORNEYS IN CIVIL CASES
CIVIL JUSTICE REFORM ACT ADVISORY GROUP
FOR THE MIDDLE DISTRICT OF TENNESSEE

Case: _____

Number: _____

Please return this questionnaire by December 10, 1991, in the enclosed envelope to Dale Grimes, 2700 First American Center, Nashville, TN 37238. If you have any questions, please call Dale Grimes at (615) 742-6244 or Juliet Griffin at (615) 736-7763.

Thank you for your time and attention.

A. DESCRIPTION OF CONTROVERSY

1. The following are broad categories of cases that are part of this survey. Please identify the type of case this was. (Circle as many as apply)

   a. Civil rights/jobs

   b. Other civil rights

   c. Labor

   d. Insurance

   e. Contract (other than insurance)

   f. Tax

   g. Motor Vehicle Personal Injury

   h. Tort (other than motor vehicle personal injury)

   i. Securities

   j. Antitrust

   k. Intellectual property (patent, copyright, trademark)

   l. Civil RICO

   m. Banks/banking

   j. Other statutory actions

k. None of the above

2. Please approximate the potential monetary recovery or exposure, if any, for your client(s):

_____

3. Did your client(s) have any other, significant interests at stake, such as need for injunctive relief, matter of principle, concern about future litigation, possibility of legal precedent of significant consequence, professional reputation, etc.?

a. No

b. Yes

If yes, please specify:

_____

_____

B. TIMELINESS OF DISPOSITION OF THIS CASE

4. As to your client(s), how long did this case take to conclude from filing to disposition?

_____Months

5. Was the time from filing to disposition, as to your client(s):

a. Much too long

b. Somewhat too long

c. Reasonable

d. Too short

IF YOU ANSWERED (C) OR (D), SKIP TO QUESTION 7.

6. If you believe that the time from filing to disposition was too long as to your client(s), please indicate the significant causes of the excessive length of time. Please circle all significant causes and provide any additional reasons:

   a. Excessive intervention or supervision by the Court

   b. Insufficient amount of intervention or supervision by the Court

   c. Ineffective intervention or supervision by the Court

   d. The Court's failure to rule promptly on motions

   e. Actions by the Court, other than failure to rule promptly on motions.

      Please specify: _____

   f. Dilatory actions by counsel

   g. Dilatory actions by the parties

   h. Backlog of other cases on the Court's docket

   i. Unnecessary discovery

   j. Inefficient discovery

   k. Other reasons (Please specify): _____

      _____

B. MANAGEMENT OF THIS LITIGATION

7. "Case Management" refers to active oversight and supervision of litigation by a judge or magistrate judge. This management can take such forms as scheduling orders, close monitoring of motions practice, a requirement of rapid progress to trial, pre-trial conferences, etc.

   The amount of case management in this case was: (please circle one):

   a. High

   b. Moderate

   c. Low

   d. Minimal or none

8. If there were no or minimal case management by the Court in this case, were the parties able to manage the litigation in this case effectively without the intervention of the Court?

   a. Yes

   b. To some extent

   c. No

   d. Inapplicable

9. The effectiveness of case management in this case was: (please circle one):

   a. Very effective

   b. Somewhat effective

   c. Not effective at all

   d. Inapplicable

10. The timing of case management in this case was: (please circle one):

   a. Too early

   b. Appropriate

   c. Too late

   d. Inapplicable

11. In your opinion, were there any pre-trial matters involving your client(s) that were not referred to a magistrate judge that should have been referred in order to reduce cost and/or length of time?

   a. Yes

      If yes, please specify: _____

      _____

   b. No

   c. Don't Know

   d. Inapplicable

13. Do you believe that the length of time of the case would have been reduced by more intervention by the Court?

    a. Yes

    b. No

    c. Don't know

14. Do you believe that the cost of the case would have been reduced by more intervention by the Court?

    a. Yes

    b. No

    c. Don't know

15. Was this case settled as to your client(s)?

    a. No

    b. Yes, in part

    c. Yes, in total

IF YOU ANSWERED (B) OR (C), SKIP TO QUESTION 17.

16. If the case did not settle, was it a case that should have settled as to your client(s)?

    a. No

    b. Yes

    c. Yes, in part

    If the case could have settled in part or in whole, please explain:

    _____

17. If the case settled, please indicate the factors that precipitated settlement: (Circle all that apply)

    a. Trial date in the near future

    b. Settlement conference conducted by the Court

    c. Pre-trial conference

    d. Other hearing or conference held by the Court

    e. Cost of continuing to litigate

    f. Desire to resolve case without further delay

    g. Recognized that merits of case were such that settlement was appropriate

    h. Other Please specify: _____

18. If the case settled, could it have settled earlier?

    a. Yes

    b. No

    c. Inapplicable

19. If the case could have settled earlier, what prevented an earlier settlement?

    _____

    _____

20. Was an offer of judgment made pursuant to Rule 68 of the Federal Rules of Civil Procedure?

    a. Yes

    b. No

21. Did you utilize any methods of Alternative Dispute Resolution (ADR) not offered by this Court, such as binding arbitration or non-binding mediation or arbitration?

    a. Yes

    b. No

    c. Don't Know

    d. Not applicable

22. If you utilized ADR techniques, what methods did you use?

_____

23. If you did not utilize any ADR techniques, did you consider using any?

a. Yes

b. No

c. Don't Know

d. Not applicable

24. If you considered ADR techniques but did not use them, what ADR techniques did you consider and why were they not utilized?

_____

_____

25. If you did not consider using any ADR techniques, why not?

_____

26. If you used any ADR techniques, how did they affect or likely affect the cost and length of time of the case: (Circle either 1, 2, 3, or 4 under (A) and (B))

A. Length of Time

1. Increased time/was an inefficient use of time

2. Had no effect on time

3. Decreased time/expedited matters

4. Don't know

B. Costs

1. Increased costs

2. Had no effect on costs

3. Decreased costs

4. Don't know

C. DISCOVERY IN THIS CASE

27. Was the amount of discovery that took place in this case as to your client(s), relative to the disputed issues (Circle one):

    a. Excessive

    b. Appropriate

    c. Inadequate

    d. Other (Please specify): _____

28. Was the scope of discovery as to your client(s) in relation to the issues in the case:

    a. Too broad

    b. Appropriate

    c. Too limited

    d. Inapplicable

29. Was the length of time for discovery as to your client(s) in this case:

    a. Too long

    b. Reasonable

    c. Too short

30. How long did discovery take in your case as to your client(s)?

    _____Months

31. In retrospect, how long should discovery have taken in your case as to your client(s)?

    _____Months

32. If you believe that discovery took too long in this case, please circle <u>all</u> applicable reasons for the length of time of discovery and provide any additional reasons:

a. The parties took unnecessary discovery

b. Insufficient monitoring of discovery by the Court

c. Failure to set a sufficiently early discovery cut-off deadline

d. The Court did not require adherence to the discovery cut-off date that it initially set

e. The Court should have ruled on the request of the party or parties to limit the scope of discovery

f. The Court should have limited the scope of discovery sua sponte without any request from the parties

g. The Court did not rule promptly on discovery motions

h. Insufficient cooperation among the parties

i. Insufficient cooperation among the lawyers

j. The parties should have attempted to limit discovery either informally or by resort to the Court

k. The parties exceeded the discovery deadlines set forth in the Scheduling Order.

l. Other reasons. Please specify.

_____

34. Did any discovery disputes involving your client(s) develop in your case?

a. Yes

b. No

IF YOU ANSWERED NO, SKIP TO QUESTION 38

35. If discovery disputes developed, were you able to resolve these disputes without resort to the Court?

a. Yes

b. Some were resolved without resort to the Court; some were resolved only after resort to the Court

c. No

36. If the parties did not resort to the Court for resolution of all discovery disputes, why not? (Circle all that apply)

a. Resolved informally

b. Resolved after a Local Rule 9(e)(3) conference

c. Voluntary compliance with the discovery requests

d. Voluntary decision not to insist on compliance with the discovery requests

e. Reluctance to take the dispute to the Court because of the additional costs that would be incurred

f. Reluctance to take the dispute to the Court because of the additional delay that would occur

g. Reluctance to take the dispute to the Court because of the Court's attitude toward discovery

h. Reluctance to take the dispute to the Court for other reasons

Please specify: _____

i. Inapplicable

37. If discovery motions were filed, how did the Court resolve these discovery motions? (Circle all that apply)

a. Ruled on them in a timely fashion without a hearing

b. Ruled on them in a timely fashion at or after a hearing

c. Did not rule on them in a timely fashion

d. Did not appear to be sympathetic to the discovery issues

e. The Court did not resolve the dispute because the parties resolved the dispute themselves after the motion was filed

f. Referred the dispute to a Magistrate Judge

g. Other. Please specify: _____

h. Inapplicable

38. Did you engage in any informal means of discovery, such as voluntary exchange of documents without a formal request for production, voluntary exchange of names of experts, witnesses, etc.?

a. Yes

b. No

IF YOU ANSWERED NO, PLEASE SKIP TO QUESTION 42

39. If you engaged in informal means of discovery, please specify:

_____

_____

40. If you engaged in informal means of discovery, how did it affect or likely affect the costs in your case as to your client(s)? (Please circle <u>one</u>)

a. Increased cost

b. Had no effect on cost

c. Decreased cost

d. Don't know

e. Inapplicable

41. If you engaged in informal means of discovery, how did it affect or likely affect the length of the case as tc your client(s)? (Please circle <u>one</u>)

a. Increased the length of time of the case

b. Had no effect on the length of time of the case

c. Decreased the length of time of the case

d. Don't know

e. Inapplicable

D. TRIAL

PLEASE ANSWER QUESTIONS 42-44 WHETHER OR NOT A TRIAL OCCURRED IN YOUR CASE.

42. Under 28 U.S.C. § 636(c), the parties may consent to proceed before the magistrate judge, who has authority to exercise the same jurisdiction as a district judge, including entry of judgment in the case.

Did you consider consenting to trial before a magistrate judge?

a. Yes

b. No

c. Don't Know

d. Not applicable

If you answered "No," what would have made consenting to proceed before a magistrate judge more attractive?

_____

_____

43. Please answer the following question whether or not your case went to trial. If the trial date was rescheduled from the date it was originally set, why was it reset? (Circle all that apply)

a. The date originally scheduled was unrealistic

b. All parties sought and were granted one or more continuances

c. One or more parties sought and was granted one or more continuances, over the objection of one or more other parties

d. The Court rescheduled the trial date because of a criminal trial

e. The Court rescheduled the trial date because of another civil trial

f. The Court rescheduled the trial date for another reason. Please specify: _____

g. The Court rescheduled the trial date but I can't remember why

h. Other. Please specify: _____

i. Inapplicable

44. Did a trial occur in this case as to your client(s)?

a. No

b. Yes, a non-jury trial

c. Yes, a jury trial

IF YOU ANSWERED NO, SKIP TO QUESTION 50

45. Approximately how many actual days were spent in trial?

_____ Days

46. How firmly did the Court control the trial?

a. Very firmly

b. Somewhat firmly

c. Not firmly at all

d. Don't know

47. If a trial occurred, please comment on whether the manner in which the Court conducted the trial promoted efficient use of time and expenses. (For example, were there trial interruptions, resettings, etc.)

48. If a non-jury trial occurred, based on your experience, was the time it took the Court to issue an opinion: (Circle one)

a. Excessively long

b. Somewhat long

c. Reasonable

d. Don't know

e. Inapplicable

49. If there were post-trial motions, was the time it took the Court to rule on the post-trial motions: (Circle one):

a. Excessively long

b. Somewhat long

c. Reasonable

d. Don't know

e. Inapplicable

D. COSTS OF THIS LITIGATION

50. What type of attorney fee arrangement did you have with your client(s) in this case? (Circle one)

a. Hourly rate

b. Hourly rate with a maximum

c. Hourly rate plus a contingency fee

d. Set fee

e. Contingency fee

f. Expectation of statutory attorneys fee only

g. Government or other salaried attorney

h. Retainer

i. Other (Please describe): _____

51. Please indicate the costs spent on this case as to your client(s) for the categories listed below. If you are unable to categorize the costs, please indicate the <u>total</u> cost only.

a. Total cost
$_____

b. Attorneys' Fees $_____

c. Outside professionals, including expert witnesses, consultants and investigators $_____

52. Based on your experience, were the total litigation fees and costs (including but not limited to attorney's fees) that your client(s) incurred: (Circle <u>one</u>)

a. Much too high

b. Slightly too high

c. About right

d. Slightly too low

e. Much too low

53. If you believe that the total litigation costs in this case were too high as to your client(s), please circle <u>each</u> applicable reason for the excessive costs and provide any additional reasons:

a. Excessive case management by the Court

b. Inadequate case management by the Court

c. The Court's failure to rule promptly on motions

d. Actions by the Court, other than failure to rule promptly on motions.

Please specify: _____

e. Dilatory actions by counsel

f. Dilatory actions by the parties

g. Backlog of other cases on the Court's docket

h. Unnecessary discovery

i. Inefficient discovery

j. Excessive expert fees

k. Excessive attorneys fees

j. Other reasons (Please specify)

_____

_____

E. ATTORNEY PROFILE

54. How long have you been engaged in the active practice of law?

a. Less than 5 years

b. 5-9 years

c. 10-14 years

d. 15-19 years

e. 20 or more years

55. How many cases have you had in federal court (either the Middle District of Tennessee or other federal courts)?

a. This is the only federal case I've ever been involved in

b. Less than 5 federal cases

c. Between 5-10 federal cases

d. Over 10 federal cases

56. Approximately how large was the law firm of which you were a member when you litigated this case?

a. Solo practice

b. Less than 5 lawyers

c. 5-9 lawyers

d. 10-14 lawyers

e. 15-19 lawyers

f. 20 or more lawyers

57. How many attorneys in your firm worked to any signficant extent on this case?

_____

58. Please add any additional comments about the management of this particular case or about management of litigation in the federal courts generally and in the Middle District of Tennessee specifically, particularly with respect to costs, delay, and suggestions for improvement.

THANK YOU VERY MUCH FOR YOUR TIME AND ATTENTION

EXHIBIT 3 TO APPENDIX C

REPORT ON DATA ANALYSIS OF QUESTIONNAIRE RESPONSES TO ATTORNEY SURVEY

A. GENERAL OVERVIEW

1. Length of Case

The questionnaire revealed that 25% of the responses indicated that the case at issue had lasted between 6 to 12 months. This was the most common length among all the cases. Only 8% extended beyond 2 years. In addition, 71% of the attorneys thought that the time from filing to disposition for their cases was reasonable. For those attorneys who thought the time from filing to disposition was too long (20%), the most frequently cited reasons were the Court's failure to rule on motions, dilatory actions by counsel, and dilatory actions by the parties.

2. Case Management

40% of attorneys responding said that the case management by the Court was moderate and 60% found that management to be effective or somewhat effective, with 56% also stating that the timing of that management was appropriate. 26.6% of attorneys reported minimal or no management, but 43% of those found that the parties could manage the case effectively themselves.

Question 12 listed several case management actions taken by the Court. On average, slightly fewer than half the respondents thought the various case management techniques had no effect on cost or delay. The majority of those who felt that there was some effect felt that the actions decreased cost and delay, except for the resetting or the continuance of the trial, which was felt to increase both delay and cost.

While 72% thought that additional Court intervention would not reduce delay, 74% said that Court intervention would reduce cost.

3. Alternative Dispute Resolution

Only .5% of the respondents had used Alternative Dispute Resolution in their cases, and only 2.3% had considered using ADR.

4. Discovery

The majority of respondents found that both the scope and length of time for discovery was adequate. For those who thought that the discovery process was too long, the most commonly cited reasons were that the parties took unnecessary discovery, that there was insufficient monitoring by the Court, and that there was a failure to set sufficiently early discovery cutoff dates.

Concerning the types of discovery used, 62% used interrogatories and requests for production of documents. 56% utilized depositions of parties, 20% deposed experts, and 39% deposed witnesses. For interrogatories and requests for documents, approximately 1/3 of respondents thought they added time and cost, for party depositions approximately 1/3 thought time was increased and 40% thought that cost was increased. Only 11% thought that expert depositions added time and 15% thought they added costs, but these depositions were not used by at least half of the respondents. 23% responded that witness depositions added time to a case and 30% thought that they added cost. Very few (1% to 4%) thought that the added time or cost for these discovery techniques was excessive, and only 18% reported discovery disputes in the cases at issue. In addition, informal discovery was seen to reduce cost and delay.

5. Trials

33% of the respondents reported their trials had been rescheduled and the most common reasons cited were that all parties sought a continuance, the Court continued the case on its own for other reasons, or that the original date was unrealistic. 10% of the cases went to trial with half jury and half non-jury, the most common length being 1 to 3 days.

6. Attorney Fees

51% of the attorneys responding charged on an hourly rate basis, and 12% on a contingency fee. 65% of the attorneys thought that the costs to their clients were about right. Of the 14% that thought costs were too high, the most commonly cited reasons were excessive expert fees, inadequate case management, dilatory actions by counsel, and the Court's failure to rule promptly.

7. Attorney Information

Of the respondents, 25% of the attorneys have been in practice 10 to 14 years, 22% for 15 to 19 years, and 20% for 20 or more years. 75% of the respondents have had prior federal court experience in more than 10 cases. 34% came from firms with 20 or more attorneys, with 9% in solo practice. Attorneys who practice in Nashville made up 77% of the respondents.

B. DATA ANALYSIS

The two objective measures of delay contained in the questionnaire were the time from filing to disposition (Question 4) and the length of discovery (Question 33). The objective measures of cost were client total costs (Question 58A), client attorney fees (Question 58B) and client other costs (Question 58C). Correlations were run with these measures and numerous others from the questionnaire. Those correlations showed the following:

1. DELAY: TIME FROM FILING TO DISPOSITION (QUESTION 4)

Significant statistical correlation with the time from filing to disposition was found for the following:

♦The amount of the potential money recovery or liability (Question 2). Though the correlation was not striking, the trend was for cases worth more money to take longer. Fully 1/3 of the cases were valued from $0 to $50,000 and almost the same number were from 7 to 12 months in length. These two values were most commonly cited. For those cases longer than 30 months (11%), more than 1/2 had potential recovery or money values of over $250,000, but it is noteworthy that the rest were valued from $0 to $49,000.

♦The timeliness of filing to disposition (Question 5), which was a subjective measure of delay. Although expected, this helps to confirm the validity of the responses.

♦The fact that the trial was reset or continued (Question 12kA). 50% of cases were reset or continued and the ones that were reset generally ended up being much longer. For cases longer than 19 months, 77% to 90% had trials reset or continued. For cases less than 19 months, 55% to 80% did not have trials reset or continued.

♦The length of discovery (Question 33).

♦The occurrence of discovery disputes (Question 37). This was not stark. For shorter cases, 80% to 90% had no discovery disputes, and for longer cases, 60% to 70% had no disputes.

♦Whether a trial occurred (Question 51). It should be noted that these results are based on very small numbers. For shorter cases, 5% to 10% went to trial, for the longest cases, 12% to 41% went to trial.

♦Total client cost (Question 58A). It also should be noted concerning these figures, that a full 50% of respondents reported that there was no client cost associated with their representation. These might be attributed to government and corporate attorneys.

♦The number of attorneys on the case (Question 65). Cases with more attorneys lasted longer.

♦ The Judge assigned to the case (Question 66). This correlation was not stark. For Judge Nixon, 27% of his cases lasted from 7 to 12 months; 20% lasted less than 1 month; and 13% lasted 9 to 24 months. For Judge Wiseman, 24% of his cases lasted less than 1 month; 20% lasted 19 to 24 months; and 17% lasted 7 to 12 months. For Judge Higgins, 29% lasted 7 to 12 months; and 29% lasted 13 to 18 months. Of cases that lasted between 31 and 31 months, 50% belonged to Judge Wiseman, 37% belonged to Judge Nixon, and 13% belonged to Judge Higgins. For all cases that lasted more than 36 months, 53% were assigned to Judge Nixon, 30% to Judge Higgins, and 15% to Judge Wiseman.

♦Use of document requests

♦Use of party depositions

♦Use of expert depositions

♦Use of witness depositions

No significant correlation with the length of time from filing to disposition was found for the following:

♦The amount of case management (Question 8). Very few respondents, however, reported high case management (6.6%), and 28.8% reported minimal or no case management.

♦The subjective effectiveness of case management (Question 10)

♦The existence of a Local Rule 11 scheduling order (Question 12aA) (82% reported Rule 11 orders)

♦That the Court ensured the scheduling order was followed (Question 12bA) (reported 1/2 yes, 1/2 no)

♦Pre-trial activities were held to a firm schedule (Question 12cA) (reported 1/2 yes, 1/2 no)

♦The Court enforced limits on discovery (Question 12dA) (60% no, 40% yes)

♦The Court narrowed the issues before trial (Question 12eA) (60% no, 40% yes)

♦Prompt ruling on non-dispositive motions (Question 12fA) (30% no, 70% yes)

♦Prompt ruling on dispositive motions (Question 12gA) (36% no, 63% yes)

♦Rulings on dispositive motions sufficiently in advance of the trial (Question 12hA) (18% no, 67% yes)

♦Case referred to ADR (Question 12iA) (71% no, 8% yes)

♦Case referred to Magistrate Judge for pre-trial matters (Question 12jA) (54% no, 45% yes)

♦Court facilitated settlement discussions or conference (Question 12lA) (65% no, 34% yes)

♦The number of depositions was limited by the Court (Question 12mA) (88% no, 11% yes)

♦The number of experts was limited by the Court (Question 12nA) (92% no, 7% yes)

♦Case was settled (Question 18) (a larger percentage of longer cases were settled than were shorter cases)

♦Interrogatories were used (Question 36aA)

♦The use of informal discovery (Question 41) (50% used, 50% did not)

♦The type of fee arrangement used (Question 57)

♦Previous federal court experience (Question 62)

♦The size of law firm (Question 63)

♦The type of case (Question 68) (although labor cases were somewhat shorter)

2. DELAY: LENGTH OF DISCOVERY IN MONTHS (QUESTION 33)

The length of discovery in months showed a statistically significant correlation with each factor chosen to test. These factors were as follows:

- subjective length of discovery (too long, too short, etc)
- the use of discovery interrogatories
- the use of document requests
- the use of deposition of parties
- the use of expert depositions
- the use of witnesses depositions

In other words, the use of discovery mechanisms occurred in the longer cases, as might be expected.

3. COSTS: CLIENT TOTAL COSTS (QUESTION 58 A)

Significant statistical correlation with client total cost was found for the following:

♦Potential money recovery (Question 2)
♦The length of discovery in months (Question 33)
♦Trial rescheduled or continued (Question 46)
♦Previous federal court experience (Question 62) - the more expensive cases were handled by attorneys with more experience
♦The number of attorneys on a case (Question 65)
♦The use of discovery interrogatories (Question 36aA)
♦The use of document requests (Question 36bA)
♦The use of party depositions (Question 36cA)
♦The use of witness depositions (Question 36eA)

No statistical correlation existed with client total cost for the following:

♦Other client interests at stake (Question 3)
♦Timeliness from filing to deposition (subjective) (Question 5)
♦The amount of case management (Question 8)
♦The effectiveness of case management (Question 10)
♦The use of a Local Rule 11 scheduling order (Question 12aA)
♦Court insured that the scheduling order was followed (Question 12bA)
♦The Court held pre-trial activities to schedule (Question 12cA)
♦The Court put limits on discovery (Question 12dA)
♦The Court narrowed the issues (Question 12eA)
♦Prompt ruling on non-dispositive motions (Question 12fA)
♦Prompt ruling on dispositive motions (Question 12gA)

♦The Court ruled on dispositive motions sufficiently in advance of trial (Question 12hA)
♦Case referred to ADR (Question 12iA)
♦Case referred to a Magistrate Judge (Question 12jA)
♦Case reset or continued (Question 12kA)
♦Settlement conference or discussions held (Question 12lA)
♦The Court limited the number of depositions (Question 12mA)
♦The Court limited the number of experts (Question 12nA)
♦Whether the case settled (Question 18)
♦Whether discovery disputes arose (Question 37)
♦Use of informal discovery (Question 41)
♦Whether trial was held (Question 51)
♦Type of fee arrangement (Question 57)
♦Size of law firm (Question 63)
♦Judge (Question 66)
♦Type of case (Question 68)
♦Use of expert depositions (Question 36dA)

4. COST: CLIENT ATTORNEY FEES (QUESTION 58B)

A statistically significant correlation existed with client attorney's fees for:

♦Potential money recovery (Question 2)
♦Amount of case management (Question 8)
♦Referral to ADR (Question 12). Only 8 reported referral to ADR, but these were much cheaper.
♦Length of discovery in months (Question 33)
♦Whether trial rescheduled (Question 46) (borderline correlation)
♦The type of fee arrangement (an hourly rate was more expensive although the only fee that was over $150,000 was a contingency fee)
♦Client total cost (Question 58A)
♦The number of attorneys on a case (Question 65)
♦The use of interrogatories (Question 36aA)
♦The use of document requests (Question 36bA)
♦The use of party depositions (Question 36cA)
♦The use of witness depositions (Questions 36eA)

No correlation existed with the type of case although cases under categories of "Other" and "Possibly Complex" were more expensive.

No statistically significant correlation with client attorney fees existed for:

♦Other client interests (Question 3)
♦Timeliness (subjective) of filing to disposition (Question 5)

♦Effectiveness of case management (Question 10)
♦The use of Local Rule 11 order (Question 12aA)
♦The Court ensured the scheduling order followed (Question 12bA)
♦Held pre-trial activities to schedule (Question 12cA)
♦The Court put limits on discovery (Question 12dA)
♦The Court narrowed the issues (Question 12eA)
♦Prompt ruling on non-dispositive motions (Question 12fA)
♦Prompt ruling on dispositive motions (Question 12gA)
♦The Court ruled on motions sufficiently in advance of trial (Question 12hA)
♦Case referred to a Magistrate Judge (Question 12jA)
♦Case reset or trial continued (Question 12kA)
♦Settlement conference held (Question 12lA)
♦Court limited number of depositions (Question 12mA)
♦Court limited number of experts (Question 12nA)
♦Case settled (Question 18)
♦Discovery disputes arose (Question 37)
♦Use of informal discovery (Question 41)
♦Trial occurred (Question 51)
♦Previous federal court experience (Question 62)
♦Size of law firm (Question 63)
♦Judge (Question 66)
♦Type of case (Question 68)

5. COSTS: OTHER CLIENT COSTS (QUESTION 58C)

Statistically significant correlation existed with other client costs for:

♦Potential money recovery (Question 2)
♦Length of discovery in months (Question 33)
♦Whether discovery disputes arose (Question 37) (It is noteworthy that correlation was where no disputes, client costs were higher.)
♦Trial occurred (Question 51) (numbers so low, probably not significant)
♦Total client costs (Question 58A)
♦Number of attorneys on case (Question 65)
♦Use of interrogatories (Question 36aA)
♦Use of document requests (Question 36bA)
♦Use of party depositions (Question 36cA)
♦Use of expert depositions (Question 36dA)
♦Use of witness depositions (Question 36dA)

No significant correlation existed with other client costs for:

♦Existence of other client interests (Question 3)
♦Timeliness (subjective) of filing to disposition (Question 5)

♦Amount of case management (Question 8)
♦Effectiveness of case management (Question 10)
♦Existence of Local Rule 11 order (Question 12aA)
♦Court ensured scheduling order followed (Question 12bA)
♦Court held pre-trial activities to schedule (Question 12cA)
♦Court put limits on discovery (Question 12dA)
♦Court narrowed issues (Question 12eA)
♦Prompt ruling on non-dispositive motions (Question 12fA)
♦Prompt ruling on dispositive motions (Question 12gA)
♦Court ruled on dispositive motions sufficiently in advance of trial (Question 12hA)
♦Case referred to ADR (Question 12iA)
♦Case referred to Magistrate Judge (Question 12jA)
♦Trial reset or continued (Question 12kA)
♦Settlement discussions or conference held (Question 12lA)
♦Court limited number of depositions (Question 12mA)
♦Court limited number of experts (Question 12nA)
♦Case settled (Question 18)
♦Informal discovery used (Question 41)
♦Trial rescheduled (Question 46)
♦Type of fee arrangement (Question 57)
♦Previous federal court experience (Question 62)
♦Size of law firm (Question 63)
♦Judge (Question 66)
♦Type of case (Question 68) (92% of cases had no other costs)

6. PLAINTIFF/DEFENDANT (QUESTION 70)

A statistical correlation existed between whether the attorney represented a plaintiff or a defendant and:

♦The amount of discovery (Question 30) (more defendants thought discovery was excessive although the numbers are not large)

♦Size of law firm (Question 63) (defendants tended to come from larger firms)

No statistical correlation existed between whether the attorney represented a plaintiff or a defendant and:

♦Timeliness (subjective) from filing to disposition (Question 5)
♦Effective case management (Question 10)
♦Opinion that Court intervention would shorten case (Question 13)
♦Opinion that Court intervention would reduce costs (Question 15)
♦Scope of discovery (Question 31)

♦Length of discovery (Question 32)
♦Cost (subjective) to client (Question 59)
♦Length of practice (Question 61)
♦Previous federal court experience (Question 62)
♦Location of practice (Question 64)

7. Judge (QUESTION 66)

A statistically significant correlation existed between the Judge assigned to a case and the following:

♦Whether held pre-trial activities were held to a schedule (Question 12cA). For Judge Wiseman, in 61% of his cases respondents reported no. For Judge Higgins, in 66% of his cases respondents reported yes. For Judge Nixon's cases respondents were divided approximately 1/2 and 1/2.
♦Length of discovery in months (Question 33). Discovery for Judge Higgins' cases tended to be a little longer, but the difference was not stark.
♦Whether the trial occurred (Question 51). Judge Wiseman had more jury trials and more total trials, although the numbers are small.
♦Time to rule on post-trial motions (Question 56). The number is really too small to be significant, but indicated that Judge Nixon may be slightly longer.

No correlation existed between the Judge assigned to a case and the following:

♦Subjective timeliness of filing to disposition (Question 5)
♦Amount of case management (Question 8)
♦Use of Local Rule 11 order (Question 12aA)
♦Court ensured scheduling order followed (Question 12bA)
♦Court put limits on discovery (Question 12dA)
♦Court narrowed issues (Question 12eA)
♦Prompt ruling on non-dispositive motions (Question 12fA)
♦Prompt ruling on dispositive motions (Question 12gA)
♦Court intervention would reduce costs (Question 15)
♦Case settled (Question 18)
♦Amount of discovery (Question 30)
♦Scope of discovery (Question 31)
♦Length of discovery (Question 32)
♦Discovery disputes arose (Question 37)
♦Trial rescheduled (Question 46)
♦Would accept another Judge to save time (Question 49)
♦Non-jury opinion time (Question 55)
♦Subjective assessment of cost to client (Question 59)

It should be noted that the presence of a correlation does not mean a cause-and-effect relationship necessarily exists. It is simply an indication that one might exist.

Charts showing statistical correlations for the data analysis of the questionnaire results are on file in the Clerk's office.

EXHIBIT 4 TO APPENDIX C

QUESTIONNAIRE FOR PARTIES IN SAMPLE CIVIL CASES

The attached questionnaire was distributed to the attorneys who responded to the attorney questionnaire (see Exhibit 3 to Appendix C), with a request that the attorneys forward the questionnaire to their clients.

Although the responses to the questionnaires are on file in the Clerk's office, the respondents were assured confidentiality. Therefore, the individual responses cannot be released.

QUESTIONNAIRE FOR PARTIES IN CIVIL CASES
CIVIL JUSTICE REFORM ACT ADVISORY GROUP
FOR THE MIDDLE DISTRICT OF TENNESSEE

Case: _____

Number: _____

Please return this questionnaire by February 20, 1992, in the enclosed, stamped, self-addressed envelope to Dale Grimes, 2700 First American Center, Nashville, TN 37238. If you have any questions, please call Dale Grimes at (615) 742-6244.

1. Were you a plaintiff or defendant in the case listed on the cover sheet? (circle one)

   a. Plaintiff

   b. Defendant

2. Please estimate as best you can what you spent on this case for each of the categories listed below. If you are unable to itemize your costs, please indicate the total cost only.

   a. Your total cost of this case $_____
   b. Your attorneys' fees to the attorney(s) representing you $_____

   c. Your attorneys' expenses (e.g., copying, postage, travel, fees) $_____

   d. Your consultants and investigators $_____

   e. Your expert witnesses $_____

   f. Your discovery costs, including court reporters, transcripts, production of documents, etc., but not including attorneys' fees $_____

   g. Your paralegal fees $_____

   h. Costs and/or attorneys fees paid to opposing party $_____

   i. Lost wages $_____

   j. Other (please describe) $_____

3. Before or at the beginning of this case, did you alone or jointly with your attorney attempt to assess the costs of pursuing the case through the courts? (circle one)

   a. Yes

   b. No

4. Were you required to pay any costs and/or attorneys' fees of another party in the case?

   a. Yes

      If yes, please specify: _____

   b. No

5. If you were required to pay any costs and/or attorneys' fees of another party in the case, what influence did that have on the course of the litigation?

6. Were the costs of the case (circle <u>one</u>):

(In answering this question, please exclude any costs and/or attorneys' fees that you were required to pay to another party in the case.)

   a. More than what you expected

   b. What you expected

   c. Less than what you expected

   d. Didn't know what to expect

7. Often several concerns are involved when parties litigate. Please answer either or both of the following questions about your concerns in this litigation.

   a. The amount of money at stake for me in this case was approximately _____.

   b. I had other significant interests at stake, such as injunctive relief, matter of principle, concern about future litigation, possibility of legal precedent of significant consequence, professional reputation: Please specify.

_____

_____

_____

_____

8. What fee arrangement did you have with your attorney in this case? (circle one)

   a. Hourly rate

   b. Hourly rate with a maximum

   c. Hourly rate plus a contingency fee*

   d. Set fee

   e. Contingency fee*

   f. Expectation of statutory attorneys fees

   g. My attorney was a government or other salaried attorney

   h. Retainer

   i. Other (please describe): _____

   *A contingency fee is an arrangement through which the attorney's fee is a percentage of your recovery, if any, in the case.

9. In your opinion, did this fee arrangement result in the payment of reasonable fees to your attorney? (Please circle one of the choices below and then briefly explain your answer.)

   a. Yes

   b. No

   c. Don't know

   Comments:

10. Do you consider the total costs you incurred in the case to be: (Circle one)

   a. Much too high

   b. Somewhat high

   c. About right

   d. Somewhat low

   e. Much too low

11. If you believe that the cost of this lawsuit was too high, what do you think could or should have been done by any of the following persons to reduce the costs?

   a. Your attorney _____

   b. The opposing party's attorney _____

   c. Other attorneys in the case _____

   d. The judge _____

   e. Other persons _____

12. Was the time to resolve this case: (circle one)

   a. Much too long

   b. Somewhat long

   c. About right

   d. Somewhat short

   e. Much too short

13. If you believe that it took too long to resolve your case, what could or should have been done by any of the following persons to resolve your case more quickly?

a. Your attorney _____

b. The opposing party's attorney _____

c. Other attorneys in the case _____

d. The court _____

e. Other persons _____

14. If you have been involved as a party in other cases comparable to this one, were your costs in those cases (circle one):

a. Higher than in this case

b. About the same as in this case

c. Lower than in this case

d. Cases so dissimilar, unable to compare costs

Please also state whether these comparable cases were brought in federal court _____ or state court _____.

e. Never been involved in another case

f. Don't know

15. If you have been involved as a party in other cases comparable to this one, was the time involved in those matters:

a. Longer than in this case

b. About the same as in this case

c. Shorter than in this case

d. Cases so dissimilar, unable to compare time

Please also state whether these matters were brought in federal court _____ or state court _____.

e. Never been involved in another case

f. Don't know

16. Were you at any time told of the availability of alternative methods of resolving the case, such as voluntary non-binding mediation or arbitration, summary jury trials, or binding arbitration?

    a. Yes

    b. No

17. Was an alternative method of resolution such as arbitration, mediation, or summary jury trial used in your case?

    a. Yes

    b. No

18. If an alternative method of resolution was used, please state the type of method and describe the results.

19. If an alternative method of resolution was not used, would you have considered submitting this case to a person other than the judge to whom the case was assigned for the purposes of settlement discussion or preliminary factual determination?

    a. Yes

    b. No

20. Please add any comments or suggestions regarding the time and cost of litigation in the federal courts.

THANK YOU VERY MUCH FOR YOUR TIME AND ASSISTANCE

EXHIBIT 5 TO APPENDIX C

DOCKET SHEET REVIEW

Attached is a Docket Sheet Review form that was completed for each of the 180 sample cases.

The Docket Sheet Review forms for the 180 cases are on file in the Clerk's Office.

DOCKET SHEET REVIEW

A. GENERAL INFORMATION

1. Case Name: _____

2. Case Number: _____

3. Nature of Suit Code/Type of Case: _____

_____

4. Judge: _____

5. Magistrate Judge: _____

6. Date complaint filed: _____

7. Date of final judgment in District Court: _____

8. Total Time for disposition: _____ months. (From filing of complaint to entry of final judgment in District Court as to all parties)

9. How was this case disposed of?

(Identify if defendant was a third-party defendant or counter-defendant; use more space for additional defendants as needed.)

		D-1	D-2	D-3	D-4	D-5	D-6	TPD	CD
a.	Dismissed for lack of prosecution	___	___	___	___	___	___	___	___
b.	Judgment entered on motion to dismiss	___	___	___	___	___	___	___	___
c.	Judgment entered on motion for summary judgment	___	___	___	___	___	___	___	___
d.	Voluntary dismissal	___	___	___	___	___	___	___	___
e.	Settlement or consent decree	___	___	___	___	___	___	___	___
f.	Jury trial	___	___	___	___	___	___	___	___
g.	Non-jury trial	___	___	___	___	___	___	___	___
h.	Other:	___	___	___	___	___	___	___	___

B. LENGTH OF TIME FOR VARIOUS STAGES OF CASE

1. Date of Filing of Complaint: _____

2. Date(s) of Filing Third Party Complaint(s): _____

_____
(If none, put N/A)

3. Date(s) of Filing Amended Complaint(s): _____

_____
(If none, put N/A)

4. Date of Service of Summons:

(Indicate if summons of complaint, amended complaint, counterclaim and/or third-party complaint)

Def. 1 _____

Def. 2 _____

Def. 3 _____

Def. 4 _____

Def. 5 _____

Third-Party Def. _____

Counter-Def. _____

Others _____

_____

5. Date of filing answer(s):

(Indicate if answer(s) to original complaint, amended complaint(s), counterclaim, cross-claim and/or third-party complaint; use more space for additional defendants, as needed)

Def. 1_____

Def. 2 _____

Def. 3 _____

Def. 4 _____

Def. 5 _____

Third-party Def. _____

Counter Def. _____

Others _____

6. List pre-trial motions, by date filed, type of motion, who filed the motion, and disposition date:

a. Dispositive motions:

Type of Mtn	Date Filed	By Whom	Date Decided

Total number of dispositive motions filed: _____
For each dispositive motion, fill out a Motion Disposition Time Sheet.

b. Discovery motions:

Type of Mtn	Date Filed	By Whom	Date Decided

Total number of discovery motions filed: _____

c. Other Motions:

Type of Mtn	Date Filed	By Whom	Date Decided

Total number of other motions filed: _____

7. Date of filing of offer of judgment: _____
(If none, indicate N/A)

8. Date(s) of any status or pre-trial conferences?
(If none, indicate N/A; indicate whether status, pre-trial conference or another type of conference other than one dealing specifically with a motion)

_____

9. Was there a trial scheduled in this case?

_____ (Yes/No)

10. If so, list date(s) order or notice entered that set trial date and date trial scheduled or rescheduled:

Date of Order Setting Trial	Date Trial Scheduled or Rescheduled
_____	_____
_____	_____
_____	_____

11. Was it a jury or non-jury trial?

_____

12. Was there an actual trial in this case? _____

13. On what days was the trial held? _____

_____

14. Were findings of fact and conclusions of law filed?

_____(Yes/No)

If yes, list date(s): _____

15. Were there post-trial motions filed?

_____(Yes/No)

If no, list date(s), type of motion, and who filed what: _____

_____

C. RULE 11 SCHEDULING ORDERS

1. Date of entry of first Rule 11 Scheduling Order:

_____

If no Rule 11 order was entered filed, indicate N/A

2. If a Rule 11 order was entered, list the time periods set forth in the first scheduling order:

a. _____months from entry of Rule 11 order to amend pleadings

b. _____months from entry of Rule 11 order to complete discovery

c. _____ months from entry of Rule 11 order to file dispositive motions

d. _____ months from entry of Rule 11 order to trial date.

3. Was the original Rule 11 order amended?

If so, indicate the date(s) of entry of any subsequent Rule 11 orders or amendments and the changes in the time periods listed above.

ANY UNUSUAL FEATURES OF CASE:

D. GENERAL NOTES AND COMMENTS

1. Based on your review of the docket sheet, do you believe the time it took to resolve this case was (circle one):

a. Much too long
b. Slightly too long
c. About right
d. Slightly too short
e. Much too short

2. Based on your review, list the principal factors that contributed to the length of time it took to dispose of this case (i.e., if it were quickly disposed of, why; if not, what slowed it down)

EXHIBIT 6 TO APPENDIX C

MOTION DISPOSITION TIME FORM

Attached is the Motion Disposition Time form that was completed for each dispositive motion filed in each of the 180 sample cases.

The completed Motion Disposition Time forms for the dispositive motions filed in the 180 sample cases are on file in the Clerk's Office.

MOTION DISPOSITION TIME

CASE NAME _____

CASE NUMBER: _____

For each substantive motion, complete this form. Use one form for each motion. If no opposition, response, or order was entered, indicate N/A.

TYPE OF MOTION: _____

1. Date motion filed: _____

   By which party: _____

   Documents filed in support: _____

2. Date(s) response(s) filed: _____

   By which party: _____

   Documents filed in support: _____

   _____ Days between 1 & 2
   (Use last response date)

3. Date(s) reply(replies) filed: _____

   _____ Days between 2 & 3
   (Use last reply date)

   Documents filed in support: _____

4. Date(s) of any subsequent filings: _____

   By which party: _____

   Documents filed in support: _____

5. Were there any continuances or extensions of time to file response and/or reply:

   a. Yes

      If yes, indicate at whose behest, for what filing, and for how long

   b. No

8. Was this motion referred to the Magistrate Judge? _____
   If so:

   a. When was referral made: _____

   b. Did the Magistrate Judge hold any hearings on the motion?

      _____ (Yes/No)

   c. If the Magistrate Judge held any hearings, list dates: _____

      _____ Days between a and c

   d. Were any hearings rescheduled?

      _____(Yes/No)

      If so, indicate the dates the hearings were originally scheduled and the dates to which the hearings were rescheduled.

   e. When was Report & Recommendation entered: _____

      _____ Days between a and e

      _____ Days between c and e

   f. When were objections filed: _____

   g. What documents were filed in support: _____

h. When were responses to objections filed: _____

i. What documents were filed in support: _____

j. When were any subsequent filings related to the R&R filed? _____

If no objections, responses, or subsequent papers were filed, indicate N/A

k. Did the District Judge hold a hearing or hearings on the Report and Recommendation and/or objections?

_____(Yes/No)

If yes, date of hearing(s): _____

_____ Days between f and k

l. When did the Court rule on the Report & Recommendation? _____

_____ Days between k and l

_____ Days between a and l

_____ Days between 1 and l

5. Aside from any hearings on Reports & Recommendations, did the District Judge hold any hearings on the motion?

a. Yes

If yes, when?_____

b. No

6. If the motion was disposed of by the Court without referral to the Magistrate Judge, list the date the Court entered an order disposing of the motion:

_____

_____ Days between 5 and 6

_____ Days between 1 and 6

EXHIBIT 7 TO APPENDIX C

PRISONER LITIGATION SURVEY

The attached, one-page survey was distributed to parties who are frequently involved in prisoner litigation in this District. Specifically, the survey was mailed to 26 Assistant Tennessee Attorney Generals, six private attorneys who regularly represent state defendants, the Commissioner of the Tennessee Department of Correction, the Regional Administrator for the Tennessee Department of Correction, three attorneys who have represented plaintiffs in prisoner litigation, eight wardens of state correctional institutions, 16 employees of state correctional institutions (primarily health care providers and disciplinary board members), 34 inmates of state correctional institutions who have litigated in this District, 31 sheriffs of local county jails, and 27 county attorneys in this District.

The listing of the individuals to whom surveys were sent, and the questionnaire responses are on file with the Clerk's office.

QUESTIONNAIRE FOR PRISONER LITIGATION

1. How long should cases take from filing to disposition under circumstances in which the court, all attorneys, and all parties act reasonably and expeditiously?

2. If cases take longer than you believe reasonable, what factors contributed to the delay: excessive or inadequate case management by the court, delaying actions by attorneys or parties, the court's failure to rule promptly on motions, the backlog of cases on the court's calendar, or other reasons.

3. If you think delay is a problem, what suggestions or comments do you have for reducing delay?

4. If you believe the costs associated with prisoner litigation in this district are too high, what suggestions or comments do you have for reducing those costs? For example, could § 1915(d) frivolity hearings be scheduled differently so as to reduce the costs for transporting prisoners?

5. Please feel free to make any other comments and/or recommendations you feel should be addressed.

Attach additional sheets if more space is needed.

EXHIBIT 8 TO APPENDIX C

TIME SPENT IN COURT ON CRIMINAL AND CIVIL TRIALS AND OTHER PROCEEDINGS

During Calendar Years 1985 through 1992

The attached charts reflect the time spent in court on criminal and civil trials and other criminal and civil proceedings during the years 1985 through 1992. The first chart shows the in-court time for all active District Judges during the study period. The following charts show the in-court time for each active District Judge.

The underlying data, including the time spent in court on criminal jury and non-jury trials, on civil jury and non-jury trials, and on other, non-jury criminal and civil proceedings, as well as the time spent in for each criminal plea and sentencing hearing not subject to the Sentencing Guidelines and for each criminal plea and sentencing hearing subject to the Sentencing Guidelines, for each year and for each active District Judge are on file in the Clerk's Office.

IN-COURT TIME
1985 - 1992

RECAP FOR ALL JUDGES								
Year	**Criminal Hours**				**Civil Hours**			**Total Hours**
	Trial	Plea/ Sentencing Hearings	Other	Total	Trial	Other	Total	Administrative Time Included
1985	335.5	220.7	92.4	649.6	976.6	845.7	1822.4	2486.0
1986	146.7	209.1	147.5*	503.2	856.8	743.1	1545.5	2062.0
1987	374.5*	186.2	116.8*	623.0	820.4	315.2	1135.6	1828.0
1988	178.0	292.4	132.1	602.5	870.7	367.6	1227.2	1839.5
1989	475.8	287.5	117.9	881.2	766.9	502.1	1269.0	2163.0
1990	435.7	278.1	154.6	868.4	593.2	384.8	978.0	1855.5
1991	584.3	341.1	157.2	1082.5	527.5	481.4	1008.9	2106.5
1992**	709.0	268.7	186.2	1163.9	692.3	533.5	1225.7	2408.0

* Includes 39.33 Other Criminal hours in 1986, and 157.5 Trial hours and 10.0 Other Criminal hours in 1987 for Judge Higgins in the Eastern District of Tennessee

** Includes Judge Echols' total time from April 20, 1992

JUDGE NIXON'S IN-COURT TIME 1985 - 1992								
Year	**Criminal Hours**				**Civil Hours**			**Total Hours**
	Trial	Plea/ Sentencing Hearings	Other	Total	Trial	Other	Total	Administrative Time Included
1985	60.33	38.93	19.63	118.89	236.15	188.03	424.18	545.00
1986	98.67	59.07	32.81	190.55	212.41	170.99	383.40	577.50
1987	142.00	76.84	46.05	264.89	215.92	120.36	336.28	602.50
1988	33.00	57.82	33.37	124.19	312.00	89.04	390.04	518.00
1989	174.16	54.61	31.88	260.65	350.50	118.92	469.42	734.00
1990	86.50	59.17	23.80	169.47	308.00	117.75	425.75	597.00
1991	208.33	87.04	28.77	324.14	90.95	131.17	222.12	551.50
1992	361.50	65.47	30.38	457.35	131.50	96.32	227.82	692.50

JUDGE WISEMAN'S IN-COURT TIME
1985 - 1992

Year	Criminal Hours				Civil Hours			Total Hours
	Trial	Plea/ Sentencing Hearings	Other	Total	Trial	Other	Total	Administrative Time Included
1985	52.00	60.82	19.87	132.69	246.50	189.12	435.62	574.00
1986	0	75.66	40.94	116.60	291.00	134.65	425.65	546.50
1987	54.50	62.25	24.75	87.00	275.50	139.59	415.09	565.50
1988	100.45	63.68	34.45	198.58	273.33	165.14	438.47	641.50
1989	88.50	57.99	17.73	164.22	208.50	151.96	360.46	529.50
1990	78.57	90.16	31.98	200.71	175.25	95.29	270.54	474.00
1991	153.58	76.69	40.48	270.75	99.50	165.19	264.69	539.50
1992	149.00	69.99	35.06	254.05	157.50	130.15	287.65	544.50

JUDGE HIGGINS' IN-COURT TIME 1985 - 1992								
Year	**Criminal Hours**				**Civil Hours**			**Total Hours**
	Trial	Plea/ Sentencing Hearings	Other	Total	Trial	Other	Total	Administrative Time Included
1985	223.16	120.92	52.94	397.02	493.99	468.59	962.58	1367.00
1986	48.00	74.34	73.74*	196.08	353.42	383.00	736.42	938.00
1987	178.00**	47.08	46.00*	271.08	329.00	55.24	384.24	660.00
1988	44.50	170.91	64.28	279.69	285.33	113.38	398.71	680.50
1989	213.17	174.89	68.27	456.33	207.91	231.23	439.14	899.50
1990	270.67	128.73	98.78	498.18	109.91	171.77	281.68	784.50
1991	222.34	177.40	87.90	487.64	337.00	185.07	522.07	1015.50
1992	178.00	117.00	115.72	410.72	112.33	190.68	303.01	720.50

* Includes 39.33 hours in Eastern District of Tennessee in 1986
Includes 10.0 hours in Eastern District of Tennessee in 1987

JUDGE ECHOLS' IN-COURT TIME 1992								
Year	**Criminal Hours**				**Civil Hours**			**Total Hours**
From April 20, 1992	Trial	Plea/ Sentencings Hearings	Other	Total	Trial	Other	Total	Administrative Time Included
1992	20.50	16.25	5.08	41.83	291.00	116.26	407.26	450.50

EXHIBIT 9 TO APPENDIX C

DISPOSITIVE MOTIONS PENDING IN CIVIL NON-PRISONER CASES

As of June 19, 1992

The attached charts reflect the dispositive motions pending, as of June 19, 1992, in civil, non-prisoner cases. The date of June 19, 1992, was arbitrarily chosen; it has no particular meaning other than the date the report was completed.

There are three separate charts attached listing pending dispositive motions in cases assigned to Judge Nixon, Judge Wiseman, and Judge Higgins. The cases transferred to Judge Echols after April 20, 1992, are noted with an asterisk (*). A similar chart was compiled for dispositive motions pending before Judge Echols as of June 19, 1992. It is on file in the Clerk's Office. It is not included in this Exhibit since all motions pending before Judge Echols are listed on the other charts.

For the purposes of this study, dispositive motions include pre-trial dispositive motions, specifically motions for full or partial summary judgment, motions to dismiss, motions for judgment on the pleadings, motions to transfer to another district, motions to remand, motions for entry of judgment, motions to reconsider prior rulings on dispositive motions, motions for default judgment under Rule 54(b)(2), motions for preliminary injunction, and motions to reconsider prior rulings on dispositive motions. In addition to the type of motion, the charts include the date the motion was filed, whether it was pending over six months as of June 19, 1992, whether the District Judge referred the motion to a Magistrate Judge and, if so, whether the motion was pending before the Magistrate Judge as of June 19, 1992, or whether the Magistrate Judge had previously entered a Report and Recommendation on that motion. The charts do not reflect any referrals to Magistrate Judges made by order entered after June 19, 1992. The few circumstances in which the reference to a Magistrate Judge was withdrawn prior to entry of a Report and Recommendation are specifically indicated by the notation "W/drn." In addition, the charts reflect all trial dates scheduled by order entered prior to June 19, 1992. Any trial dates scheduled by order entered after June 19, 1992, are not reflected on the attached charts.

JUDGE NIXON'S
DISPOSITIVE MOTIONS PENDING IN CIVIL, NON-PRISONER CASES
AS OF JUNE 19, 1992

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Ram's v. Crabtree, 1:91-0122	Default Judgment	4/7/92				
Cole v. Melsungen, 3:86-0748	Dismiss	7/18/91	X	X		11-28-88 10-2-90 4-9-91
Stevenson v. Forte, 3:88-0046 (Case closed on appeal 3/10/89; reopened 6-5-90)	Dismiss or Summary Judgment	6/10/88	X		X	2-6-89 3-12-91 3/12/91
Elmore v. Murfreesboro, 3:88-0824*	Summary Judgment Summary Judgment	12/16/91 12/16/91	X X	X X		7/24/90 2/18/92 11/10/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Roots v. Creighton, 3:88-0419	Dismiss Dismiss Dismiss Dismiss Dismiss Dismiss Strike or Dismiss Dismiss Partial Summary Judgment Partial Summary Judgment	9/25/91 10/1/91 10/11/91 10/15/91 10/15/91 10/15/91 11/26/91 1/15/92 2/3/92 2/3/92	X X X X X X X		X X X X X X X X X X	9-17-91 4/7/92
Sadler v. DuPont, 3:88-0859 (Case closed 3-8-89; reopened 10-23-90; closed 1-31-91; reopened 3-13-91)	Summary Judgment	10/7/91	X			10-18-91 8/25/92
Mosley v. Smith, 3:89-0641*	Reconsider ruling on motion to dismiss Reconsider ruling on motion to dismiss	6/9/92 6/15/92				1/14/92 4/7/92 6/23/92
Gaarder v. State Farm, 3:89-0716*	Dismiss	5/7/92	X	X		5/19/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Kendall v. Clarksville, 3:89-0726*	Partial Summary Judgment	1/27/92			X	1/23/91 2/25/92
Powell v. Magic Chef, 3:89-0991	Summary Judgment	3/14/91	X		W/drn	5/7/91
Vogt v. Emerson, 3:89-1008*	Partial Summary Judgment Partial Summary Judgment	12/31/90 1/17/91	X X		X X	6/23/92 7/21/92
Perm Gen v. Seneca, 3:90-0112*	Dismiss Dismiss Dismiss Dismiss Dismiss	9/3/91 9/16/91 9/16/91 9/16/91 9/16/91	X X X X X		X X X X X	
Gardner v. Haston, 3:90-0139*	Dismiss Partial Summary Judgment Summary Judgment	2/15/91 3/6/91 3/26/91	X X X	 X X	X	10/16/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Greenhill v. Ryder, 3:90-0309	Summary Judgment	4/6/92				3/5/91 8/30/91 12/10/91 10/3/92 10/13/92
Cole v. White House, 3:90-0424	Dismiss or Summary Judgment	6/12/92		X		9/3/91 2/18/92 9/1/92
Cherokee v. Blanch, 3:90-0581*	Summary Judgment Summary Judgment	3/18/91 9/30/91	 X		X X	6/25/91 3/3/92 8/18/92
W&G v. Pendaflex, 3:90-0662*	Renew Motion for Preliminary Injunction Summary Judgment	4/23/92 5/14/92		X X		
Beach v. Derwinski, 3:90-0750*	Dismiss	12/31/91		X		4/14/92 7/14/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
TN Farmers v. Smith, 3:90-0765	Summary Judgment	10/31/91	X		X	1/21/92 4/6/92
Shelby v. Delta, 3:90-0945*	Summary Judgment	7/29/91	X		X	9/10/91 4/21/92 6/16/92
Gant v. Arcata, 3:90-1005	Summary Judgment	5/13/92		X		
Dixon v. Allstate, 3:90-1047	Partial Summary Judgment Summary Judgment	7/1/91 7/1/91	X X		X X	10/15/91 12/15/92
Hodges v. WSM, 3:90-1101*	Dismiss	2/11/91	X		X	
Hitson v. Kerr, 3:91-0052	Partial Summary Judgment	7/3/91	X		X	8/4/92
Miles v. TVA, 3:91-0056*	Summary Judgment	11/1/91	X			3/16/92
Bass v. Janney, 3:91-0097*	Partial Summary Judgment Partial Summary Judgment	11/27/91 12/17/91	X X	X X		2/21/92 9/29/92
Inter-City v. Monarch, 3:91-0155*	Partial Summary Judgment Summary Judgment	12/13/91 12/16/91	X X		X X	

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Tibbs v. Metro, 3:91-0288*	Dismiss Dismiss	6/21/91 6/21/91	X X		X X	7/7/92
Beck v. Berry, 3:91-0342	Summary Judgment	11/15/91	X	X		2/18/92
Robinson v. Briggs, 3:91-0359*	Partial Summary Judgment	6/15/92 6/19/92		X X		7/7/92
Glavin v. Champlain, 3:91-0402	Summary Judgment	5/22/92				6/23/92
Steele v. Metro, 3:91-0421	Summary Judgment	8/20/91	X		X	2/25/92 12/1/92
Palaez v. Donnelly, 3:91-0467	Dismiss	1/31/92				
Alexander v. Third, 3:91-0490*	Dismiss	7/16/91	X		X	10/6/92
Digital v. Computer, 3:91-0507*	Dismiss Dismiss	8/9/91 8/15/91	X X		X X	5/19/92 10/13/92
Williamson Co. v. FIC, 3:91-0566	Summary Judgment	12/11/91	X	X		
Moore v. Clarksville, 3:91-0599*	Dismiss or Summary Judgment	5/15/92				8/11/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Sanders v. Nash. Bridge, 3:91-0747*	Summary Judgment	2/10/92			X	3/16/92
Whitaker v. Rowe, 3:91-0832*	Dismiss	3/25/92			X	
Oldham v. Heilig-Meyers, 3:91-0848	Summary Judgment	5/29/92		X		
TN Wholesale v. General Hospital, 3:91-0853*	Dismiss or transfer Dismiss or transfer Transfer Dismiss	11/14/91 2/24/92 2/24/92 2/24/92	X			
Brizendine v. Inter-City, 3:91-0898*	Summary Judgment	3/2/92		X		
Rainer v. Westinghouse, 3:91-0934*	Dismiss Dismiss or Summary Judgment	1/7/92 2/10/92		X X		
USA v. Clifton, 3:91-0940	Summary Judgment Summary Judgment	5/12/92 6/15/92				
Lawrence v. White, 3:91-0940	Summary Judgment	5/8/92				
Scarbrough v. Amalgamated, 3:91-1012	Summary Judgment	5/7/92				

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
RTC v. Anderson, 3:91-1014*	Summary Judgment	6/9/92				8/17/92
Lattimore v. Hunter, 3:91-1015	Summary Judgment Summary Judgment	5/13/92 5/13/92				12/8/92 2/2/93
Ware v. Federal Express, 3:91-1048	Dismiss	2/5/92			X	
Moss v. Investors, 3:91-1053*	Summary Judgment	5/15/92				
Brewster v. White, 3:91-1066	Dismiss or Summary Judgment Dismiss or Summary Judgment	3/12/92 4/3/92				
Atolagbe v. Cracker Barrel, 3:92-0011	Summary Judgment	4/13/92		X		6/22/92
Johnston v. Weintraub, 3:92-0095	Judgment on the Pleadings	4/17/92		CM		
Comdata v. Akel, 3:92-0130	Dismiss or Transfer	3/31/92				
Sea Ins. v. Home Savings, 3:92-0143	Remand	3/23/92				
Benson & Siman v. Ham, 3:92-0173	Dismiss Dismiss	3/16/92 4/13/92			X X	

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Durham v. Sanson, 3:92-0185	Summary Judgment	6/8/92				
RP v. Commercial Ins., 3:92-0186	Dismiss or Transfer	4/8/92		CM		
McCreary v. RTC, 3:92-0258*	Dismiss	5/15/92				
Elkin v. Cardwell, 3:92-0290	Dismiss	5/5/92				
Elrod v. USA, 3:92-0301*	Dismiss Remand	4/20/92 5/4/92				
Dredge v. Burnham, 3:92-0377	Dismiss	6/5/92				
Ingram v. Ansbacher, 3:92-0473	Dismiss or Transfer	6/4/92				

LEGEND:

*	**Case reassigned to Judge Echols after 3/30/92**
W/drn	**Referral to Magistrate Judge withdrawn before entry of a Report & Recommendation**
CM	**Case referred to Magistrate Judge for case management under experimental program; dispositive motion not before Magistrate Judge**

JUDGE WISEMAN'S
DISPOSITIVE MOTIONS PENDING IN CIVIL, NON-PRISONER CASES
AS OF JUNE 19, 1992

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Hines v. Freightliner, 3:84-0514* (Case closed 8/18/88; reopened 10/12/88)	Dismiss Partial Summary Judgment Partial Summary Judgment Summary Judgment Partial Summary Judgment Dismiss	4/12/91 5/28/91 5/82/91 5/28/91 6/12/91 6/19/91	X X X X X X			6/5/89 5/21/91 7/23/91
Wafford v. USPS, 3:88-0800	Dismiss	6/12/92				
MacDonald v. GM, 3:88-0993	Partial Summary Judgment	3/4/92				11/13/90 7/30/91 9/3/91 10/15/91 3/24/92 7/7/92
Smith v. Auto Convoy, 3:89-0141*	Summary Judgment	3/27/91	X			8/8/89

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Fultz v. Gilliam, 3:89-0650	Dismiss	5/18/92				7/10/90 10/23/90 6/23/92 7/28/92
Jordon v. Roadway, 3:89-0697*	Summary Judgment	2/10/92		X		
Owens v. USA, 3:90-0148* (Case closed 11/6/90; reopened 11/7/91)	Dismiss	5/15/92				6/30/92
Southall v. Allen, 3:90-0264*	Summary Judgment	6/1/92				10/22/91 1/28/92 6/30/92 9/15/92
Pepper Patch v. Campbell, 3:90-0776*	Summary Judgment	11/5/91	X			
Paris Tool v. Alro, 3:90-0832*	Summary Judgment	3/31/92				5/5/92 10/20/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Sebastian v. TDHS, 3:90-0871	Dismiss or Summary Judgment Summary Judgment	10/25/91 11/22/91	X X			12/3/91
Lefevres v. Tree, 3:90-0902*	Summary Judgment & Renewed Mtn for Partial Summary Judgment	10/31/91	X			7/2/91 11/26/91 8/25/92
Mello v. USA, 3:90-0927	Summary Judgment Partial Summary Judgment	7/12/91 8/5/91	X X			
McReynolds v. Wyatt, 3:91-0090	Summary Judgment	4/21/92				11/17/92
Justice v. Metro, 3:91-0111	Partial Summary Judgment Dismiss or Summary Judgment	7/9/91 8/14/91	X X			1/21/92
Peck v. Stewart, 3:91-0112*	Dismiss or for Summary Judgment	10/11/91	X			2/4/92 7/7/92
Package Exp. v. Brumley, 3:91-0188*	Default Judgment	11/12/91	X			

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Hazard v. Sullivan, 3:91-0193	Summary Judgment Summary Judgment Summary Judgment	5/26/92 5/26/92 5/26/92				
Charlotte v. Hartford, 3:91-0263*	Summary Judgment Summary Judgment	2/3/92 2/27/92				4/7/92 9/1/92
Cowell v. DuPont, 3:91-0268	Summary Judgment	5/26/92				4/14/92
Purser v. LABR, 3:91-0274	Summary Judgment Summary Judgment	2/3/92 2/3/92				3/17/92 6/30/92
Bank South v. Nashville Auto, 3:91-0283	Partial Summary Judgment Summary Judgment Summary Judgment	4/27/92 6/8/92 6/12/92				3/3/03 6/30/92 1/5/93
Smith v. Hailey, 3:91-0350*	Summary Judgment Summary Judgment	11/19/91 11/19/91	X X			
Old Republic v. East-West Motor, 3:91-0382*	Partial Summary Judgment	6/15/92				

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Jones v. DEA, 3:91-0520	Dismiss or Summary Judgment Summary Judgment	11/22/91 2/19/92				
Adelmann v. DuPont, 3:91-0555	Summary Judgment	2/28/92				
Amos v. St. University, 3:91-0591	Summary Judgment Summary Judgment	3/13/92 4/30/92				
Knight v. USA, 3:91-0617*	Summary Judgment Summary Judgment	5/28/92 6/19/93				
King v. Sun Chemical, 3:91-0714*	Summary Judgment	4/21/91		X		7/27/92
Sharp v. Allstate, 3:91-0715	Dismiss or Summary Judgment	10/31/91	X			
LL Bean v. Huddleston, 3:91-0817	Dismiss	10/24/91	X			
Wilson v. GAF, 3:91-0903	Summary Judgment	6/4/92				
Cleopatra's v. Bredesen, 3:91-0944	Summary Judgment	4/2/92				11/24/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Bateson v. Shookoff, 3:91-1030	Dismiss Dismiss or Summary Judgment Dismiss Dismiss or Summary Judgment	1/15/92 1/23/92 1/23/92 2/13/92		X X X X		
Miller v. Aratex, 3:92-0109*	Dismiss or Summary Judgment	5/13/92				
Third National v. Hallwood, 3:92-0114*	Dismiss	4/21/92				
Comcare v. Metro, 3:92-0231	Preliminary Injunction	3/9/92				
Kirkwood v. Musselwhite, 3:92-0257	Dismiss Dismiss	5/29/92 5/29/92				
Service Mdse v. American Software, 3:92-0351	Dismiss or Transfer	5/11/92				
Home Tech v. Swift, 3:92-0482	Dismiss or Stay Proceedings	5/27/92				

LEGEND:

* **Case reassigned to Judge Echols between 4/20/93 and 6/19/93**

JUDGE HIGGINS'
DISPOSITIVE MOTIONS PENDING IN CIVIL, NON-PRISONER CASES
AS OF JUNE 19, 1992

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Barron v. Pedigo, 1:90-0109	Partial Summary Judgment Partial Summary Judgment	7/19/91 9/27/91	X X	 X		3/18/91 10/21/91
JD Industries v. Faber, 1:90-0132	Summary Judgment	8/30/91	X	X		10/21/91
Ashbury v. Honda, 1:91-0097	Dismiss	4/23/92		X		10/19/92
Ramsey v. Saturn, 1:91-0015	Summary Judgment	5/29/92				10/19/92
Teledyne v. Metric, 1:91-0033	Preliminary Injunction	6/12/92				10/19/92
Burkhead v. USA, 1:91-0038	Dismiss	4/29/92				10/19/92
Cook v. Teledyne, 1:91-0050	Summary Judgment	6/1/92				7/21/92
Johns v. Neese, 1:91-0052	Summary Judgment	6/10/91	X	X		

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Motev v. Bryan, 1:91-0070	Summary Judgment Partial Summary Judgment Summary Judgment Partial Summary Judgment	5/1/92 5/1/92 5/1/92 5/1/92		X X X X		6/16/92 12/8/92
Brown v. Lawrenceburg, 1:91-0103	Dismiss or Summary Judgment Partial Summary Judgment	11/7/91 2/14/92	X	X X		
Mohiuddin v. TDOHS, 1:91-0104	Dismiss or Summary Judgment	11/14/91	X	X		
Brizendine v. Faber, 1:91-0116	Summary Judgment Summary Judgment	2/6/92 2/26/92		X X		10/19/92
McClarn v. Jackman, 1:91-0138	Dismiss	12/23/91	X	X		
McMullin v. Hyster, 1:91-0111	Summary Judgment	5/29/92				7/21/92
USA v. Cooper, 1:91-0133	Dismiss	12/16/91	X		X	
Akins v. ICI, 1:91-0134	Dismiss or Summary Judgment Voluntary Dismissal	2/14/92 4/7/92				12/1/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Southland v. Scrap Metal, 1:92-0029	Dismiss or Abate Remand	3/25/92 4/9/92		X X		
Doe v. Lewisburg, 1:92-0030	Remand Dismiss	4/27/92 5/21/92				
McInnis v. Merrill Lynch, 3:87-0062	Dismiss	10/28/91	X			8/6/90 8/6/91 9/23/91
Hendersonville Condo v. FDIC, 3:87-0097	Reconsider ruling on mtn for part. SJ Reconsider ruling on mtn for part. SJ Reconsider ruling on mtn for part. SJ	8/5/91 8/12/91 8/22/91	X X X		W/drn W/drn W/drn	2/1/88 9/26/88 4/24/89 4/24/90 10/16/90 11/27/90
Maxwell v. Healthamerica, 3:87-0599 (Case closed 7/26/89; reopened 1/10/92)	Dismiss or Summary Judgment Partial Summary Judgment Dismiss	9/29/87 3/2/88 2/22/92	X X		W/drn W/drn	

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Seaberry-Ross v. TDOC, 3:88-0880 (Case closed 9/15/89; reopened 11/13/89; closed 3/27/90; reopened 11/26/90)	Dismiss or Summary Judgment	1/5/90	X		X	10/2/89 3/27/90
Stephenson v. Forum, 3:88-0916	Summary Judgment Summary Judgment Summary Judgment	3/1/91 3/1/91 4/9/91	X X X		X X X	2/26/90 4/23/91
Martin v. Carell, 3:88-1097	Partial Summary Judgment Summary Judgment Partial Summary Judgment Summary Judgment Partial Summary Judgment Partial Summary Judgment Summary Judgment	12/13/89 3/15/90 3/15/90 3/15/90 3/15/90 3/15/90 4/15/91	X X X X X X X		X X X X X	3/12/90 6/5/90
Clay Manor v. Luna, 3-89-0608*	Dismiss Partial Summary Judgment	10/9/90 10/18/90	X X			1/29/91

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Hayes v. Metro, 3:89-0653	Summary Judgment Dismiss or Summary Judgment	3/15/90 3/13/90	X X		X X	4/17/90
Lewellen v. Metro, 3:89-0735 (Case closed '1/6/92; reopened 3/27/92)	Summary Judgment	5/3/91	X		X	4/16/91 6/14/91
Jennings v. Aero, 3:89-0746	Dismiss or Summary Judgment	6/15/90	X	X		
Southland v. Paracelsus, 3:89-0877	Dismiss or Summary Judgment	10/25/91	X			4/9/91
Lagatta v. Malone & Hyde, 3:89-1020	Summary Judgment	5/26/92				8/6/91
Moore v. Cleckner, 3:90-0007	Summary Judgment Partial Summary Judgment Summary Judgment	10/4/90 10/11/90 10/29/90	X X X		X X X	11/13/90 5/28/91
Outdoor Com v. Murfreesboro, 3:90-04231*	Summary Judgment Summary Judgment	4/30/91 9/9/91	X X	X X		11/17/90 7/30/91

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Doe v. Williamson Co., 3:90-0448*	Summary Judgment Summary Judgment	12/14/90 2/15/91	X X			4/23/91
Fleming v. Trimble, 3:90-0512	Transfer Summary Judgment Summary Judgment	7/18/90 8/13/90 1/23/91	X X X	X X X		
Hall v. USA, 3:90-0716	Partial Summary Judgment Partial Summary Judgment	2/8/91 3/20/92	X		X	
Neathery v. Eastland, 3:90-0738	Dismiss or Partial Summary Judgment	8/1/91	X	X		11/12/91
Chance v. IBT, 3:90-0920	Summary Judgment	7/11/91			X	1/14/92
Webster v. Nelson, 3:90-0966	Summary Judgment Summary Judgment Partial Summary Judgment	6/28/91 7/1/91 7/1/91	X X X		X X X	9/17/91
First TN v. Fin. News, 3:90-0971*	Summary Judgment	12/3/90	X	X		

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Summers V. SFC, 3:90-0971	Summary Judgment Summary Judgment	7/11/91 7/23/91	X X	X X		8/27/91 11/5/91
Cross Cont. v. Aer Turas, 3:90-1048	Summary Judgment	11/5/91	X		X	2/25/92 5/12/92
Trimble v. Fleming, 3:90-1114	Summary Judgment Summary Judgment	12/31/91 1/24/91	X X	X X		
Bradley v. AGRI, 3:91-0021	Dismiss	1/15/92		X		
Sisk v. Spain, 3:91-0027	Summary Judgment	8/30/91	X		X	1/7/92
Hair v. TN Consolidated Retirement, 3:91-0154	Summary Judgment Summary Judgment	12/13/91 12/20/91	X X	X X		2/25/92 9/15/92
Elkins v. Richardson, 3:91-0167	Summary Judgment	6/24/91	X		X	
Sims v. Ewing, 3:91-0264*	Summary Judgment Partial Summary Judgment Summary Judgment	6/9/92 6/12/92 6/16/92				7/14/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Dismukes v. Frank, 3:91-0336	Dismiss	3/26/92				6/30/92
Orlando v. Nashville Lodge, 3:91-0364	Dismiss Dismiss Dismiss	9/23/91 10/4/91 10/21/91	X X X	X X X		7/14/92
Sadler v. Vanderbilt, 3:91-0410	Judgment on Pleadings or Summary Judgment	6/24/91	X	X		
Williams v. TDC&I, 3:91-0413	Summary Judgment	7/17/91	X	X		
Swindler v. Busey, 3:91-0495	Dismiss	9/9/91	X		X	
Southeast v. Forney, 3:91-0497*	Summary Judgment	2/11/92				9/29/92
NPPU v. Tennessean, 3:91-0506	Summary Judgment Summary Judgment	9/4/91 10/15/91		X X		
McCurdy v. Bowdre, 3:91-0592	Dismiss Dismiss	5/29/92 5/29/92				12/8/92
Bennett v. Frank, 3:91-0594	Dismiss	1/21/92				8/25/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Prudential v. Metro, 3:91-0609	Partial Summary Judgment Summary Judgment	9/6/91 10/15/91	X X		X X	8/22/91 11/5/91
Global v. Chempower, 3:91-0614	Partial Summary Judgment	4/28/92				
Owens v. CCP, 3:91-0649*	Dismiss or Summary Judgment	6/16/92				8/25/92
Morris v. Montgomery Co., 3:91-0680*	Dismiss or Summary Judgment Dismiss Dismiss or Summary Judgment	10/25/91 10/25/91 10/25/91	X X X		W/drn W/drn W/drn	11/17/92
Noranda Alum v. OCF, 3:91-0730*	Dismiss Transfer	11/21/91 3/16/92	X			
Sunbeam v. Friedman, 3:91-0804	Dismiss or Transfer	10/28/91	X		X	
Coffee v. USA, 3:91-0800	Dismiss	11/26/91	X		W/drn	
Shepherd v. Fowler, 3:91-0882*	Summary Judgment Partial Summary Judgment	4/24/92 6/1/92				8/25/92

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Jones v. TN Dept. of Safety, 3:91-0911	Summary Judgment	6/1/92		X		7/7/92
Hussey v. Security Federal, 3:91-0969	Judgment on Pleadings	2/12/92			X	9/15/92
Fitzgerald v. Metro, 3:91-1006	Summary Judgment	4/29/92		X		7/6/92
Searcy v. Hillhaven, 3:92-0042*	Dismiss Summary Judgment	5/15/92 5/15/92				6/30/92
Gibson v. Clarksville, 3:92-0051	Dismiss	5/6/92				
Brizendine v. Globe, 3:92-0052*	Summary Judgment	5/22/92				
Williams v. Prater, 3:92-0070*	Remand	1/27/92				
Hill v. Metro Housing, 3:92-0145	Dismiss	3/11/92		X		
Belcher v. Goodall, 3:92-0181	Dismiss Dismiss	3/11/92 3/27/92		X		

Case Name & Number	Type of Motion	Date Filed	Pending over 6 months	Pending before Magistrate Judge on Referral	Previously Referred to Magistrate Judge; R&R entered	Scheduled Trial Date(s)
Anderson v. Public School, 3:92-0342*	Dismiss	5/22/92				
Allscrips v. Freeborn, 3:92-0364	Remand	5/11/92				

LEGEND:

*	**Case reassigned to Judge Echols between 4/20/92 and 6/19/92**
W/drn	**Motion referred to Magistrate Judge but referral withdrawn before entry of R&R**

EXHIBIT 10 TO APPENDIX C

REFERRALS TO MAGISTRATE JUDGES

Between October 1, 1991 and May 31, 1992

The attached charts reflect referrals of civil matters to Magistrate Judge Sandidge and Magistrate Judge Haynes, respectively, during the eight month period between October 1, 1991, through May 31, 1992. The charts include specific cases, the date of the referral, the District Judge who made the referral, and the type of referral or matter referred to the Magistrate Judge. These charts only reflect the referrals to Magistrate Judges made during the eight month period. They do not reflect the referrals made prior to October 1, 1991, that were still active before the Magistrate Judges during the study period. Referrals prior to October 1, 1991, and still active during the study period are on file in the Clerk's Office.

These charts do not reflect any prisoner cases or Social Security cases, nor do they reflect any cases on consent to the Magistrate Judges pursuant to 28 U.S.C. § 636(c).

REFERRALS
to
MAGISTRATE JUDGE KENT SANDIDGE, III

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Referrals to Magistrate Judge from October 1, 1991 through May 31, 1992			
Black v. Lojac 3:91-1043	2/19/92	Pretrial Matters including motion to dismiss	Nixon*
Stockard v. Metro Airport Authority 3:91-0613	11/22/91	Pretrial matters including motion to dismiss	Nixon*
Reid v. Opryland 3:91-0805	10/15/91	Pretrial matters	Nixon*
Griffith v. United Methodist Publishing House 3:91-0696	11/22/91	Pretrial matters	Nixon
Duke v. Barrett 3:90-0294	4/8/91 1/7/92	Pretrial matters Pretrial matters	Wiseman*
Nat'l Emergency Services v. Nat'l Medical Enterp. 3:91-0260	1/10/92	Pretrial matters	Nixon

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Johnson v. Murfreesboro Fire Dept. 3:88-1033	7/26/89 5/21/92	Pretrial matters Non-dispositive motions	Higgins*
Nashville Pressman's Union v. Tennessean 3:91-0506	10/29/91	Pretrial matters including 2 motions for summary judgment	Higgins
Kinnard v. Joule Yacht 3:90-0072	4/21/92	Non-dispositive pretrial matters	Nixon
Murphy v. Golden 3:91-1058	4/21/92	Non-dispositive pretrial matters	Nixon
Computer Shoppe v. Ingram Micro 3:90-1020	11/1/91	Non-dispositive motions	Higgins
Lochinvar Corp. v. Carborundum Co. 3:91-0323	2/28/92	2 Non-dispositive motions	Wiseman*
Glavin v. Champlain Chocolate 3:91-0402	4/23/92	Non-dispositive motions	Nixon
Neathery v. Eastland Health Care 3:90-0738	8/20/91 10/29/91	2 Non-dispositive motions and motion to dimiss or partial SJ Non-dispositive motion	Higgins
Sunbeam-Oster Co. v. Friedman 3:91-0804	11/26/91	Motion to dismiss Non-dispositive motions	Higgins
Barron v. Pedigo Management 1:90-0109	10/31/91	Motion for partial summary judgment	Higgins

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Maury Co. Bridle & Saddle v. TN Knife Works 1:90-0152	10/1/91	Motion for partial summary judgment	Higgins
Summers v. SFC Acquisition 3:90-1000	10/7/91	2 Motions for summary judgment	Higgins
JD Industries v. Faber 1:90-0132	11/20/91	Motions for summary judgment	Higgins
McMullin v. Hyster Co. 1:91-0111	3/13/92	Non-dispositive motions	Higgins
Cross Aircraft v. Aer Turas Teoranta 3:90-1048	1/8/92	Motion for summary judgment	Higgins
Hallum v. TVA 3:92-0062	4/17/92	Motion to dismiss or for summary judgment	Higgins
Ambrust v. Woolworths 3:91-0979	12/3/91	Title VII	Nixon
Atolagbe v. Cracker Barrel 3:92-0011	1/16/92	Title VII -Motion for summary judgment	Nixon
EEOC v. Bassichis Co. 3:91-1056	1/16/92	Title VII	Nixon
Sanders v. Nashville Bridge Co. 3:91-0747	10/7/91	Title VII -Motion for summary judgment	Nixon*

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Nicholson v. Hampton 3:91-0833	10/23/92	Title VII	Nixon
King v. Sun Chemical 3:91-0714	3/12/92	Title VII -Motion for summary judgment	Wiseman*
Fitzgerald v. Metro Schools 3:91-1006	12/10/91	Title VII	Higgins
Stewart v. Waste Management 3:91-0571	2/12/92	Title VII	Wiseman*
Bateson v. Shookhoff 3:91-1030	3/17/92	28 USC 1915(d) Referral	Wiseman
Crawford v. Kroger 3:92-0075	1/24/92	28 USC 1915(d) Referral	Wiseman
Am. Electric Fusion v. True Temper Sports 3:90-0952	11/25/91	Settlement Conference	Higgins
Hussey v. Security Federal 3:91-0969	3/2/92	Motion for judgment on pleadings	Higgins
Wade v. Consolidated Freightways 3:91-0365	3/2/92	Motion to dismiss and/or summary judgment	Higgins
Clark Container v. Better Methods 1:91-0094	2/12/92	Motion to dismiss	Higgins

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Resolution Trust Corp. v. Beck 1:91-0102	10/18/91	Motion to Remand	Higgins
Wilcox v. Wilcox 3:91-0694	10/24/91	Motion to dismiss	Higgins
Sisk v. Spain 3:91-0027	10/1/91	Motion for summary judgment	Higgins
Roberts v. Dupont 3:90-0618	11/22/91	Motion for summary judgment	Higgins
Grizzle v. Cannon County 3:91-0267	12/9/91	2 motions for summary judgment	Higgins
Burris v. White 3:91-0939	2/27/92	Motion to dismiss and/or summary jdgmt and 3 Non-dispositive motions	Higgins
James v. Gruning 3:91-0754	10/29/91	Motion to Dismiss or Transfer	Higgins
Uselton v. Heritage Square 3:90-0615	2/12/92	Non-disposition motions	Higgins
Bell v. Bruce Hardwood 3:91-0538	12/11/91	3 Non-dispositive motions	Higgins

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Brown v. Wilson Co. School Board 3:89-0740	1/3/92	Non-dispositive motions	Higgins
Winter v. Communication Resource Groups 3:90-1023	12//9/91	Non-dispositive motions	Higgins

* Transferred to Judge Echols

REFERRALS
to
MAGISTRATE JUDGE WILLIAM J. HAYNES, JR.

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Referrals to Magistrate Judge from October 1, 1991 through May 31, 1992			
Walker v. Wal-Mart 3:90-1105	10/29/91	Pretrial matters	Nixon*
Hughes v. Greyhound 3:91-0753	11/22/91	Pretrial matters	Nixon
Brizendine v. Inter-City Products 3:91-0898	1/17/92	Pretrial matters, including Motion for summary judgment	Nixon*
Williamson Co. Hospital v. Federal Ins. Co. 3:91-0566	1/24/92	Pretrial matters, including Motion for summary judgment	Nixon
Morris v. Tennessee 3:91-0549	2/14/92	Pretrial matters, including motion for summary judgment	Nixon
Rainer v. Westinghouse Electric 3:91-0934	2/14/92	Pretrial matters, including motion for summary judgment	Nixon*
Sain v. Board of Dentistry 3:91-0871	3/4/92	Pretrial matters	Nixon

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Oldham v. Heilig-Myers 3:91-0848	3/19/92	Pretrial matters, including motion for summary judgment	Nixon
Ballard v. Gusto Records 3:89-1019	10/25/91	Pretrial matters and pretrial orders	Higgins
Onoh v. Sky Chief 3:91-0615	10/7/91	Pretrial matters, including motion to dismiss Consent	Nixon
Shumaker v. Poulton 3:91-0284	1/17/92	Pretrial matters	Nixon
White v. Sun Chemicals 3:91-0198	5/19/92	Consent	Nixon
Patterson v. Transit Ready Mix 3:90-0032	2/11/92	Consent	Higgins
Harlen Farms v. USA 1:91-0109	2/26/92	Consent	Higgins
Bates and Gaskins v. Dept. of Justice 1:91-0108	1/3/92	Consent and Motion for summary judgment	Higgins
Gibbons v. Attorney General's Office 3:92-0287	3/26/92 4/29/92	28 USC 1915(d) Consent	Wiseman*
Gibson Guitar v. Pattishall 3:91-0872	4/13/92	Case Management	Nixon

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Webster v. Acuff-Rose 3:92-0122	4/13/92	Case Management	Nixon
Roof v. Jaguar Cars 3:92-0002	4/13/92	Case Management	Nixon
Johnson Mfg. v. Weintraub Bros. 3:92-0095	4/15/92	Case Management	Nixon
Benson & Siman v. Ham 3:92-0173	3/23/92 4/30/92	Case Management 3 motions to Dismiss	Nixon
R.P. Industries v. Commercial Ins. 3:92-0186	4/17/92 4/22/92	Case Management Case Management conference	Nixon
Adams Industries v. Healcroft, Inc. 3:91-0219	12/3/91	Settlement conference	Nixon*
Cherry v. HUD 3:89-0678	1/10/92	Settlement conference	Nixon
Gedelman Estates v. Iratex 3:89-0007	1/31/92	Settlement conference	Nixon
Horizons v. Gault & Peragin 3:90-0944	4/24/92	Settlement conference	Wiseman
Perran v. Steiner Liff 3:90-0549	10/22/91	Settlement conference	Wiseman

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
1st Union Bank v. Sears 3:90-0547	2/24/92	Settlement conference	Wiseman
Witt v. Picker International 3:88-0836	3/12/92	Settlement conference	Higgins
Jackson v. Newble 3:91-0826	10/3/91	28 USC 1915(d)	Nixon
Hill v. Public Schools 3:92-0145	4/24/92	28 USC 1915(d)	Higgins
Moore v. Doubletree Hotel 3:92-0357	4/17/92	28 USC 1915(d)	Wiseman
Davis v. Mid-TN Cable 3:91-0772	10/2/91	Title VII	Nixon
Whitaker v. Rowe Mfg. 3:91-0832	10/17/92	Title VII -2 motions to Dismiss	Nixon
Ware v. Federal Express 3:91-1048	1/16/92	Title VII -Motion to dismiss	Nixon
Chandhurn v. Tennessee 3:91-0081	1/22/92	Title VII	Wiseman*
Crawford v. TN H&E 3:91-0509	2/13/92	Title VII	Wiseman*

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Jones v. TN Dept. of Safety 3:91-0911	3/2/92	Title VII -Motion for summary judgment	Higgins
Orlando Residence v. Nashville Lodging 3:91-0364	11/5/91	1 Non-dispositive motion 3 Motions to dismiss	Higgins
Whittle v. USA 3:91-0522	10/25/91	Motion to dismiss	Higgins
Shoney's v. Sullivan 3:90-1089	11/1/91	Non-dispositive motions	Higgins
Mohiuddin v. TN H&S 1:91-0104	12/9/91	Motion for summary judgment Non-dispositive motion	Higgins
Brown v. Lawrenceburg 1:91-0103	1/3/91	Motion for summary judgment	Higgins
Coffee v. USA 3:91-0800	1/10/92	Motion to dismiss	Higgins
McClarn v. Jackman 1:91-0138	1/24/92	Motion to dismiss	Higgins
USA v. Cooper 1:91-0133	1/24/92	Motion to dismiss	Higgins
Bradley v. Dept. of Agriculture 3:91-0021	2/11/92	Motion to dismiss	Higgins

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Brizendine v. Faber Castell 1:91-0116	4/3/92	2 Motions for summary judgment	Higgins
Lewellen v. Metro 3:89-0735	3/27/92	Motion for summary judgment 1 Non-dispositive motion	Higgins
Southland Express v. Scrap Metal 1:92-0029	4/24/92	Motion to dismiss	Higgins
Belcher v. Goodall 3:92-0181	5/8/92	Motion to dismiss	Higgins
Fleming v. Trimble 3:90-1114 (3:90-0512)	5/27/92	4 Non-dispositive motions 1 Motion for summary judgment	Higgins
Wolcott's v. McReynolds 3:90-0775	10/15/90 1/22/91 10/1/91	2 Motions to dismiss Motion to dismiss 3 Motions to dismiss	Higgins
Shoney's v. Sullivan 3:90-1090	8/7/91 10/10/91	Motion to dismiss Motion to Judgment on pleadings 2 Motions to dismiss	Higgins
Swindler v. Busey 3:91-0495	10/25/91	Motion to dismiss Non-dispositive motion	Higgins
Prudential v. Metro Government 3:91-0609	10/24/91	Motion for partial summary judgment Motion for summary judgment	Higgins

Case Name and Number	*Date of Referral*	*Type of Referral*	*Judge*
Pelz v. Williams 3:91-0669	10/29/91	2 Motions to dismiss Non-dispositive motion	Higgins
Clifford v. Franklin 3:91-0578	11/1/91	Motion for judgment on the pleadings	Higgins
McEndree v. St. Thomas Hospital 3:91-0276	11/5/91	Motion for summary judgment	Higgins
Wentworth (Morris) v. Montgomery Co. 3:91-0680	11/5/91	3 Non-dispositive motions 3 Motions to dismiss	Higgins
White v. Guerrero 3:91-0082	12/17/91	Motion to dismiss 2 Non-dispositive motions	Higgins
Haney v. Wean, Inc. 1:91-0077	12/11/91 1/8/92	Non-dispositive motion Motion for summary judgment	Higgins
Pelz v. Williams	1/3/92	Motion to dismiss	Higgins
USA v. $272155 3:91-0419	1/24/92	Non-dispositive motion	Higgins*

* Transferred to Judge Echols

EXHIBIT 11 TO APPENDIX C

TRIAL SETTINGS

October 1, 1991, through May 31, 1992

The attached charts reflect cases set for trial during the eight month period between October 1, 1991, and May 31, 1992, by active District Judge. The charts distinguish between civil cases and criminal cases on the Court's calendar by "cv" denoting a civil case and "cr" denoting a criminal case. Each chart lists the case number; whether the case was tried, continued, settled, or "bumped;" the date of the order dismissing the case or continuing the trial, if applicable; the reason the case was continued or bumped, if applicable; and the date that the case was rescheduled for trial, if applicable. If the case remained on the Court's trial calendar one week prior to the scheduled trial date, that fact is denoted by an asterisk (*) after the case number. Those cases transferred to Judge Echols after April 20, 1992, are indicated by an "E" after the case number.

LEGEND	
cv	- Civil case
cr	- Criminal case
E	- Case assigned to Judge Echols after 4/20/92
*	- Case remained on calendar one week prior to scheduled trial date
MTN	- Motion

TRIAL SETTINGS
JUDGE JOHN T. NIXON
October 1, 1991 through May 31, 1992

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 1	3:90-0694-cv	Settled		10/10/91	
	3:90-0805-cv	Continued	No date set	10/4/91	Mtn to continue filed 9/20/91 - expert unavailable on scheduled trial date
	3:89-0642-cv E	Continued	2/4/92	9/17/91	Mtn to continue filed 8/30/91 - More time needed to prepare since Magistrate Judge granted (on 8/30/91) mtn. to extend time to answer interrogatories
	3:88-0544-cv	Continued	No date set	8/28/91	Trial continued pending R&R on mtn. for summary judgment filed 7/31/91
	3:91-00045-cr	Continued	2/25/92	11/12/91	
	3:90-00113-cr*	Continued			
	3:91-00156-cr*	Continued	11/5/91	10/15/91	
	3:91-00040-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 7	3:89-1008-cv E	Continued	6/23/92	10/2/91	Mtn to continue filed 9/24/91 - Attorney involved in another case; unavailable for this date
	3:90-0055-cv E	Continued	No date set	7/23/91	Joint Mtn for new Scheduling Order filed 7/15/91--Requesting time for additional discovery
	3:90-0888-cv E	Continued	11/26/91	8/16/91	Mtn for amended Scheduling Order filed 8/6/91--Neither party ready; no discovery taken yet
	3:89-0641-cv E	Continued	1/14/92	9/16/91	Mtn to continue filed 8/30/91-- due to continuances, answers to interrogatories now due 4 days prior to trial
	3:91-00094-cr*	Continued			
	3:91-00169-cr	Continued			
	3:91-00125-cr*	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 15	3:90-0254-cv*	Tried (4 days)			
	3:90-1047-cv E	Continued	No date set	9/24/91	Magistrate Judge continued trial pending resolution of pending motions
	3:90-0455-cv	Continued	No date set	9/17/91	Mtn. to continue filed 9/4/91 - Need time to respond to summary judgment motion. Case now set 5th on docket; desires primary setting due to complexity of preparation
	3:87-0396-cv	Continued	6/9/92	9/17/91	Mtn. to continue filed 9/6/91 - Attorney has another federal case scheduled for trial at same time
	3:91-00153-cr*	Continued			
	3:91-00175-cr	Continued			
	3:91-00134-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 21	3:90-1105-cv E	Continued	No date set	9/23/91	Mtn. to continue filed 9/13/91--medical problems unresolved; need more time for discovery
	3:87-0850-cv	Settled		6/3/91	
	3:89-0960-cv	Settled		6/26/91	
	3:90-1076-cv	Continued	2/11/92	8/13/91	Mtn. to continue filed 7/31/91--Settlement negotiations underway. If fail, need more discovery time
	3:91-00134-cr*	Continued			
	3:91-00137-cr*	Settled			
	3:91-00052-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 28	3:87-0059-cv	Settled		9/23/91	
	3:89-1003-cv	Continued	No date set	10/24/91	Joint Mtn. to continue filed 10/17/91--Expert not yet deposed
	3:89-0716-cv E	Continued	12/10/01	6/24/91	Mtn. to continue filed 6/13/91--Discovery incomplete
	3:88-0859-cv	Continued	8/25/92	10/15/91	Mtn. to continue filed 9/30/91--Time needed to fully respond to late-filed motion for summary judgment
	3:90-1051-cv	Continued	1/3/92	9/17/91	Mtn. to continue filed 9/5/91--Additional time needed to file third party complaint
	3:91-00124-cr	Continued	1/7/92	10/29/91	
	3:91-00059-cr*	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 4	3:89-0248-cv	Continued	11/19/91	11/5/91	Mtn. to continue filed 10/18/91 - discovery incomplete
	3:90-0791-cv	Continued	6/2/92	10/24/91	Mtn. to continue filed 10/16/91 - Attorney has conflict with another case
	3:90-0883-cv* E	Bumped	7/14/92	12/5/91	Criminal trial
	3:91-00156	Continued			
	3:89-0007-cv	Continued	No date set	11/7/91	Mtn to continue filed 10/2/91--motion for summary judgment pending
	3:91-00156-cr*	Tried			
	3:91-00170-cr	Continued			
	3:91-00106-cr	Continued			
	3:91-00146-cr*	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 11	3:90-0982-cv	Dismissed		10/29/91	Mtn. for Summary Judgment granted
	3:85-0772-cv	Dismissed		4/24/91	
	3:91-0116-cv	Continued	3/24/92	10/4/91	Mtn. to continue filed 9/25/91--motions pending
	3:90-00176-cr	Continued			
	3:91-00045-cr	Continued			
	3:91-00080-cr	Continued			
Nov. 18	3:89-0248-cv	Continued	1/21/92	11/14/91	Mtn. to continue filed 11/8/91 - Discovery incomplete; expert not yet deposed
	3:89-0842-cv	Settled		9/6/91	
	3:91-00116-cr*	Settled			
	3:91-00129-cr	Continued			
	3:91-00196-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 25	3:89-0364-cv* E	Continued	9/1/92	12/3/91	Mtn. to continue filed 11/19/91 - Attorney involved in another trial
	3:90-0888-cv E	Continued	7/28/92	10/29/91	Jt. Mtn to Amend Scheduling Order filed 10/23/91 - Discovery incomplete
	3:91-00042-cr*	Tried (1 day)			
	3:91-00054-cr*	Continued			
	3:91-00206-cr*	Continued			
	3:90-00168-cr	Continued			
	3:91-00124-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 2	3:91-0198-cv	Continued	5/19/92	11/8/91	Agreed Order resetting trial date
	3:90-1122-cv	Transferred		9/91	Asbestos case transferred to Multi-District Litigation
	3:86-0752-cv E	Settled		11/22/91	
	3:90-0975-cv	Continued	12/2/91		Deft's Mtn. filed 11/13/91 for protective order or to continue trial--plaintiff to take deposition of defendant after return from foreign country
	3:91-00079-cr*	Continued			
	3:91-00181-cr*	Continued			
	3:91-00051-cr*	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 9	3:90-0993-cv	Settled		6/4/91	
	3:90-0309-cv	Continued	10/13/92	12/6/91	Mtn. to Amend Scheduling Order filed 10/29/91 - one witness not deposed. Other witnesses must travel great distance to court; requests first setting on docket
	3:89-0716-cv*	Continued	5/19/92	12/13/91	Mtn. to continue filed 12/9/91 - Needs time to get an expert
	3:90-0262-cv	Continued	6/23/92	11/22/91	Joint mtn. filed 11/14/91 - More time needed due to pending motions
	3:91-00107-cr*	Settled			
	3:91-00054-cr*	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 16	3:89-0678-cv	Continued	3/2/91	12/18/91	Amended Scheduling Order
	3:90-0856-cv	Continued	2/10/92	11/27/91	Mtn. to continue filed 11/22/91--R&R pending; pre-trial order due same time as objections to R & R
	3:90-0835-cv	Dismissed	5/29/92		Motion for summary judgment granted
	3:90-0060-cv	Settled		10/31/91	
	3:91-00153-cr	Continued			
	3:91-00125-cr*	Settled			
Dec. 23	NO SETTINGS				
Dec. 30	NO SETTINGS				

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 6	1:89-0152-cv	Continued	7/28/92	1/6/92	Mtn. to continue filed 1/2/92--attorney cannot locate defendant
	3:89-0132-cv	Continued	8/18/92	1/3/92	Mtn. to Continue filed 12/23/91 - Defendant has not been served and witness unavailable
	3:90-0742-cv	Continued	6/8/92	1/1/92	Mtn. to continue filed 12/2/91 - discovery incomplete
	3:90-00176-cr*	Tried (3 days)			
	3:91-00124-cr*	Settled			
	3:91-00145-cr	Continued			
Jan. 13	3:89-0713-cv	Continued	8/25/92	1/9/92	Mtn. to continue filed 1/6/92 - Attorney out of country
	3:90-0715-cv	Settled		1/28/92	
	3:89-0641-cv E	Continued	4/7/92	9/23/91	Joint motion to amend Scheduling Order
	3:91-02008-cr*	Settled			
	3:91-00206-cr*	Settled			
	3:91-00095-cr	Continued			
	3:90-00119-cr	Continued			Hearing held on pending motion

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 20	3:89-0248-cv	Continued	3/31/92	1/23/92	Mtn to continue filed 1/17/92 - Defendant recovering from surgery
	3:91-0069-cv	Dismissed		1/27/92	
	3:90-0765-cv	Continued	4/6/92	1/13/92	Mtn. to continue filed 1/9/92 - Attorney unavailable for trial
	3:91-00209-cr*	Settled			
	3:91-00175-cr	Continued			
	3:91-00147-cr	Continued			
Jan. 27	3:89-0722-cv*	Tried (4 hr.), then Settled			
	3:89-1008-cv E	Continued	7/21/92	10/25/91	Mtn. to continue filed 10/25/91 - Witnesses unable to attend
	3:91-00169-cr	Continued			
	3:91-00224-cr	Continued			
	3:91-00006-cr	Continued			
	3:91-00106-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 3	3:90-0402-cv	Tried (1 day)			
	3:90-0983-cv	Continued	10/6/92	2/10/92	Agreed Amended Scheduling Order
	3:89-0642-cv E	Continued	4/28/92	9/23/91	Agreed Amended Scheduling Order
	3:90-1047-cv E	Continued	12/15/92	1/23/92	Mtn. to continue filed 1/17/92 - Awaiting R&R on mtn. for summary judgment
	3:91-00052-cr*	Continued			
	3:91-00153-cr*	Tried (7 hr./2 days)			
Feb. 10	3:89-0790-cv	Settled		1/31/92	
	3:90-1076-cv	Settled		2/11/92	
	3:90-0856-cv	Tried (2 days-7 hrs)			
	3:90-00061-cr	Continued			
	3:91-00182-cr	Settled			
	3:91-00196-cr*	Settled			
	3:91-00106-cr*	Tried (4 days-21.5 hrs)			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 17	3:90-0424-cv	Continued	9/1/92	12/12/91	Joint mtn to continue filed 5/10/91--Time needed for additional discovery
	3:90-0732-cv	Dismissed		12/10/91	
	3:91-0342-cv	Continued		1/6/92	Continued by Magistrate Judge--motion for Summary Judgment filed 11/15/91 pending
	3:88-0824-cv E	Continued	11/10/92	2/21/92	Mtn. to continue filed 2/5/92 - Pending motions for summary judgment
	3:91-00170-cr	Continued			
	3:91-00213-cr*	Settled			
	3:91-00071-cr*	Continued			
	3:92-00232-cr*	Settled			
	3:91-00080-cr*	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 24	3:91-0421-cv	Continued	12/1/92	1/23/92	Mtn. to continue filed 1/17/92 - objections and response to R&R due at time of trial
	3:91-0275-cv	Continued		1/16/92	Mtn. to Stay filed 1/14/92 pending settlement negotiations
	3:89-0726-cv E	Continued	No date set		Mtn. to continue granted at 1/16/92 status conference- motion for partial summary judgment filed 1/27/92
	3:91-00170-cr	Continued			
	3:91-00145-cr	Continued			
	3:91-00178-cr*	Settled			
	3:91-00236-cr	Continued			
	3:90-00126-cr*	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 2	3:90-0581-cv E	Continued	8/18/92	11/12/91	Discovery incomplete, mtn. for summary judgment pending before Magistrate Judge
	3:91-0284-cv	Settled		2/11/92	
	3:90-1038-cv E	Continued	12/8/92	3/12/92	
	3:89-0678-cv	Continued	4/20/92		Mtn. to continue filed 2/6/92 - attorney will be out of town on personal business
	3:91-00051-cr	Continued			
	3:91-00175-cr	Continued			
	3:91-00222-cr	Settled			
	3:91-00218-cr*	Continued			
	3:90-00126-cr*	Continued			
Mar. 9	3:90-0011-cv* E	Continued	3/17/92	12/9/91	Recently transferred from another Judge; attorney requested continuance

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 16	3:90-0011-cv E	Continued	7/21/92	12/30/91	Witness problems (one sick; one lost)
	3:91-0056-cv	Continued/Settled	No date set	2/28/92	In settlement negotiations
	3:91-0501-cv	Dismissed	3/4/92		
	3:91-00196-cr*	Settled			
	3:91-00145-cr	Continued			
	3:91-00224-cr	Continued			
Mar. 23	3:90-0455-cv*	Tried (3 days)			
	3:89-0986-cv	Dismissed	3/18/92		
	3:91-0116-cv	Continued	7/7/92	3/23//92	Amended Scheduling Order submitted after scheduling conference
	3:90-0856-cv	Tried on 2/10/92			This was back-up date
	3:91-00213-cr	Continued			
	3:91-00212-cr	Settled			
	3:92-00021-cr*	Settled			
	3:92-00011-cr*	Settled			
	3:92-00020-cr*	Continued			
	3:91-00235-cr*	Continued			
	3:91-00051-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 30	3:89-0248-cv*	Tried (4 days)			
Apr. 6	3:90-0765-cv	Continued	No date set	4/2/92	Continued pending ruling on R&R
	3:90-1003-cv	Settled		6/25/91	
	3:89-0641-cv E	Continued	6/23/92	4/8/92	Mtn. to continue filed 3/30/92 - trial preparation hindered by plaintiff
	3:90-0995-cv	Continued	6/30/92	10/22/91	Agreed Amended Scheduling Order
	3:88-0419-cv	Continued		2/27/92	Mtn. to continue filed 2/24/92 - pending motion
	3:90-0947-cv	Continued	8/25/92	3/18/92	Agreed Amended Scheduling Order
	3:91-00182-cr	Settled			
	3:91-00129-cr*	Tried (3 days)			
Apr. 13	3:91-00129-cr*	Tried (4 days)			
	3:91-00170-cr	Continued	6/16/92		
	3:91-00061-cr*	Continued			
	3:91-0420-cv	Continued	2/16/93	3/25/92	Agreed Order resetting trial due to illness of two witnesses

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Apr. 20	3:89-0678-cv*	Settled		5/8/92	
	3:90-1105-cv E	Continued	No date set	4/13/92	Mtn. to cont filed 4/3/92 - plaintiff in hospital
	3:90-1081-cv	Settled		1/27/92	
	3:91-00095-cr*	Tried (3 days)			
	3:91-00052-cr	Continued			
Apr. 27	3:89-0642-cv E	Continued	10/20/92	2/7/92	Mtn. to continue filed 2/3/92 - more time needed to prepare discovery and depose new parties
	3:91-0314-cv	Dismissed	2/14/92		
	3:91-00095-cr	Tried (4 days)			
	3:91-00006-cr	Continued			
	3:91-00128-cr*	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 4	3:91-0426-cv	Dismissed		2/19/92	
	3:91-0275-cv	Settled		4/7/92	
	3:90-0508-cv	Tried (1 day) then Settled			
	3:91-00095-cr	Tried (4 days)			
	3:91-00169-cr	Continued			
	3:91-00175-cr	Continued			
	3:92-00027-cr*	Settled			
	3:92-00035-cr	Continued			
	3:90-00145-cr	Settled			
May 11	3:91-00095-cr	Tried (2 days)			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 18	3:89-0716-cv E	Tried (before Judge Echols)			
	3:91-0507-cv E	Continued	10/13/92	3/5/92	Jt. mtn to revise Scheduling Order filed 3/3/92
	3:91-0198-cv	Tried (before Magistrate Judge Haynes)			
	3:91-00095-cr	Tried (4 days)			
	3:92-00036-cr	Continued			
	3:91-00236-cr	Continued			
May 25	3:90-1041-cv	Settled	1/30/92		Agreed Order of Settlement

LEGEND	
cv	- Civil case
cr	- Criminal case
E	- Case assigned to Judge Echols after 4/20/92
*	- Case remained on calendar one week prior to scheduled trial date
MTN	- Motion

TRIAL SETTINGS
JUDGE THOMAS A. WISEMAN, JR.
October 1, 1991 through May 31, 1992

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 1	3:90-0466-cv	Settled		5/23/91	
	3:90-0436-cv	Settled		8/16/91	
	3:90-0522-cv *	Bumped	No date set		Another trial in progress
	3:90-0545-cv *	Tried (4 days)			
	3:91-00066-cr *	Continued			
	3:91-00087-cr *	Continued			
	3:91-00143-cr	Settled			
	3:91-00165-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 7	3:87-0084-cv E	Continued	1/28/92	9/17/91	Mtn to cont. filed 9/13/91--attorney traveling to attend depositions in another case at trial time
	3:90-0159-cv	Settled		10/2/91	
	3:91-00077-cr	Settled			
	3:91-00047-cr	Settled			
	3:91-00085-cr	Settled			
	3:91-00088-cr	Continued			For psychological report
	3:91-00126-cr	Continued			
	3:91-00158-cr	Settled			
	3:91-00154-cr	Settled			
Oct. 14	3:90-0219-cv	Bumped	11/5/91	9/5/91	Judge out of town
	3:88-0993-cv	Continued	3/24/92	9/13/91	At 8/23/91 hearing on motions, Court directed parties to submit revised Scheduling Order
	3:90-0547-cv	Bumped	3/31/92	7/16/91	Judge out of town
	3:90-00083-cr	Bumped	12/3/91		Judge out of town

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 21	3:90-0264-cv E	Continued	1/28/92	3/25/91	Mtn. to cont. filed on 3/25/91 --attorney's 10-year college reunion scheduled week of trial
Oct. 28	3:90-0803-cv	Settled		10/10/91	
	3:90-0646-cv E	Continued	4/14/92	8/28/91	Mtn. to cont. filed 8/27/91--plf recovering from surgery; case is so complex that parties cannot meet scheduling deadlines
	3:91-00023-cr	Settled			
	3:91-00115-cr	Settled			
	3:91-00020-cr	Settled			
	3:91-00144-cr	Settled			
	3:91-00157-cr	Settled			
	3:91-00162-cr	Settled			
	3:91-00101-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 4	3:90-0673-cv	Transferred		5/8/91	Transferred to Eastern District of Missouri
	3:90-0922-cv	Continued	3/3/92	11/26/91	Trial date stricken at Pretrial conference held 10/4/91; Motion to set case for trial filed 11/25/91
	3:90-0219-cv	Settled		10/30/91	
	3:91-00028-cr	Continued			
	3:91-00108-cr	Continued			
	3:91-00078-cr*	Tried (1 day)			
	3:91-00012-cr	Continued	No date set		Trial date stricken at Pretrial conference held 10/10/91
	3:90-00215-cr	Continued			
	3:91-00157-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 11	3:90-0302-cv	Continued	3/10/92	9/20/91	Second Consent Amended Scheduling Order entered -- attorneys not prepared due to their trial schedules and incomplete discovery
	3:90-0445-cv	Continued	4/14/92	11/26/91	Mtn. for Summary judgment filed 11/1/91- Taken under advisement on 11/12/91
	3:90-0397-cv	Dismissed		8/7/91	Order granting Summary Judgment
	3:91-00099-cr	Continued	11/26/91		
	3:91-00037-cr	Continued			
	3:90-00114-cr	Settled			
	3:91-00165-cr	Settled			
	3:91-00066-cr	Settled			
	3:91-00162-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 18	3:89-0582-cv E	Continued	3/17/92	11/12/91	Mtn. to cont. filed 11/12/91 - Defendant's representative seriously injured in hunting accident and unable to assist in trial preparation
	3:91-0259-cv*	Tried (1 day)			
	3:90-0284-cv	Settled		8/9/91	
	3:91-00184-cr*	Tried (2 days)			
	3:91-00733-cr	Continued			
	3:91-00162-cr	Continued			
	3:90-00181-cr	Continued			
	3:91-00088-cr	Settled			
	3:91-00152-cr*	Continued			
Nov. 25	3:90-0902-cv E	Continued	8/25/92	10/3/91	Amended Scheduling Order submitted on 9/24/91
	3:90-00099-cr	Continued	12/3/91		

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 2	3:90-0853-cv	Dismissed		7/3/91	Order granting summary judgment
	3:90-0871-cv	Continued	No date set	11/15/91	
	3:90-00087-cr*	Continued			
	3:91-00099-cr*	Continued			
	3:91-00083-cr*	Continued			
Dec. 9	3:90-0918-cv*	Tried (4 days)			
	3:90-0917-cv	Continued	No date set		New attorney had to "start from scratch"
	3:91-00198-cr	Continued	1/21/92		
	3:91-00152-cr	Settled			
	3:91-00085-cr	Settled			
	3:91-00126-cr*	Continued			
	3:91-00172-cr	Continued			
	3:91-00192-cr	Continued			
	3:91-00017-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 16	3:86-0156-cv	Dismissed		11/26/91	Order denying defendant's motion for summary judgment but dismissing cause without prejudice
	3:90-0549-cv	Settlement		1/7/92	
	3:91-00194-cr	Continued			
	3:91-00017-cr	Continued			
Dec. 23	NO SETTINGS				
Dec. 30	3:91-00183-cr	Settled			
	3:89-00170-cr	Continued			
	3:91-00199-cr	Continued	2/25/92		

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 6	3:90-1095-cv	Continued	No date set	12/20/91	Mtn. to cont. filed 12/18/91; Order entered stating trial date to be reset after ruling on pending motions
	3:90-0849-cv	Transferred		12/4/91	Abestos case transferred to Multi-District Litigation
	3:90-0658-cv*	Tried (4 days)			
	3:91-0348-cv	Continued	2/18/92	12/13/91	In final pretrial order, parties agreed to non-jury trial
	3:91-00200-cr	Continued	1/28/91		
	3:91-00157-cr	Continued			
	3:91-00121-cr	Settled			
	3:91-00201-cr	Continued	3/10/91		
	3:91-00168-cr	Settled			
	3:91-00215-cr	Continued			
	3:91-00211-cr	Continued			
	3:91-00177-cr*	Continued			Recantation hearing
Jan. 13	3:89-0813-cv	Continued	5/12/92	12/20/91	Continued telephonically
	3:90-0578-cv	Settled		8/23/91	

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 20	3:90-0587-cv*	Tried (2 days)			
	3:91-0111-cv	Continued	No date set	10/10/92	Mtn. to continue filed 10/9/91 requesting extension until resolution of dispositive mtns.
	3:88-1092-cv E	Continued	6/2/92	1/2/92	Mtn. to cont. filed 1/2/92--plf in another court in Indiana
	3:91-00155-cr	Settled			
	3:91-00120-cr	Settled			
	3:91-00204-cr	Continued			
	3:91-00198-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 27	3:87-0084-cv E	Continued	5/5/92	1/17/92	Mtn. to continue filed 1/16/92--lead counsel ill
	3:90-0264-cv E	Bumped	6/30/92	1/23/92	Judge out of town all week
	3:89-0492-cv E	Bumped	6/16/92	1/23/92	Judge out of town all week
	3:91-0358-cv	Settled		10/2/91	
	3:90-0800-cv	Transferred		12/4/91	Asbestos case transferred to Multi-District Litigation
	3:91-00133-cr*	Tried (2 days)			
	3:91-00163-cr	Continued	3/17/92		
	3:91-00200-cr	Continued	5/5/92		

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 3	3:91-0080-cv	Settled		10/2/91	
	3:91-0034-cv	Settled		9/6/91	
	3:91-0112-cv E	Continued	7/7/92	1/22/92	Mtn to continue filed 12/12/91-attorney had another trial in federal court
	3:90-0171-cv	Continued	5/5/92	12/13/91	Mtn. to amend Scheduling Order filed 12/12/91 since discovery deadlines extended
	3:90-00181-cr	Settled			
	3:91-00122-cr	Continued			
	3:91-00221-cr	Continued			
	3:91-00233-cr	Settled			
	3:91-00230-cr	Continued			
	3:91-00234-cr	Continued			
Feb. 10	1:86-0037-cv	Settled		4/22/92	
	3:91-0323-cv E	Continued	7/14/92	12/9/91	Motion to amend Scheduling Order filed 11/5/91; parties had already missed deadlines on Scheduling Order
	3:91-00120-cr	Continued	5/12/92		

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 17	3:90-0991-cv	Continued	5/18/92	1/23/92	Motion filed 1/22/92 to reschedule hearing on mtns for summary judgment (hearing set for 3/16/2)
	3:90-0989-cv E	Continued	8/25/92	3/2/92	Trial continued at hearing on motion for summary judgment on 2/7/92 due to "other scheduling commitments"
	3:90-0295-cv	Dismissed		2/3/92	Voluntary dismissal
	3:91-0348-cv	Settled		4/14/92	
Feb. 24	3:90-0668-cv*	Bench trial (1 day)			
	3:91-0066-cv*	Bench trial (4 days)			
	3:90-0843-cv*	Settled		1/8/92	
	3:91-00099-cr	Continued	5/5/92		
	3:91-00199-cr	Settled			
	3:91-00203-cr	Continued	4/14/92		
	3:91-00157-cr	Continued	4/14/92		
	3:91-00240-cr	Settled			
	3:91-00230-cr	Continued	4/14/92		

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 2	3:90-0922-cv	Settled		1/17/92	
	3:89-0488-cv E	Continued	8/4/92	11/27/91	Motion to continue filed 11/1/91--non-compliance with discovery requests resulted in defendant's inability to prepare for trial
	3:91-0283-cv	Continued	6/30/92	12/27/91	Revised Scheduling Order submitted
	3:91-0201-cv	Settled		3/25/92	
	3:91-00194-cr	Continued	5/19/92		
	3:91-00177-cr*	Tried (4 days)			
Mar. 9	3:91-0177-cr	Tried (1 day)			
	3:90-0251-cv E	Continued	No date set	3/6/92	Motions pending
	3:91-0240-cv*	Settled		11/4/91	
	3:90-0302-cv	Continued	9/15/92	4/28/92	Trial date stricken at pretrial conference on 2/28/92
	3:91-00211-cr	Dismissed			
	3:91-00201-cr	Settled			
	3:91-00215-cr*	Tried (3 days)			
	3:91-00204-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 16	3:91-0381-cv*	Settled		11/5/91	
	3:90-0170-cv*	Tried (2 days)			
	3:91-0274-cv	Continued	6/30/92	3/5/92	Mtn. to continue filed 3/2/92 -- pending motions for summary judgment
	3:89-0582-cv E	Continued	6/23/92	12/5/91	Defendant objected to trial date (had been rescheduled for previous setting)
	3:92-00001-cr	Settled			
	3:91-00163-cr	Continued			
	3:92-00008-cr	Continued			
	3:91-00230-cr	Continued	6/23/92		
	3:92-00003-cr	Tried (1 day)			
	3:91-00162-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 23	3:88-0993-cv	Bumped	7/7/92	3/4/92	Criminal trials
	3:88-0979-cv	Settled		12/10/91	
	3:90-1084-cv	Dismissed		12/30/91	Order granting motion for summary judgment
	3:91-00215-cr	Continued			
	3:92-00006-cr*	Tried (2 days)			
	3:92-00017-cr	Dismissed			
	3:91-00234-cr*	Tried (3 days)			
Mar. 30	3:90-0547-cv	Settled		2/28/92	
	3:90-0985-cv E	Continued	12/1/92	2/27/92	Mtn. to continue filed 2/3/92-discovery delays necessitated continuance
	3:90-0895-cv	Continued	11/3/92	7/10/92	Parties agreed to continued trial at status conference
	3:91-0371-cv	Continued	5/12/92	12/13/91	Mtn. to amend Scheduling Order filed 12/12/91 requesting extension since parties involved in settlement negotiations

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Apr. 6	3:91-0078-cv	Settled		10/25/91	
	3:91-0046-cv	Continued	8/4/92	2/26/92	Motion to continue filed 2/21/92 -- attorney has trial set in another court
	3:91-0263-cv E	Dismissed	9/1/92	3/4/92	
Apr. 13	3:90-0445-cv	Bumped	9/22/92	4/28/92	Criminal trial
	3:90-0558-cv	Bumped	12/1/92	4/28/92	Criminal trial
	3:91-0268-cv	Continued	No date set	9/6/91	Agreed Order to withdraw jury and file amended complaint
	3:90-0646-cv E	Continued	9/15/92	5/7/92	Trial date stricken at pretrial conference on 3/27/92; motion for summary judgment expected
	3:92-00023-cr*	Tried (4 days)			
	3:92-00026-cr	Continued			
	3:92-00024-cr	Continued			
	3:91-00163-cr	Continued			
	3:91-00230-cr	Continued	7/14/92		
	3:91-00157-cr	Continued			
	3:92-00230-cr	Continued			
	3:92-00018-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Apr. 20	3:92-00023-cr	Tried (2 days)			
	1:89-0058-cv	Settled		4/22/92	
	1:89-0110-cv	Continued	No date set		New party to be added
	1:90-0131-cv	Continued	10/27/92	3/30/92	Court allowed parties additional expert discovery
Apr. 27	3:88-0297-cv	Tried (2 days-Judge Echols court)			
	3:91-00099-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 4	3:87-0084-cv E	Tried (3 days)			
	3:90-0185-cv E	Continued	10/6/92	11/26/91	Original plaintiff died
	3:90-0832-cv E	Continued	10/20/92	4/14/92	Motion to continue filed 4/13/92--third party plaintiff needed additional time to prepare
	3:91-0324-cv	Settled		2/26/92	
	3:90-00171-cr	Continued			
	3:91-00220-cr	Settled			
	3:91-00099-cr	Continued	5/12/92		
	3:91-00234-cr	Continued			
	3:92-00008-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 11	3:89-0813-cv	Bumped	7/21/92		Criminal trials
	3:89-0047-cv E	Continued	7/7/92	4/14/92	Mtn. to amend Scheduling Orders filed 4/2/92 due to discovery delays
	3:90-0762-cv E	Settled		6/3/92	
	3:91-0371-cv	Continued	9/22/92	2/14/92	Motion to file third party complaint granted
	3:91-00120-cr*	Tried (3 days)			
	3:91-00163-cr	Continued			
	3:92-00029-cr	Continued	6/23/92		
	3:91-00099-cr	Tried (2 days)			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 18	3:90-0991-cv	Continued	10/20/92	2/7/92	Mtn. to continue filed 2/3/92--defense attorney plans to be out of country
	3:91-0161-cv	Continued	9/29/92	2/7/92	Mtn to amend Scheduling Order filed 2/5/92--counterclaim necessitated extensive discovery and settlement negotiation
	3:90-0944-cv	Continued	10/6/92		Trial continued at 5/18/92 motion hearing because of filing of amended complaint and addition of parties
	3:90-0627-cv	Continued	11/10/92	3/25/92	Mtn. to continue filed 3/23/92 -- discovery incomplete and defendant's counsel to attend conference at time of trial
	3:91-00194-cr	Continued			
	3:91-00202-cr	Continued	7/28/92		
	3:92-00030-cr	Continued	6/30/92		
	3:92-00028-cr	Settled			
	3:91-00120-cr	Tried (2 days)			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 25	3:89-0196-cv	Dismissed		7/3/91	Order granting mtn. for summary judgment filed 4/1/92
	3:90-1027-cv	Settled	6/2/92	5/7/92	
	3:91-0360-cv E	Continued	12/8/92	6/3/92	Scheduling Order amended at scheduling conference on 5/8/92

LEGEND	
cv	- Civil case
cr	- Criminal case
E	- Case assigned to Judge Echols after 4/20/92
*	- Case remained on calendar one week prior to scheduled trial date
MTN	- Motion

TRIAL SETTINGS
JUDGE THOMAS A. HIGGINS
October 1, 1991 through May 31, 1992

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 1	3:89-1019-cv	Continued	No date set	10/24/91	Continued due to ongoing trial before Court and discovery dispute
	3:89-0291-cv E	Continued	No date set	9/20/91	Mtn to continue filed 9/13/91--Report & Recommendation pending on mtn. for summary judgment
	3:90-0615-cv	Continued	4/21/92	9/17/92	Scheduling Order entered 5/27/91--vacating trial date due to medical condition of plaintiff
	3:87-0743-cv	Continued			
	3:90-0970-cv	Continued	No date set	9/9/91	Trial continued at pretrial conference -- attorney appointed and mtn to consolidate taken under advisement

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 7	3:86-0486-cv	Tried (5 days)			
	1:90-0157-cv	Continued			
	3:90-0693-cv	Dismissed		10/1/91	
	1:90-0087-cv	Bumped	6/2/92	3/2/92	Another Civil Trial
	3:89-0771-cv	Settled		10/1/91	
	3:90-0577-cv	Transferred		12/4/91	Asbestos case transferred to Multi-District Litigation
	3:91-00151-cr	Settled			
	3:91-00161-cr	Settled			
Oct. 14	3:86-0486-cv	Tried (4 days)			
	1:90-0160-cv	Settled			
	3:90-1088-cv	Settled		12/3/91	
	1:90-0013-cv E	Continued	No date set	9/20/91	Mtn. to continue filed 9/13/91 - pending motion for summary judgment
	3:88-0783-cv	Settled		10/9/91	
	3:91-00100-cr	Continued			
	3:91-00178-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 21	3:86-0486-cv *	Tried (3 days)			
	1:90-0064-cv	Continued	3/16/92	6/6/91	Agreed Amended Scheduling Order--attorneys' trial schedules present conflict; need additional time for discovery
	1:90-0066-cv	Continued	11/12/91	6/17/91	Joint Mtn to amend Scheduling Order filed 6/12/91 requesting trial be moved to Nashville
	1:90-0083-cv	Settled		9/11/91	
	1:90-0092-cv	Settled		9/26/91	
	1:90-0093-cv	Settled		6/18/91	
	1:90-0089-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	1:90-0090-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	1:90-0098-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	1:90-0100-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	1:90-0154-cv	Settled		10/7/91	

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Oct. 21 (continued)	1:90-0132-cv	Continued	No date set	9/20/91	Mtn to continue trial filed 9/17/91-pending motion for summary judgment
	1:90-0152-cv *	Tried (2 days)			
	1:90-0065-cv	Continued	No date set	9/24/91	Settlement pending
	1:90-0087-cv	Bumped	6/2/92	3/2/92	Civil Trial
	1:90-0109-cv	Bumped	No date set	10/15/91	Mtn to continue filed 10/1/91 -- discovery incomplete; pending motions
	1:91-0010-cv	Settled		10/16/91	
	1:90-0025-cv	Bumped	6/9/92	2/26/92	Civil Trial
Oct. 28	3:86-0486-cv *	Tried (2 days)			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 4	3:89-1019-cv	Continued	No date set	10/24/91	Continued by Order due to ongoing trial
	3:90-0052-cv E	Continued	8/11/92	10/30/91	Continued by Order due to ongoing trial
	3:90-0861-cv	Continued	No date set	10/30/91	Mtn. to continue filed 10/22/91--receivership proceedings
	3:90-0862-cv E	Continued	1/14/92	5/29/91	Mtn. to amend Scheduling Order filed 5/22/91--additional time needed to take depositions
	3:90-1000-cv	Continued	No date set	9/24/91	Mtn to continue filed 9/23/91--motion for summary judgment pending
	1:89-0171-cv	Dismissed		11/5/91	
	1:91-00015-cr	Continued			
	3:91-00179-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 11	1:90-0066-cv	Continued	No date set	11/5/91	Continued on Magistrate Judge's recommendation-- motion for summary judgment pending
	3:88-0220-cv E*	Tried (2 days)			
	3:90-0459-cv	Bumped	7/14/92	2/27/92	Another Civil Trial
	3:90-0738-cv	Continued	No date set	11/5/91	Mtn. to amend Scheduling Order filed 11/1/91--pending motions
	3:90-0486-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	3:90-0638-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	3:90-0644-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	3:90-0491-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	3:90-0641-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	3:90-0584-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	1:91-00018-cr*	Tried (3 days)			
	3:91-00063-cr	Settled			
	3:91-00135-cr	Continued			
	1:90-00001-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Nov. 18	3:88-0220-cv E*	Tried (4 days)			
	3:91-00050-cr	Continued			
	3:91-00179-cr	Continued			
Nov. 25	3:88-0220-cv E*	Tried (2 days)			
	2:90-0045-cv	Transferred		1/17/91	Asbestos case transferred to Multi-District Litigation
	3:91-00167-cr	Continued			
	3:87-00167-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 2	3:88-0220-cv E*	Tried (3 days)			
	3:90-1308-cv	Settled		11/27/91	
	3:89-0771-cv	Settled		10/1/91	
	3:90-1020-cv	Continued	No date set	11/18/91	Motion to continue filed 10/21/91--plf seeking substitute attorney; new attorney will need time to prepare; pending motions
	3:88-0522-cv	Dismissed		11/13/91	
	1:91-00017-cr	Settled			
	3:91-00176-cr	Settled			
	3:91-00159-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 9	3:90-0952-cv	Settled		12/9/91	
	3:91-0031-cv E	Continued	No date set	11/18/9	Pending motion before Magistrate Judge to modify class action
	3:88-0220-cv E	Tried (3 days)			
	3:90-1110-cv	Continued	5/19/91	10/23/91	Mtn. to continue filed 10/21/91--third party defendant has not yet filed answer and additional discovery needed
	3:91-00205-cr	Settled			
Dec. 16	3:90-0647-cv	Continued			
	3:90-0274-cv E	Continued	2/25/92	8/9/91	Mtn. to amend Scheduling Order filed 8/6/91--additional time needed for depositions and discovery
	3:91-0002-cv	Settled		6/11/91	
	3:90-0626-cv	Dismissed		11/5/91	
	1:91-00015-cr	Tried (4 days)			
	1:91-00135-cr	Transferred			to Judge Nixon
	1:91-00014-cr*	Settled			
	1.91-00019-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Dec. 23	NO SETTINGS				
Dec. 30	NO SETTINGS				
Jan. 6	1:90-0122-cv	Dismissed			
	3:90-0618-cv	Continued	No date set	12/16/91	Trial cancelled pending decision by 6CCA on related case
	3:91-0027-cv	Continued	No date set	12/17/91	Joint Mtn. to continue filed 12/13/91 pending Magistrate Report & Recommendation and ruling on mtn. for summary judgment
	3:90-0221-cv	Continued	5/5/92		Telephonically requested

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 13	3:90-0862-cv E	Continued	5/5/92	8/27/91	Mtn. to amend Scheduling Order filed 8/26/91 -- additional time needed to locate and depose experts in complex case
	3:91-0043-cv	Settled		1/10/92	
	3:90-0920-cv	Continued	No date set	12/23/91	Agreed Order -- pending motion for summary judgment
	3:90-1061-cv	Settled		1/3/92	
	3:90-0468-cv	Settled		12/23/91	
	3:91-00100-cr	Continued			
	3:91-00223-cr	Continued			
Jan. 20	3:89-0534-cv	Dismissed		12/9/91	
	3:91-00100-cr	Tried (2 days)			
	3:91-00205-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Jan. 27	3:90-0669-cv	Continued			
	3:89-0629-cv	Settled		1/22/92	
	3:89-0690-cv	Settled		1/24/92	
	3:90-0317-cv	Settled		1/24/92	
	1:91-00017-cr	Settled			
	3:91-00219-cr	Continued			
	3:91-00216-cr	Continued			
	3:91-00159-cr	Settled			
Feb. 3	3:90-1023-cv*	Continued	2/11/92	2/4/92	Deposition of expert incomplete
	3:90-0984-cv*	Settled		2/6/92	
	3:91-0222-cv*	Tried (4 days)			
	3:91-00226-cr*	Continued			
	3:91-00229-cr*	Settled		2/13/92	

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 10	3:89-0815-cv	Settled		1/8/92	
	3:90-1120-cv	Continued	9/1/92	1/15/92	Amended Scheduling Order--new atty for defts
	3:90-0268-cv	Continued	2/18/92	2/6/92	Motion to continue made at 2/5/92 hearing
	3:90-0181-cv	Settled		10/16/91	
	3:90-1023-cv	Continued	4/14/92	2/7/92	Motion to continue filed 2/5/92--additional time to employ expert and allow attorneys to resolve conflicts in schedule; pending summary judgment mtn
	1:90-0152-cv	Settled		2/13/92	
	3:91-00096-cr	Continued			
Feb. 17	3:91-0343-cv	Dismissed		1/3/92	
	1:90-0054-cv	Settled		11/14/91	
	3:91-0267-cv	Settled		1/23/92	
	3:91-0493-cv	Tried (2 days)			
	3:90-0268-cv	Settled		2/11/92	
	3:91-00239-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Feb. 24	3:90-0274-cv E	Continued	5/12/92	12/3/91	Mtn. to amend Scheduling Order filed 11/26/91--additional time to complete depositions
	3:90-1048-cv	Continued	5/12/92	12/16/91	Mtn. to reset filed 12/12/91--atty has trial scheduled same date and additional time is needed for discovery and resolution of pending motions
	3:91-0154-cv	Continued	9/15/92	1/6/92	Amended Scheduling Order continuing trial pending resolution of dispositive motions
	3:84-1095-cv	Continued	No date set	10/23/91	Mtn. to amend Scheduling Order filed 10/3/91 seeking extension of time to negotiate settlement
	1:89-0034-cv*	Tried (2 days)			
	3:90-0649-cv	Continued	3/31/92	1/30/92	Parties not ready for trial
	3:91-0333-cv	Settled		12/23/91	
	3:91-00205-cr	Continued			
	1:91-00001-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 2	NO SETTINGS				
Mar. 9	3:90-0670-cv	Settled		4/23/92	
	3:90-1111-cv	Settled		10/16/91	
	3:91-0367-cv	Settled		2/13/92	
	3:91-0523-cv	Dismissed		12/12/91	
	3:91-00216-cr	Settled			
	3:91-00225-cr	Continued			
	1:92-00001-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 16	1:90-0064-cv	Settled		3/6/92	
	1:91-0035-cv	Settled		2/10/92	
	1:91-0056-cv	Tried (3 days)			
	1:91-0063-cv	Settled		2/13/92	
	1:91-0080-cv	Settled		2/18/92	
	1:91-0045-cv E	Continued	4/7/92	10/25/91	Mtn. to continue filed 9/26/91 -- attorney has vacation planned at trial time
	1:91-0059-cv	Settled		3/17/92	
	1:91-0058-cv	Continued	6/23/92	12/30/91	Mtn. to amend Scheduling Order filed 11/13/91--extension of time to complete discovery
	1:91-0074-cv	Settled		11/27/91	
	1:91-0090-cv	Continued	6/30/92	1/3/91	Joint mtn to continue filed 12/20/91-- discovery incomplete due to other trials; plf's attorney had the flu
	3:91-00239-cr	Continued			
Mar. 23	NO SETTINGS				

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Mar. 30	3:90-1090-cv	Dismissed		1/23/92	
	3:90-0649-cv	Dismissed		3/24/92	Voluntary dismissal due to health problems
	3:92-00002-cr	Tried (3 days)			
	3:91-00241-cr	Continued			
	3:92-00014-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Apr. 6	3:91-0103-cv	Tried (1 day)			
	3:91-0212-cv	Settled		9/11/91	
	1:91-0049-cv	Settled		3/24/92	
	3:91-0578-cv	Continued	9/22/92	3/30/92	Joint mtn. to continue trial filed 3/13/92--discovery incomplete since discovery stayed by Magistrate Judge pending ruling on mtn. for judgment on the pleadings
	3:91-0351-cv	Dismissed		3/6/92	
	1:91-0045-cv E	Continued	9/29/92	2/12/92	Joint mtn. filed 1/30/92--additional time needed for discovery. Defendant's attorney unable to continue representation and new attorney needs time to prepare
	3:91-00219-cr	Continued			
	3:92-00019-cr	Settled			
	3:92-00007-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Apr. 13	3:90-1023-cv	Tried (3 days) - Then settled			
	1:9-00213-cv E	Continued		4/1/92	Joint motion filed 3/24/92 -- pending mtn. for summary judgment
Apr. 20	3:90-0615-cv*	Settled		4/10/92	
	3:91-0328-cv	Dismissed		12/3/91	
	3:90-0699-cv	Continued			
	3:92-00005-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
Apr. 27	3:91-0144-cv E	Continued	5/11/93	5/18/92	Joint Mtn. to continue filed 1/16/92--additional time for discovery since filing of amended complaint
	3:84-1095-cv	Settled		4/29/92	
	3:91-0276-cv E	Continued	9/2/92	4/21/92	Joint Mtn to continue filed 4/15/92--attorneys have conflicting trials scheduled; expert is unavailable on trial date
	3:92-0346-cv	Continued	No date set	4/10/92	Mtn. to continue filed 4/8/92
	3:91-00231-cr	Settled			
	3:92-00038-cr	Continued			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 4	3:90-0862-cv E	Continued	8/18/92	4/13/92	Mtn. to continue filed 4/7/92 -- principal attorney is retiring and new attorney needs additional time for deposition of experts
	3:90-0221-cv	Bumped	11/17/92	5/7/92	Criminal trial
	3:91-0447-cv E	Continued	7/7/92	3/12/92	Mtn. to amend Scheduling Order filed 3/6/92 to allow for inspection by expert and additional discovery
	3:91-0762-cv	Settled		3/2/92	
	3:91-00096-cr	Tried (2 days)			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 11	3:91-00096-cr 3:90-0274-cv	Tried (4 days) - Continued	9/1/92	3/3/92	Joint Mtn. to amend Scheduling Order filed 2/5/92 -- need additional time to complete depositions and discovery
	3:90-1048-cv	Continued	No date set	4/20/92	Mtn to continue filed 4/13/92-- pending motion for summary judgment
	3:91-0811-cv	Settled		3/26/92	
	3:91-00226-cr	Settled			
	3:92-00037-cr	Dismissed			
	3:92-00041-cr	Continued			
May 18	3:90-1110-cv	Continued	7/28/92	4/28/92	Deadlines extended after dismissal of third party action
	3:91-0150-cv	Settled		4/3/92	
	3:90-0024-cv	Settled		5/11/92	
	3:92-00042-cr	Tried (4 days)			
	3:86-00055-cr				
	1:92-00002-cr	Settled			

Week Beginning	*Case Number*	*Tried Bumped Dismissed Settled Continued*	*Continued to:*	*Date of Order Dismissing, Continuing and/or Resetting Case:*	*Reason:*
May 25	3:92-00042-cr	Tried (1 day)			

EXHIBIT 12 TO APPENDIX C

CIVIL TRIAL INTERRUPTIONS

October 1, 1991 - September 30, 1992

The attached bar graphs reflect, by active District Judge, the dates and times spent in Court in civil jury and non-jury trials, and the incidence of interruption of those trials for the twelve month period of time from October 1, 1991, through September 30, 1992, for Judge Nixon, Judge Wiseman, and Judge Higgins. The civil trial hours are shaded dark, whereas the non-jury matters are described in the blocks without shading.

The underlying data used to compile this report, including the specific times, specific cases, and specific in-court matters, are on file with the Clerk's office.

JUDGE NIXON
CIVIL JURY TRIALS
from October 1, 1991 through September 30, 1992

1. **EEOC v. Clarksville, 3:90-0254**
Civil Jury trial
Total of 3 days/15.75 hrs.
1 plf; 1 dft.
Type of Case: Job discrimination (age)

DAY/TIME	8:00		9:00	10:00	11:00	12:00		1:00	2:00	3:00	4:00		5:00		6:00	
Tues., 10/15/91			Civil Jury Trial						Civil Jury Trial							
Wed., 10/16/91			Civil Jury Trial					Criminal Plea	Civil Jury Trial			GJ				
Thurs. 10/17/91			Civil Jury Trial				Civil Jury Trial		Criminal Hearing	Criminal Sentencing		Cr. Jury				

2. **Ziegler v. Metro, 3:89-0722**
Civil Jury trial
Total of 1 day/4 hrs. - Settled
2 plfs; 14 dfts
Type of case: Prisoner civil rights

DAY/TIME	8:00		9:00	10:00	11:00	12:00	1:00		2:00		3:00		4:00		5:00		6:00	
Tues., 1/28/92			Civil Jury Trial (SETTLED)															

Judge Nixon
Civil Jury Trial

3. **Johnson v. Lanter Co., 3:89-0248**
Civil Jury trial
4 days/17.33 hrs.
2 plf; 2 dfts
Type of case: Personal Injury

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 3/31/92				Cv. Jury			Civil Motion	Civil Jury Trial			
Wed., 4/1/92		Civil Jury Trial					Civil Jury Trial				
Thurs., 4/2/92		Civil Jury Trial	Cv. StC	Cv. StC	Cv. StC	Cr. Plea	Civil Jury Trial				
Fri., 4/3/92		Civil Jury Trial (end)				Cr. Sent	Cr. Plea	Cr. Sent	Civil Hearing	Civil Hearing	

Judge Nixon
Civil Jury Trial

4. **Fite v. Cantrell, 1:89-0043**
Civil Jury Trial
Total of 2 days/ 6.5 hours
1 plf; 4 dfts.
Type of case: Prisioner Civil Rights

DAY/TIME	8:00		9:00		10:00		11:00		12:00		1:00		2:00		3:00		4:00		5:00		6:00	
Tues., 9/8/92						Civil Jury Trial								Cr. Sent		Civil Jury Trial		Cr. Sent				
Wed., 9/9/92														Civil Jury Trial		GJ		Ver dict				

Judge Nixon
Civil Jury Trial

5. **Munoz v. CCC Express, 3:90-0805**
Civil Jury Trial
Total of 7 days/ 46.0 hrs.
3 plfs.; 3 dfts.
Type of case: Diversity (Personal Injury)

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 9/22/92		Civil Jury Trial									
Wed., 9/23/92		Civil Jury Trial				Cr. Plea	Civil Jury Trial				
Thurs., 9/24/92		Civil Jury Trial									
Fri., 9/25/92		Civil Jury Trial				Cr. Sch. Cnf	Civil Oral Argument				
Mon., 9/28/92		Civil Jury Trial				Cr. Plea / Cr. Sent	Civil Jury Trial				
Tues., 9/29/92		Civil Jury Trial									
Wed., 9/30/92		Civil Jury Trial				Cr. Sent	Civil Jury Trial				

Judge Nixon
Civil Jury Trial

JUDGE WISEMAN
CIVIL JURY TRIALS
from October 1, 1991 through September 30, 1992

1. **Aetna v. Vaughter, 3:90-0545**
Civil Jury trial
Total of 4 days/20.5 hours
1 plf; 3 dft; 3 counterclaimants; 1 counterdft
Type of case: Declaratory judgment (Insurance)

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 10/1/91		Civil Jury Trial				Civil Jury Trial					
Wed., 10/2/91		Civil Jury Trial				Civil Jury Trial					
Thurs. 10/3/91		Civil Jury Trial				Civil Jury Trial					
Fri., 10/4/91		Civil Jury Trial	Jury	out		Cv. PTC	Trial (end)				

2. **Eudy v. Darnell, 3:90-0918**
Civil Jury Trial
Total of 4 days/17 hours
1 plf; 3 dfts; 3 counterclaimants; 1 counterdft
Type of case: Racketeering (RICO)

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 12/10/91		Civil Jury Trial					Civil Jury Trial				
Wed., 12/11/91		Civil Jury Trial					Civil Jury Trial				
Thurs., 12/12/91		Cv. Mtn	Naturaliz	Civil Trial			Civil Jury Trial		Civil Trial	Civil Trial	
Fri., 12/13/91		Civil Jury Trial (cont)		Cr. Sent		Cv. PTC					

Judge Wiseman
Civil Jury Trials

3. **Locklear v. Vanderbilt Medical Center, 3:90-0658**
Civil Jury trial
Total of 4 days/25.17 hr
2 plfs; 5 dfts
Type of case: Personal Injury

DAY/TIME	8:00		9:00		10:00	11:00	12:00		1:00	2:00	3:00	4:00	5:00		6:00	
Tues., 1/7/92			Cr. hrg.		Civil Jury Trial				Cr. mot	Civil Jury Trial						
Wed., 1/8/92		In Cham	Civil Jury Trial						Civil Jury Trial							
Thurs. 1/9/92			Civil Jury Trial						Civil Jury Trial							
Fri., 1/10/92			Civil Jury Trial							Civil Jury Trial (Jury in 3:55)						

Judge Wiseman
Civil Jury Trials

4. **Hollandsworth v. State Farm Ins., 3:90-0587**
Civil Jury trial
Total of 2 days/8.25 hrs.
2 plf; 1 dft
Type of case: 28:1441 (Notice of Removal)

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 1/21/92		2 Cr. Pleas		Civil Jury Trial		Civil Jury Trial					
Wed., 1/22/92		Civil Jury Trial				Volun. dis.					

Judge Wiseman
Civil Jury Trials

5. **Martin v. K-Mart, 3:90-0170**
Civil jury trial
Total of 2 days/3.5 hrs
1 plf; 1 dft
Type of case: Diversity

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 3/17/92		Criminal Jury Trial					Civil Jury Trial				
Wed., 3/18/92		Civil Jury Trial									

6. **Majors v. Ashe, 3:89-0813**
Civil Jury Trial
Total of 2 days/5.0 hours
1 plf; 3 dfts
Type of case: Civil Rights Act

DAY/TIME	8:00		9:00	10:00	11:00	12:00		1:00	2:00	3:00	4:00	5:00	6:00
Tues., 7/21/92			Criminal Jury Trial				Cr. Jury	Cr. Plea	Civil Jury Trial				
Wed., 7/22/92		Cv. s-conf.	Civil Jury Trial (mistrial)										

Judge Wiseman
Civil Jury Trials

7. **Majors v. Ashe, 3:89-0813**
Civil Jury Trial
Total of 4 days/26.5 hours
1 plf; 3 dfts
Type of case: Civil Rights Act

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Thurs., 7/23/92		Civil Jury Trial				Civil Jury Trial					
Fri., 7/24/92		Civil Jury Trial				Civil Jury Trial					
Mon., 7/27/92		Cr. Plea	Cr. hrg	Cr. Sentencing		Cr. Sent					
Tues., 7/28/92		Cr. Plea									
Wed., 7/29/92		Civil Jury Trial		Cv. mtn		Civil Jury Trial					
Thurs., 7/30/92		Civil Jury Trial				Civil Jury Trial					
Fri., 7/31/92				Jury in							

Judge Wiseman
Civil Jury Trials

8. **Adams v. Mudri, 3:90-0785**
Civil Jury Trial
Total of 2 days/9.5 hours
1 plf; 1 dft
Type of case: Personal Injury

DAY/TIME	8:00		9:00	10:00	11:00	12:00		1:00		2:00		3:00		4:00		5:00		6:00	
Tues., 8/25/92			Civil Jury Trial					Civil Jury Trial											
Wed., 8/26/92			Civil Jury Trial																

Judge Wiseman
Civil Jury Trials

JUDGE HIGGINS
CIVIL JURY TRIALS
from October 1, 1991 through September 30, 1992

1. **Crowe v. Orkin, 3:88-0220**
Civil Jury trial
Total of 14 days; 76.0 hours
2 plfs; 3 dfts
Type of case: Personal Injury

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 11/12/91		Cr. Plea	Criminal Jury Trial			Criminal Jury Trial		Civil Jury Trial		Civil Jury Trial	
Wed., 11/13/91		Criminal Jury Trial				Criminal Jury Trial					
Thurs., 11/14/91		Criminal Jury Trial					Cr. Sent	Cr. Sent			
Fri., 11/15/91		Civil Jury Trial									
Mon., 11/18/91		Criminal Plea									
Tues., 11/19/91		Civil Jury Trial					Civil Jury Trial				
Wed., 11/20/91		Civil Jury Trial			GJ						
Thurs., 11/21/91		Civil Jury Trial					Civil Jury Trial				GJ
Fri., 11/22/91		Civil Jury Trial				Criminal hearing	Civil Jury Trial				
Mon., 11/25/91			Cv. PTC	Cr. Sentencing		Criminal Sentencing		Criminal Sentencing			

(Graph continued)

Crowe v. Orkin, 3:88-0220
(Continued)

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 11/26/91		Cr. Hrg. Criminal Plea					Civil Jury Trial				
Wed., 11/27/91		Civil Jury Trial					Civil Jury Trial				
Thurs 11/28/91	**HOLIDAY**										
Fri., 11/29/91	**HOLIDAY**										
Mon., 12/2/91		**Criminal Plea and Sentencing**				**Criminal Plea**	**Cr. Hrg**	**Cr. Plea**			
Tues., 12/3/91		**Civil Jury Trial**				**Cv PO**	**Civil Jury Trial**				
Wed/., 12/4/91		**Civil Jury Trial**				**Civil Jury Trial**					
Thurs., 02/5/91		**Cv Jury**									
Fri., 12/6/91		**None**									
Mon., 12/9/91		**Civil Jury Trial**				**Civil Jury Trial**					
Tues., 12/10/91		**Civil Jury Trial**					**Civil Jury Trial**				
Wed., 12/11/91		**Civil Jury Trial (mistrial)**									

2. Tuck v. HCA, 3:91-0222
Civil Jury trial
Total of 4 days/22 hrs.
1 plf; 2 dfts
Type of case: Civil Rights Act

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 2/4/92		9:00 to 10:30 Civil Motion hearing 9:05 to 12:00 Civil Jury Trial				Civil Jury Trial					
Wed., 2/5/92		Cv. Status Civil Jury Trial									
Thurs., 2/6/92		Civil Jury Trial				Cv. PTC	1:15 to 5:00 Civil Jury Trial 2:00 to 2:30 Cv. Status conf.				
Fri., 2/7/92		Civil Jury Tr.	Cv. mtn		Civil motion hearing	Criminal Sentencing					

3. Curto v. Norwood, 1:91-0056
Civil Jury trial
Total of 3 days/9 hrs.
1 plf; 2 dfts
Type of case: Personal Injury

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Mon., 3/16/92		Civil Jury Trial									
Tues., 3/17/92		Civil Jury Trial				Civil Jury Trial					
Wed., 3/18/92		Cv. Jury Trial									

4. Winter v. Communications Resource, 3:90-1023
Civil jury trial
Total of 3 days/13.5 hrs.
1 plf; 2 dfts
Type of case: Fraud

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues. 4/14/92		Civil Jury Trial				Civil Jury Trial					
Wed., 4/15/92		Civil Jury Trial									
Thurs., 4/16/92		Civil Jury Trial				Criminal Sentencing					

5. **Kentucky Life v. Jones, 1:90-0025**
Civil Jury Trial
Total of 4 days/23 hours
1 plf; 2 dfts; 2 counterclm; 1 counterdft
Type of case: Diversity (Declaratory Judgment)

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 6/9/92		Civil Jury Trial				Civil Jury Trial					
Wed., 6/10/92		Civil Jury Trial				Civil Jury Trial					
Thurs., 6/11/92		Civil Jury Trial				Cr. Hrg / Cr. Sent.	Civil Jury Trial				
Fri., 6/12/92		Civil Jury Trial				Cr. Hrg / Cr. Sent.					

6. **Harwell v. Harwell, 1:91-0058**
Civil Jury Trial
Total of 1 day; 4.5 hrs.
1 plf; 1 dft
Type of case: Diversity (Personal Injury)

DAY/TIME	8:00		9:00		10:00	11:00	12:00		1:00	2:00	3:00	4:00	5:00	6:00	
Tues., 6/23/92					Civil Jury Trial				Cr. Sent	Civil Jury Trial		Cr. Jury	Ver. dict		

7. Al-Jabbar v. Atwood, 3:90-0550
Civil Jury Trial
Total of 5 days/19 hours
1 Plaintiff; 5 Defendants
Type of case: Prisoner Civil Rights

DAY/TIME	8:00	9:00	10:00	11:00	12:00	1:00	2:00	3:00	4:00	5:00	6:00
Tues., 8/11/92		Cr. Plea		Civil Jury Trial / Criminal Jury Trial				Criminal Jury Trial	Civil Jury Trial	Cr Tr	
Wed., 8/12/92		Criminal Jury Trial				Cv. Status cnf	Criminal Jury Trial				
Thur., 8/13/92		Civil Jury Trial				Civil Jury Trial	Cv. PTC / Cv. Cnf	Civil Jury Trial			
Fri., 8/14/92		Civil Jury Trial				Civil Jury Trial					
Mon., 8/17/92		Civil Jury Trial				Cham Mtg	Cr. mtn	Criminal Motion hearing			
Tues., 8/18/92		Civil Trial (end)									

APPENDIX D

ASSESSMENT OF THE CRIMINAL DOCKET

I. Analysis of the Data.

To accomplish the task mandated by 28 U.S.C. § 472(c)(1), a committee of the Advisory Group was charged with assessing the criminal docket. It developed a statistical analysis of changes that have taken place in this District's criminal and civil case load and in-court hour load from 1985 through 1992; analyzed, through consideration of statutory, regulatory and policy changes, those factors that have produced or may continue to influence an increase in the criminal case or hour load; interviewed or received input from the active District Judges, the Magistrate Judges, the United States Attorney, and others to assess factors that might be reflected in statistics and to examine internal policies; and examined the interplay between an apparently expanding criminal docket and an apparently shrinking civil docket.

Although the number of criminal felony case filings has remained fairly stable over the last twelve years,[1] the number of Assistant United States Attorneys in this District increased from approximately 10 to 19, between 1985 and 1992. The statistics reveal a shift in types of criminal cases prosecuted to more paper-intensive fraud cases, as well as some increase in drug and gun cases.[2]

---

[1] The criminal felony case filings have fluctuated from a low of 174 for statistical year (SY) 1988 to a high of 233 in statistical year 1991. In SY 1984, there were 210 criminal case filings as compared to 196 criminal case filings in SY 1992, ending June 30. For the statistical year ending September 30, 1992, there were 178 felony case filings.

For the calendar year 1992, there were 190 new criminal cases filed, including both felonies and misdemeanors, including 256 criminal defendants. Those filings reflect a 32% decrease in total criminal filings from calendar year 1991, when 273 new criminal cases (both felony and misdemeanors) were filed, including 381 defendants. For the first half of the calendar year 1993, there were 104 new criminal cases filed (including felonies and misdemeanors), including 130 defendants.

[2] There has been a significant increase in the number of cases involving weapons and firearms, but little increase in the number of drug cases, including marihuana, controlled substances, and narcotics. See Exhibit 1 to this Appendix for a breakdown of the types of criminal felony cases filed from SY 1984, through SY 1992.

The most dramatic change in this District's criminal docket over the last twelve years has been a striking increase in the overall number of in-court hours and the percentage of in-court time spent on criminal versus civil matters, as shown by the data contained in Exhibit 8 to Appendix C. That data also show that the total number of hours spent by the active District Judges in court on all matters, both civil and criminal, has not changed appreciably, although there has been a small increase. These changes are consistent for each Judge. Moreover, the average[3] time per criminal trial does not appear to have changed,[4] so the increase in the total trial time is due to more criminal cases going to trial. During the same time period, the number of civil trials decreased significantly.[5] The total amount of time on civil matters correspondingly decreased, and the average duration per civil trial did not appear to change significantly. Again, the changes were consistent for each Judge.[6]

II. Statutory, Regulatory and Administrative Policy Changes

Although some of the changes in federal criminal law took place in the early 1980s (e.g., enactment of the Victim and Witness Protection Act in 1982, and the Comprehensive Criminal Control Act in 1984), the most striking changes took place in

---

[3] For these purposes, "average" indicates the arithmetic mean, not the median.

[4] The time spent in Court on plea and sentencing hearings before and after the effective of the Federal Sentencing Guidelines (November 1, 1987) has not changed significantly, although both Judge Nixon and Judge Wiseman show some tendency toward longer sentencing hearings in cases covered under the Sentencing Guidelines. See Exhibit 8 to Appendix C. The specific underlying data reflecting number of hours for each sentencing and plea hearing subject to the Sentencing Guidelines and not subject to the Sentencing Guidelines are on file with the Clerk's Office.

[5] In 1985, the three active District Judges held 58 civil trials and 17 criminal trials. In 1991, the same three active District Judges held 30 civil trials and 36 criminal trials. In 1992, with the addition of Judge Echols in April of that year, the four active District Judges held 46 civil trials and 32 criminal trials. See Exhibit 2 to this Appendix for the number of civil and criminal trials held each year before each active District Judge between 1985 and 1992.

[6] During almost all of the study period between 1985 and 1992, the Court consisted of the same three active District Judges and the same two Magistrate Judges. Judge Echols took the bench April 20, 1992, so, for the last eight months of 1992, the data includes trials and time in Court for the four active District Judges.

the last half of the 1980s, with predicable (and predicted) effects upon criminal case and hour loads. In 1986 and 1987, the Comprehensive Fine Enforcement Act and the Criminal Fine Improvements Act, respectively, were enacted, effecting significant changes in sentencing law and procedures, particularly in the areas of fines and forfeiture. The Comprehensive Crime Control Act of 1984 contained within it provisions that ultimately led to the promulgation of the Federal Sentencing Guidelines, effective November 1, 1987. The year 1986 also saw the enactment of several statutes containing mandatory minimum sentences for violation of certain provisions controlling possession and use of firearms, and certain drug offenses. See, e.g., 21 U.S.C. § 841(B)(1)(a); 21 U.S.C. § 848(d). In addition, the availability of forfeiture under the Racketeer Influenced and Corrupt Organizations statute (RICO), certain drug statutes, and the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) all considerably increased the stakes in certain types of proceedings. All of these changes, singly and sometimes in combination, have reportedly discouraged guilty pleas, and may have resulted in an increased percentage of defendants going to trial because the defendants have had little to lose by doing so.

Moreover, in 1989, former Attorney General Richard Thornburgh, in what has become popularly known as the "Thornburgh memo," established an internal Department of Justice policy, in effect in all United States Attorney's Offices, which directs federal prosecutors to charge offenses that "honestly reflect the totality and seriousness" of the defendant's "offense conduct" behavior under the Guidelines. This directive in turn triggers certain features of the Guidelines that reduce the discretion of the sentencing court and correspondingly enhance the Guideline range of sentence by making less relevant to sentencing any dismissal of a portion of the charges that might occur in reaching a negotiated plea. The most important determinant of a sentence has thus become the initial charges, which lie exclusively in the realm, not of the sentencing judge, but rather of the prosecutor (and of the Grand Jury). See Thornburgh Memo of March 13, 1989, Department of Justice Manual, § 9-27A.300, contained in Exhibit 3 to this Appendix. The policy, therefore, makes it more difficult, once a defendant is indicted, for prosecutors and defense counsel to arrive at a guilty plea under which it is possible to obtain a sentence more favorable than a defendant might obtain by going to trial.

This District, historically and particularly for the decade 1981 through 1991, under former United States Attorney Joe B. Brown, has been a district in which plea bargaining has been used with some frequency. So-called Rule 11(e)(1)(C) pleas (containing fixed or "capped" penalties which the sentencing judge could either accept or reject, but not

modify)[7] could be arrived at by agreement between prosecutor and defense counsel. Although precise statistics detailing the nature and type of these charge and plea phenomena are not available, both former United States Attorney Brown and the current United States Attorney Ernest W. Williams, who assumed his office in early 1992, as well as Assistant United States Attorneys employed under both men, and members of the criminal defense bar agree that Mr. Williams has instituted policies that significantly change prevailing prosecutorial policies in several regards.

For example, upon taking office, Mr. Williams announced that his office would no longer engage in pleas under Rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure, except on extremely rare occasions. Mr. Williams explained his new policy as an effort to reallocate the proper institutional roles within the criminal justice system to the respective institutional branches to which these roles belong. He believes that the executive branch should not tie the hands of the judiciary by submitting agreed pleas under Rule 11(e)(1)(C), which the judge may only accept or reject, but may not modify. Mr. Williams has stated that his policy, which is similar to policies already in effect in some other, and indeed in a growing number of United States District Courts, will permit judges to exercise more discretion. Others have criticized this policy as contrary to the Rules of Criminal Procedure, which presumably reflect a congressional policy that such pleas be an available tool in certain situations. Mr. Williams has acknowledged that there may be rare instances in which he would personally approve a Rule 11(e)(1)(C) plea. Nevertheless, it is anticipated a resultant drop in Rule 11(e)(1)(C) pleas will continue to increase the percentage of defendants choosing to go to trial, because less favorable sentences (or at least sentences lacking the guarantees available under Rule 11(e)(1)(C)) are likely to be available.

A second new policy instituted by the United States Attorney's office since the beginning of 1992, is the introduction of more rigid guidelines according to which Assistant U.S. Attorneys decide whether certain types of cases are to be prosecuted. For example, in the instance of a drug offense in which a firearm is employed, Mr. Williams has indicated that a greater percentage of such cases will probably be prosecuted in federal court than in the past when such cases were prosecuted primarily under the aegis of the local District Attorney. Under former United States Attorney Brown, with the encouragement of then Chief Judge Wiseman, a cooperative policy between the Davidson County District Attorney's Office and the United States Attorney's Office had employed a flexible set of guidelines to decide when federal interests were sufficiently invoked to warrant prosecuting drug cases in the District court. Those former guidelines are attached as Exhibit 4 to this Appendix. Mr. Williams' guidelines, while seemingly

---

[7] See Rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure, and compare with Rule 11(e)(1)(B), under which one or more features of the sentence are left to the discretion of the Judge.

motivated by the same policy concerns, apparently use more expressly and less flexibly stated criteria.

Mr. Williams has also expressed his belief that there should be more gun and drug prosecutions in the Middle District of Tennessee, and that there should be a larger corps of Assistant United States Attorneys in this District, based on a consideration of its population alone. For example, the Western District of Tennessee has a smaller population, comprising only 21% of the state, but there were 31 Assistant United States Attorneys in the Western District in 1992. The Middle District has 35% of the state's population and had only 19 Assistants in 1992.

The net effect of the interplay of national and local policies has been a dramatic increase in the number of criminal cases going to trial in this District.

III. Unmeasured Docket Pressures

There may also be unmeasured impacts on the criminal docket. For instance, the workload of the Probation Office has become both more complex and intense as a result of the Sentencing Guidelines. In addition, the new provisions relating to violations of probation and supervised release have not yet resulted in measurable data. However, the penalties for violation or probation or parole have been made more severe and it is anticipated that there will be an increase in the number and length of probation and supervised release violation hearings.

EXHIBIT 1 TO APPENDIX D

TYPES OF FELONY CASES FILED

From July 1, 1984, through June 30, 1992

The attached chart reflects the number and type of felony cases filed in each statistical year 1985 through 1992. The attached chart does not reflect criminal felony cases transferred into this District; it only reflects the felony cases originally filed in this District. It includes felony cases rather than individual defendants.[1] In calendar year 1991 and 1992, the average number of defendants per criminal case (including both felonies and misdemeanors) was less than 1.4, and more than 75% of all criminal cases included only one defendant.

---

[1] This District has historically had a low incidence of multiple defendant criminal cases. For instance, in calendar years 1991 and 1992, the average number of defendants per criminal case (including both felonies and misdemeanors) was less than 1.4, and more than 75% of all criminal cases included only one defendant.

NUMBER OF FELONY CASES FILED BY OFFENSE

SY 1984 - SY 1992

Statistical Year	Immigration	Embezzlement	Weapons	Escape	Burglary /Larceny	Drugs	Forgery/ Counterfeiting	Fraud	Homicide/ Assault	Robbery	Other	TOTAL
1992	0	6	28	5	17	33	13	47	2	22	23	196
1991	3	16	30	7	17	32	14	48	1	36	29	233
1990	0	14	23	8	19	24	24	46	2	22	22	204
1989	0	17	3	24	5	26	15	18	57	7	17	189
1988	0	18	8	11	5	28	14	21	47	7	15	174
1987	0	16	4	25	3	35	10	28	68	5	12	206
1986	0	24	14	20	6	28	13	31	46	8	18	208
1985	0	21	7	22	4	31	7	39	36	7	11	185
1984	0	17	8	30	3	26	11	46	52	6	11	210

EXHIBIT 2 TO APPENDIX D

NUMBER OF CIVIL AND CRIMINAL TRIALS
1985-1992

The attached chart reflects the number of civil trials and the number of criminal trials held by each active District Judge from 1985 through 1992. This chart does not reflect the time spent in Court on criminal or civil trials or other proceedings. For data on the time spent in Court during the same years, see Exhibit 8 to Appendix C. The attached chart only reflects the raw number of trials held each year for each active District Judge.

NUMBER OF CIVIL AND CRIMINAL TRIALS
1985 - 1992

YEAR	JUDGE NIXON		JUDGE WISEMAN		JUDGE HIGGINS		JUDGE ECHOLS		TOTAL	
	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal
1992	11	10	12	11	10	9	13	2	46	32
1991	8	12	7	11	15	13			30	36
1990	18	5	15	4	17	12			50	21
1989	10	5	14	7	23	9			47	21
1988	23	2	17	6	23	5			63	13
1987	16	9	25	4	20	2			61	15
1986	12	6	22	0	17	4			51	10
1985	16	3	16	3	26	11			58	17

EXHIBIT 3 TO APPENDIX D

THORNBURGH MEMO

The attached section of the United States Department of Justice Manual contains what has been referred to as the "Thornburgh memo," which is the March 13, 1989, memorandum of former U.S. Attorney General Richard Thornburgh on plea bargaining under the Sentencing Reform Act.

9-27A.300 ANNOTATION: ATTORNEY GENERAL'S MEMORANDUM RE PLEA BARGAINING UNDER THE SENTENCING REFORM ACT

March 13, 1989

MEMORANDUM

TO: Federal Prosecutors

FROM: Dick Thornburgh
Attorney General

SUBJECT: Plea Bargaining Under The Sentencing Reform Act

In January, the Supreme Court decided Mistretta v. United States and upheld the sentencing guidelines promulgated by the Sentencing Commission pursuant to the Sentencing Reform Act of 1984. The Act was strongly supported by the Department of Justice, and the Department has defended the guidelines since they took effect on November 1, 1987. Under these guidelines, it is now possible for federal prosecutors to respond to three problems that plagued sentencing prior to their adoption: 1) sentencing disparity; 2) misleading sentences which were shorter than they appeared as a result of parole and unduly generous "good time" allowances; and 3) inadequate sentences in critical areas, such as crimes of violence, white collar crime, drug trafficking and environmental offenses. It is vitally important that federal prosecutors understand these guidelines and make them work. Prosecutors who do not understand the guidelines or who seek to circumvent them will undermine their deterrant and punitive force and will recreate the very problems that the guidelines are expected to solve.

This memorandum cannot convey all that federal prosecutors need or should want to know about how to use the guidelines, and it is not intended to invalidate more specific policies which are consistent with this statement of principles and may have been adopted by some litigating divisions to govern particular offenses. This memorandum does, however, set forth basic departmental policies to which all of you will be expected to adhere. The Department consistently articulated these policies during the drafting of the guidelines and the period in which their constitutionality was tested. Compliance with these policies is essential if federal criminal law is to be an effective deterrent and those who violate the law are to be justly punished.

Plea Bargaining

Charge Bargaining

Charge bargaining takes place in two settings, before and after indictment. Consistent with the Principles of Federal Prosecution in Chapter 27 of Title 9 of the United States Attorneys' Manual, a federal prosecutor should initially charge the most serious, readily provable offense or offenses consistent with the defendant's conduct. Charges should not be filed simply to exert leverage to induce a plea, nor should charges be abandoned in an effort to arrive at a bargain that fails to reflect the seriousness of the defendant's conduct.

Whether bargaining takes place before or after indictment, the Department policy is the same: any departure from the guidelines should be openly identified rather than hidden between the lines of a plea agreement. It is inevitable that in some cases it will be difficult for anyone other than the prosecutor and the defendant to know whether, prior to indictment, the prosecutor bargained in conformity with the Department's policy. The Department will monitor, together with the Sentencing Commission, plea bargaining, and the Department will expect plea bargains to support, not undermine, the guidelines.

Once prosecutors have indicted, they should find themselves bargaining about charges which they have determined are readily provable and reflect the seriousness of the defendant's conduct. Should a prosecutor determine in good faith after indictment that, as a result of a change in the evidence or for another reason (e.g., a need has arisen to protect the identity of a particular witness until he testifies against a more significant defendant), a charge is not readily provable or that an indictment exaggerates the seriousness of an offense or offenses, a plea bargain may reflect the prosecutor's reassessment. There should be a record, however, in a case in which charges originally brought are dropped.

Sentence Bargaining

There are only two types of sentence bargains. Both are permissible, but one is more complicated than the other. First, prosecutors may bargain for a sentence that is within the specified guideline range. This means that when a guideline range is 18-24 months, you have discretion to agree to recommend a sentence of 18 to 20 months rather than to argue for a sentence at the top of the range. Similarly, you may agree to recommend a downward adjustment of two levels for acceptance of responsibility if you conclude in good faith that the defendant is entitled to the adjustment.

Second, you may seek to depart from the guidelines. This type of sentence bargain always involves a departure and is more complicated than a bargain

involving a sentence within a guideline range. Departures are discussed more generally below.

Department policy requires honesty in sentencing; federal prosecutors are expected to identify for U.S. District Courts departures when they agree to support them. For example, it would be improper for a prosecutor to agree that a departure is in order, but to conceal the agreement in a charge bargain that is presented to a court as a fait accompli so that there is neither a record of nor judicial review of the departure.

In sum, plea bargaining, both charge bargaining and sentence bargaining, is legitimate. But, such bargaining must honestly reflect the totality and seriousness of the defendant's conduct and any departure to which the prosecutor is agreeing, and must be accomplished through appropriate guideline provisions.

Readily Provable Charges

The basic policy is that charges are not to be bargained away or dropped, unless the prosecutor has a good faith doubt as to the government's ability readily to prove a charge for legal or evidentiary reasons. It would serve no purpose here to seek to further define "readily provable." The policy is to bring cases that the government should win if there were a trial. There are, however, two exceptions.

First, if the applicable guideline range from which a sentence may be imposed would be unaffected, readily provable charges may be dismissed or dropped as part of a plea bargain. It is important for you to know whether dropping a charge may affect a sentence. For example, the multiple offense rules in Part D of Chapter 3 of the guidelines and recent changes to the relevant conduct standard set forth in 1B1.3(a)(2) will mean that certain dropped charges will be counted for purposes of determining the sentence, subject to the statutory maximum for the offense or offenses of conviction. It is vital that federal prosecutors understand when conduct that is not charged in an indictment or conduct that is alleged in counts that are to be dismissed pursuant to a bargain may be counted for sentencing purposes and when it may not be. For example, in the case of a defendant who could be charged with five bank robberies, a decision to charge only one or to dismiss four counts pursuant to a bargain precludes any consideration of the four uncharged or dismissed robberies in determining a guideline range, unless the plea agreement included a stipulation as to the other robberies. In contrast, in the case of a defendant who could be charged with five counts of fraud, the total amount of money involved in a fraudulent scheme will be considered in determining a guideline range even if the defendant pleads guilty to a single count and there is no stipulation as to the other counts.

Second, federal prosecutors may drop readily provable charges with the specific approval of the United States Attorney or designated supervisory level official for reasons set forth in the file of the case. This exception recognizes that the aims of the Sentencing Reform Act must be sought without ignoring other, critical aspects of the federal criminal justice system. For example, approval to drop charges in a particular case might be given because the United States Attorney's office is particularly overburdened, the case would be time-consuming to try, and proceeding to trial would significantly reduce the total number of cases disposed of by the office.

To make guidelines work, it is likely that the Department and the Sentencing Commission will monitor cases in which charges are dropped. It is important, therefore, that federal prosecutors keep records justifying their decisions not to go forward with readily provable offenses.

Departures Generally

In Chapter 5, Part K of the guidelines, the Commission has listed departures that may be considered by a court in imposing a sentence. Some depart upwards and others downwards. Moreover, 5K2.0 recognizes that a sentencing court may consider a departure that has not been adequately considered by the Commission. A departure requires approval by the court. It violates the spirit of the guidelines and Department policy for prosecutors to enter into a plea bargain which is based upon the prosecutor's and the defendant's agreement that a departure is warranted, but that does not reveal to the court the departure and afford an opportunity for the court to reject it.

The Commission has recognized those bases for departure that are commonly justified. Accordingly, before the government may seek a departure based on a factor other than one set forth in Chapter 5, Part K, approval of United States Attorneys or designated supervisory officials is required, after consultation with the concerned litigating Division. This approval is required whether or not a case is resolved through a negotiated plea.

Substantial Assistance

The most important departure is for substantial assistance by a defendant in the investigation or prosecution of another person. Section 5K1.1 provides that, upon motion by the government, a court may depart from the guidelines and may impose a non-guideline sentence. This departure provides federal prosecutors with an enormous range of options in the course of plea negotiations. Although this departure, like all others, requires court approval, prosecutors who bargain in good faith and who state reasons for recommending a departure should find that judges are receptive to their recommendations.

Stipulations of Fact

The Department's policy is only to stipluate to facts that accurately represent the defendant's conduct. If a prosecutor wishes to support a departure from the guidelines, he or she should candidly do so and not stipulate to facts that are untrue. Stipulations to untrue facts are unethical. If a prosecutor has insufficient facts to contest a defendant's effort to seek a downward departure or to claim an adjustment, the prosecutor can say so. If the presentence report states facts that are inconsistent with a stipulation in which a prosecutor has joined, it is desirable for the prosecutor to object to the report or to add a statement explaining the prosecutor's understanding of the facts or the reason for the stipulation.

Recounting the true nature of the defendant's involvement in a case will not always lead to a higher sentence. Where a defendant agrees to cooperate with the government by providing information concerning unlawful activities of others and the government agrees that self-incriminating information so provided will not be used against the defendant, section 1B1.8 provides that the information shall not be used in determining the applicable guideline range, except to the extent provided in the agreement. The existence of an agreement not to use information should be clearly reflected in the case file, the applicability of section 1B1.8 should be documented, and the incriminating information must be disclosed to the court or the probation officer, even though it may not be used in determining a guideline sentence.

Written Plea Agreements

In most felony cases, plea agreements should be in writing. If they are not in writing, they always should be formally stated on the record. Written agreements will facilitate efforts by the Department and the Sentencing Commission to monitor compliance by federal prosecutors with Department policies and the guidelines. Such agreements also avoid misunderstandings as to the terms that the parties have accepted in particular cases.

Understanding the Options

A commitment to guideline sentencing in the context of plea bargaining may have the temporary effect of increasing the proportion of cases that go to trial, until defense counsel and defendants understand that the Department is committed to the statutory sentencing goals and procedures. Prosecutors should understand, and defense counsel will soon learn, that there is sufficient flexibility in the guidelines to permit effective plea bargaining which does not undermine the statutory scheme.

For example, when a prosecutor recommends a two level downward adjustment for acceptance of responsibility (e.g., from level 20 to 18), judicial

acceptance of this adjustment will reduce a sentence by approximately 25%. If a comparison is made between the top of one level (e.g., level 20) and the bottom of the relevant level following the reduction (e.g., level 18), it would show a difference of approximately 35%. At low levels, the reduction is greater. In short, a two level reduction does not mean two months. Moreover, the adjustment for acceptance of responsibility is substantial, and should be attractive to defendants against whom the government has strong cases. The prosecutor may also cooperate with the defendant by recommending a sentence at the low end of a guideline range, which will further reduce the sentence.

It is important for prosecutors to recognize while bargaining that they must be careful to make all appropriate Chapter Three adjustments—e.g., victim related adjustments and adjustments for role in the offense.

Conclusion

With all available options in mind, and with full knowledge of the availability of a substantial assistance departure, federal prosecutors have the tools necessary to handle their caseloads and to arrive at appropriate dispositions in the process. Honest application of the guidelines will make sentences under the Sentencing Reform Act fair, honest, and appropriate.

EXHIBIT 4 TO APPENDIX D

GUIDELINES FOR REQUEST BY STATE AUTHORITIES FOR FEDERAL PROSECUTION

Attached is the form developed by former United States Attorney Joe B. Brown for requests from state authorities for federal investigation and/or prosecution. This form is no longer used in this District.

_____
Date

To: Joe B. Brown
United States Attorney
Middle District of Tennessee
879 United States Courthouse
Nashville, TN 37203
615-736-5151

From: _____

_____

_____

Telephone: _____

Re: Request from State Authorities for Federal Investigation/Prosecution

(1) This request is made for one or more of the reasons marked below:

_____ Conviction in Federal Court will yield results (i.e., mandatory prison terms, forfeitures, etc.) which are unavailable in State Court.

_____ The case involves a significant or targeted violator.

_____ The matter appears appropriate for consideration as a Federal Drug Task Force case, as a full investigation will require multi-agency-jurisdictional activity.

_____ Other. State succinctly other reason for request.

_____

_____

_____

_____

_____

(2) The District Attorney General with primary state jurisdiction over this matter has been notified of this request, and has been provided with a copy.

Person contacted: _____

Judicial District of person contacted: _____

Telephone number of person contacted: _____

Date contacted: _____

Recommendation: _____ Agrees _____ Disagrees

If disagrees, reason for disagreement: _____

_____

_____

_____

(3) List all offenses involved in this matter and give the name, jurisdiction, and nature of offense of any matter related hereto that has been indicted in another jurisdiction.

_____

_____

_____

_____

(4) Case Synopsis:

_____

_____

_____

_____

_____

(5) Copies of all affidavits, warrants, reports, or indictments pertinent to the case are enclosed.

APPENDIX E

ASSESSMENT OF PRISONER LITIGATION

Because cases filed by prisoners comprise a significant portion of the caseload of this District, a committee of the Advisory Group was charged with assessing the prisoner litigation in this District. In this regard, "prisoner litigation" included prisoner civil rights cases, habeas corpus petitions, motions to vacate federal sentences, and a very small number of miscellaneous cases filed by prison inmates. Although prisoner case filings vary from year to year, there was a 58% increase in prisoner filings between statistical year 1984 and statistical year 1992. See Exhibit 1 to this Appendix for the filing trends in prisoner cases from 1984 through 1992.

Some delay is inherent in prisoner litigation that is prosecuted by unrepresented, untutored plaintiffs. The Court must winnow out meritorious claims from a significant volume of insubstantial, and even frivolous, cases. This District addresses the challenge by heavy reliance upon Magistrate Judges and the Court's support staff, who appear to handle these responsibilities with a commendable sensitivity to the need to safeguard access to the courts. At the same time, they strive to weed out frivolous cases as soon as possible, consistent with due process, and are thoughtful about how that might be better accomplished. For example, to facilitate more efficient processing of the cases, Magistrate Judge Haynes has authored a lengthy, looseleaf manual that covers the substantive legal issues encountered in most prisoner litigation. Judge Haynes periodically updates this manual to reflect changes in the law. Though intended for the internal use of the Court, other courts have learned of this valuable resource, and copies have been shared upon request.

The Advisory Group believes that the Court is using its current resources at near maximum efficiency. See Exhibit 2 to this Appendix for a compilation of the prisoner cases pending as of the beginning of 1991, opened and closed during 1991, and pending as of the end of 1991.

After initial review by the pro se law clerk of cases filed in forma pauperis (IFP), the District Judge determines if the case should proceed IFP and, if so, refers the case to a Magistrate Judge for consideration of whether the case is frivolous or malicious

under 28 U.S.C. § 1915(d).[1] The current mechanism for initial review appears to be adequate. During the years 1989 and 1991, between 10% and 14% of the requests to proceed IFP were rejected. A significant number of those putative plaintiffs did not pay the required filing fee and their cases were never filed. See Exhibit 3 to this Appendix.[2]

The current management of prisoner cases is characterized by an unusually high degree of judicial involvement. In many cases, discovery is not permitted until after there has already been a preliminary, in-court judicial inquiry, with the plaintiff present, to determine that the case includes colorable claims. Many of the pretrial conferences and other pretrial procedures appropriate to non-prisoner cases do not work well where plaintiffs are usually unrepresented by counsel and cannot easily attend court proceedings.

The Advisory Group found that the lack of personnel inevitably contributes to delays in prisoner litigation. Delays result from the extensive responsibilities assumed by the Magistrate Judges in this District, not just for prisoner litigation, but for other civil and criminal cases. Absent additional appointment of law clerks to assist Magistrate Judges, additional pro se law clerk staff and/or appointment of additional Magistrate Judges in this District, these delays are likely to persist. The Advisory Group identified several areas in which expanded resources would decrease delay in prisoner litigation. First, the Advisory Group recommends the appointment of a third Magistrate Judge for this District to ease the burden and decrease delays in prisoner litigation. See also Section IV(B)(4) and Section VIII(A)(2)(b) of the Advisory Group Report. Second, the Advisory Group recommends that the Magistrate Judges consider the option of hiring a second law clerk rather than a secretary if appropriate to the needs of that Magistrate Judge. Third, the Advisory Group recommends that, as the caseload justifies, the Clerk

---

[1] The decision of the United States Supreme Court in Hudson v. McMillian, 503 U.S. 1, 112 S.Ct. 995, 117 L.Ed.2d 156 (1992), may reduce the need for some frivolity hearings in cases in which prisoners allege physical abuse. In Hudson, the Court clarified that such allegations state a claim for relief under the Eighth Amendment, even if the plaintiff sustained no serious injuries. As a result of Hudson, it should be possible for the Court to consider any case alleging physical abuse to be non-frivolous, without having to hold a hearing for that purpose.

[2] Once the Court requires full or partial payment of a filing fee, it cannot sua sponte dismiss the action as frivolous under 28 U.S.C. § 1915(d). Clark v. Ocean Brand Tuna, 974 F.2d 48 (6th Cir. 1992). In those cases, the Court must direct that summons issue and allow the plaintiff to amend the complaint before dismissing the action. Therefore, the Court must weigh the benefits of discouraging frivolous litigation by imposing a full or partial filing fee against the prospect of not having available the mechanism to determine frivolity under section 1915(d).

obtain authorization for a second pro se law clerk.[3] Finally, the Advisory Group recommends that the participation on the civil appointments panel be expanded through efforts by the Court and the Nashville Bar Association so that appointments of counsel can be made more expeditiously and the burden of appointment may be spread more evenly among the bar. Correlatively, the Advisory Group recommends that the Court consider offering continuing legal education programs to members of the bar to assist attorneys in prisoner representation and that the manual, authored by Magistrate Judge Haynes, be made available as a reference for pro bono counsel appointed to such cases.

The Advisory Group could identify only one procedural change involving consolidation of related cases that would enhance the processing of prisoner litigation. There are instances in which cases raising the same issue are pending simultaneously before different judicial officers in this district. For example, several pro se litigants may separately challenge the legality of a particular policy or procedure at a given institution. The Court lacks a mechanism for identifying these cases for purposes of possible consolidation. The result is some duplication of effort, as well as the potential for inconsistent adjudications. In the majority of prisoner cases, the State Attorney General represents the defendants and should be aware of the pendency of related claims before difference Judges. So, too, should counsel for the Legal Department of the Government of Metropolitan Nashville-Davidson County, who represent Nashville Jail officials, claims against whom account for the second largest group of prisoner filings.

The Advisory Group recommends that the Court consider including in the orders that directs that process be issued a provision that the defendants, after making a reasonable effort, identify any related cases of which they are aware.[4] However, given the nature of pro se pleadings, the salient issues in a case are not always evident at the time of service and it will often be difficult for defendants to identify related cases at that stage. The order should, therefore, require defendants in such cases to inform the Court of the pendency of related cases at the time of filing of the responsive pleading or at the time of filing a dispositive motion. See Exhibit 4 to this Appendix for proposed wording of such an order.

The Court has previously been unable to persuade litigants to consent to alternative dispute resolution (ADR) programs in prisoner cases. Adoption of the ADR plan and local rule proposed by the Advisory Group would address this problem by authorizing

---

[3] The current standard for authorization for a pro se law clerk is 300 prisoner filings per year. The Advisory Group understands that lowering the threshold number of filings is under consideration. In statistical year (SY) 1991 (July 1, 1990, through June 30, 1991), there were 524 prisoner filings, a figure that was rapidly approaching the level of 600 filings to justify two pro se law clerks. However, for no explicable reason, the prisoner filings in SY 1992 decreased to 429.

[4] See Rule 42(a) of the Federal Rules of Civil Procedure.

referral for non-binding ADR provided by the Court, with or without the parties' consent. Only experience will reveal the extent to which ADR will prove helpful in resolving prisoner litigation.

This District was one of the first districts in the country to vigorously explore the use of prison grievance procedures, pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 28 U.S.C. § 1997(e). The Tennessee Department of Correction grievance procedure was conditionally certified for a period of time and it is attempting to qualify for final certification. However, court officials, as well as attorneys familiar with prisoner litigation, believe that CRIPA certification, even if achieved, will have little effect on the avoidance of prisoner litigation, since the conflicts giving rise to litigation are typically not grievable under state policy. Even for those issues that are grievable, the general view is that few would-be litigants would be successfully diverted by the grievance process.

The Advisory Group recommends that the Court consider methods to encourage litigants in prisoner cases to consent to proceed before the Magistrate Judge, pursuant to 28 U.S.C. § 636(c). Significant savings in time and cost would be realized if parties in prisoner cases took advantage of this statutory alternative. Given the substantial involvement of the Magistrate Judges in prisoner cases, giving final effect to their findings would significantly increase the efficiency with which such cases are processed.

EXHIBIT 1 TO APPENDIX E

Prisoner Filings From 1984 through 1992

The attached chart reflects the number of prisoner cases filed in statistical years 1984 (July 1, 1993, through June 30, 1994) through statistical year 1992. For the purposes of this compilation, prisoner cases include civil rights cases filed by prisoners, habeas corpus cases filed by prisoners, motions to vacate federal sentences, and miscellaneous prisoner cases. The chart shows a steady and dramatic increase in prisoner filings from 1984 through 1991, as well as an inexplicable decrease in prisoner filings between 1991 and 1992.

NUMBER OF PRISONER CASES FILED
SY 1984 - SY 1992

Statistical Year	Number of Prisoner Cases Filed
1992	429
1991	524
1990	518
1989	411
1988	375
1987	367
1986	446
1985	390
1984	271

EXHIBIT 2 TO APPENDIX E

Prisoner Cases Pending as of the Beginning and End of Calendar Year 1991

The attached charts reflect the prisoner cases by category (i.e., civil rights, state habeas corpus, motions to vacate federal sentences, and miscellaneous prisoner cases). For each category of prisoner cases, the number of cases pending before each District Judge (and each Magistrate Judge when the case was before the Magistrate Judge on consent) as of January 1, 1991, and as of December 31, 1991. The charts further reflect the number of prisoner cases closed within six months of filing, between six months and one year after filing, between one and two years after filing, and over two years after filing.

I. PRISONER CIVIL RIGHTS CASES
Nature of Suit CODE: 550 (1983's)

PENDING FOR ALL JUDGES AS OF 1/1/91:	273
OPENED FOR ALL JUDGES IN 1991:	309
CLOSED FOR ALL JUDGES IN 1991:	286
PENDING AS OF 12/31/91:	296

NUMBER OF 1991 CLOSURES BY JUDGE AND AGE (at time of closure)

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman	54	14	10	3	81
Nixon	67	17	23	5	112
Higgins	49	14	23	4	90
Morton			1		1
Sandidge			1	1	2
TOTAL	170	45	58	13	286

NUMBER OF PENDING CASES BY JUDGE AND AGE AS OF 12/31/91

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman	25	18	20	14	77
Nixon	23	20	38	8	89
Higgins	32	28	31	36	127
Morton	2				2
Sandidge				1	1
TOTAL	82	66	89	59	296

prisoner.550

II. PENDING NON-DEATH HABEAS CORPUS CASES
Nature of Suit CODE: 530 (State)

PENDING FOR ALL JUDGES AS OF 1/1/91:	56
OPENED FOR ALL JUDGES IN 1991:	109
CLOSED FOR ALL JUDGES IN 1991:	93
PENDING AS OF 12/31/91:	72

NUMBER OF 1991 CLOSURES BY JUDGE AND AGE (at time of closure)

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman	28	1			29
Nixon	22	4	4	2	32
Higgins	23	6	3		32
TOTAL	73	11	7	2	93

NUMBER OF PENDING CASES BY JUDGE AND AGE AS OF 12/31/91

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman	14	1	2	1	18
Nixon	14	5	9	1	29
Higgins	7	6	12		25
TOTAL	35	12	23	2	72

prisoner.530

III. PENDING DEATH HABEAS CORPUS CASES
Nature of Suit CODE: 535 (State)

PENDING FOR ALL JUDGES AS OF 1/1/91: 9

OPENED FOR ALL JUDGES IN 1991: 2

CLOSED FOR ALL JUDGES IN 1991: 3

PENDING AS OF 12/31/91: 8

NUMBER OF 1991 CLOSURES BY JUDGE AND AGE (at time of closure)

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman					0
Nixon			1		1
Higgins		1	1		2
Morton					0
TOTAL	0	1	2	0	3

NUMBER OF PENDING CASES BY JUDGE AND AGE AS OF 12/31/91

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman		1			1
Nixon			2	4	6
Higgins					0
Morton			1		1
TOTAL	0	1	3	4	8

prisoner.535

IV. PENDING MOTIONS TO VACATE FEDERAL SENTENCE
Nature of Suit CODE: 510

PENDING FOR ALL JUDGES AS OF 1/1/91:	5
OPENED FOR ALL JUDGES IN 1991:	13
CLOSED FOR ALL JUDGES IN 1991:	12
PENDING AS OF 12/31/91:	6

NUMBER OF 1991 CLOSURES BY JUDGE AND AGE (at time of closure)

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman	4		1		5
Nixon					0
Higgins	2				2
Morton	4	1			5
TOTAL	10	1	1	0	12

NUMBER OF PENDING CASES BY JUDGE AND AGE AS OF 12/31/91

JUDGE	LESS THAN 6 MONTHS	6 MONTHS TO 1 YEAR	1 YEAR TO 2 YEARS	OVER 2 YEARS	TOTAL PER JUDGE
Wiseman		1			1
Nixon	1		1		2
Higgins	1	1			2
Morton	1				1
TOTAL	3	2	1		6

prisoner.510

V. MANDAMUS & OTHER MATTERS
Nature of Suit CODE: 540

PENDING FOR ALL JUDGES AS OF 1/1/91:	0
OPENED FOR ALL JUDGES IN 1991:	1
CLOSED FOR ALL JUDGES IN 1991:	1
PENDING AS OF 12/31/91:	0

Closed by Judge Nixon
in LESS THAN 6 MONTHS

prisoner.540

EXHIBIT 3 TO APPENDIX E

Report of Fees Paid or Cases not Pursued by Prisoners After Full or Partial Denial of IFP Status

The attached charts reflects the number of prisoner cases submitted for filing in calendar years 1989, 1990, and 1991, the number of cases in which the Court ordered full or partial payment of the filing fee, the number of plaintiff prisoners who paid the ordered fee, and the number and percentage of prisoner plaintiffs who did not pay the ordered amount.

The data for the attached chart was collected for the calendar years. Therefore, the number of prisoner cases filed during those calendar years does not correspond to the number of prisoner case filings for the statistical years (July 1 through June 30 of the next year) as reflected in Exhibit 1 to Appendix E.

A listing of each case submitted for filing during the study period and orders granting or denying in forma pauperis status is on file in the Clerk's Office.

REPORT ON FEES PAID OR CASES WITHDRAWN BY PRISONERS
AFTER FULL OR PARTIAL DENIAL OF IFP STATUS
MIDDLE DISTRICT OF TENNESSEE

	Number of Prisoner Cases Submitted for Year	Number of Cases in which Court Ordered Full or Partial Payment	Number of Prisoners who Paid the Ordered Fee	Number of Prisoners who did not Pay Ordered Amount
1989	409	40 (10% of Prisoner Filings)	36	4 (10%)
1990	585	71 (12% of Prisoner Filings)	41	30 (42%)
1991	458	66 (14% of Prisoner Filings)	42	24 (36%)

EXHIBIT 4 TO APPENDIX E

Proposed Order

The attached, proposed order would direct the defendants in prisoner cases to notify the Court of any cases involving the same facts or issues so that such related cases could be assigned to the same judicial officer.

ORDER

The defendants are directed to file a statement with the Court listing the name, style, and a very brief description of any cases pending in the United States District Court for the Middle District of Tennessee arising from substantially the same case or controversy as the instant case or involving a significant issue of first impression in this Circuit that is substantially the same as an issue in the instant case. Statements are to be filed by the defendants at the time of filing the answer or other initial responsive pleading and at the time of filing any subsequent dispositive motions. Statements are to be based on the parties' knowledge at the time the statement is filed.

APPENDIX F

STATISTICAL INFORMATION ON THE CONDITION OF THE CIVIL AND CRIMINAL DOCKETS, TRENDS IN FILINGS, AND DEMANDS ON COURT RESOURCES

I. Filing Trends

Each United States District Court generates statistical reports on the number of cases, opened, closed, and transferred, for submission to the Administrative Office of the United States Courts. The Administrative Office then compares overall workload statistics for each judicial district and compares the "workload" for each district court to other judicial districts within the Sixth Circuit and to all United States District Courts. This District also generates internal monthly and annual reports reflecting the number of cases pending, filed and closed for each judge. This information provides a broad overview of the District's caseload.

This District has followed the national trend in civil case filings over the last decade. There was an upward trend in civil case filings through 1985, when this District peaked at a total of 1804 new civil cases.[1] Civil filings decreased by almost 250 civil cases in SY 1986, followed by another similar decrease in SY 1987. In 1988, the filings would have continued at approximately the 1987 level, except for an aberration in this District.[2] Since 1989, there has been an upward trend in civil case filings. In SY 1989, there was an increase of over 100 civil case filings over the SY 1987 level, followed by a light increase in SY 1990. However, there was a decrease of over 100 civil case filings in SY 1991, followed by an increase in SY 1992 of less than one hundred cases. See Exhibit 1 to this Appendix for an overview of the total case filings between 1984 and 1992, and see Exhibit 2 to this Appendix for an overview of the civil case filings between 1984 and 1992.

---

[1] Case filings include new cases filed and cases reopened. The statistical years indicated are those twelve month periods beginning July 1, and ending the following June 30th. For instance, statistical year (SY) 1984 includes the twelve month period beginning July 1, 1983, and ending June 30, 1984.

[2] 355 products liability PCB cases, naming the same defendants, were filed in the Columbia Division in SY 1988.

In summary, the civil case filings have increased gradually since the low in SY 1987, but have not returned to the filing level before 1986. The types of civil cases filed have changed significantly between 1984 and 1992. In 1984, 230 Social Security cases were filed, in contrast to 55 in SY 1992. Similarly, 346 cases involving recovery of Veterans Administration overpayments were filed in 1984, and 457 such cases filed in SY 1985, compared to 110 overpayment cases filed in SY 1992, and even fewer such cases filed each of the previous five years. Prisoner case filings have dramatically increased from 271 in SY 1984 to 429 in SY 1992. In SY 1991, prisoner filings were the highest ever in this District, with 524 such cases filed.

Filings in other categories of cases have fluctuated between SY 1984 and SY 1992, with a steady increase of labor, tort and civil rights cases, in contrast to some decrease in contract cases. Typically complex cases, such as copyright, patent, trademark, and antitrust cases, have not increased significantly over the last nine years. The number of civil case filings in each case category between SY 1984 and SY 1992 are included in Exhibit 3 to this Appendix.

Criminal case filings have remained fairly steady over the period of time between SY 1984 and SY 1992, with 210 felony cases filed in SY 1984, as compared to 196 felony cases filed in SY 1992. See Exhibit 4 to this Appendix for an overview of the criminal felony case filings from 1984 to 1992. For a discussion of the historical criminal filings, see Section I of Appendix D and Exhibit 1 to Appendix D.

For calendar year 1991, Judge Wiseman, Judge Nixon, and Judge Higgins were each assigned between 420 and 430 civil cases and between 120 and 130 criminal defendants.[3] Each active District Judge, therefore, averaged 35 civil case assignments per month and 10 criminal defendants per month. As of May of 1992, when the civil cases assignments were spread out among four, rather than three, active District Judges, the average civil case assignment decreased to 26 civil cases per month over the last eight months of the year. In calendar year 1991, Judge Wiseman, Judge Nixon, and Judge Higgins were each assigned an average of 10 criminal defendants per month. Beginning

---

[3] Specifically, Judge Wiseman was assigned 420 civil cases, Judge Nixon was assigned 424 cases, and Judge Higgins was assigned 428 civil cases in 1991. The cases assigned to each Judge included not only newly filed cases but also reopened cases and cases reassigned from another Judge. Therefore, of the 420 cases assigned to Judge Wiseman in 1991, 14 were reopened and 5 were transferred from another Judge. Of the 424 cases assigned to Judge Nixon, 30 were reopened and 17 transferred from another Judge. Of the 428 cases assigned to Judge Higgins, 25 were reopened and 4 transferred from another Judge. These cases do not include 155 civil cases (including 17 reopened cases) assigned to Judge Morton.

in June of 1992, the average number of criminal defendants assigned to each active District Judge decreased to 5 per month for the last seven months in calendar year 1992.

II. Time to Disposition

An important factor in determining whether a district is "staying abreast" of new case filing is to determine the ratio of cases pending at the end of the year to cases terminated during that year. Generally, if the ratio stays constant,[4] the Court is "keeping up." If the ratio increases, the Court is gaining ground and disposing of cases faster than in the past; if the ratio decreases, the court is falling behind. The ratio of pending cases to annual case terminations tends to be a reasonable estimate of the true average duration (or life expectancy of a Court's cases). The ratio gives an average case duration in years; if divided by twelve, the result is the average case duration in months.[5] The statistics on the ratio of pending cases to annual case terminations is contained in Exhibit 5 to this Appendix.

From a macro perspective, it appears that this District is staying abreast of its docket in terms of the overall ratio between cases filed and cases terminated. More cases are disposed of each year than are filed. This statistics reflect favorably on the Court's efficiency.

Another way to look at the momentum of the Court's case docket is to compare the number of cases filed per year to the number of cases terminated during the same year. See Exhibit 6 to this Appendix. From 1980 through 1992, the number of filings each year have slightly exceeded the number of terminations, except for 1990 and 1986, when number of terminations exceeded the number of filings.

These comparison, however, do not reflect the time demands of particular cases. To provide a more meaningful assessment of time to disposition and the relationship between filings, terminations and pending cases, the Federal Judicial Center,

---

[4] For example, in 1992, there were 1461 civil cases pending at the end of the year, after 1651 civil cases had been closed during the year. The ratio of cases pending to cases closed was 1 to 1.1, which means that the Court disposed of more cases than remained pending. In 1992, therefore, the Court was not only "staying abreast," it was also gaining ground.

[5] Shapard, J., Federal Judicial Center, "How Case Load Statistics Deceive," May 2, 1991, prepared for use at the Chief Judge's conference in May of 1991.

on behalf of the Advisory Group, prepared a table showing the number of cases filed, terminated and pending with each characteristic data by active District Judge for the period July 1, 1986, through June 30, 1992. See Exhibit 7 to this Appendix. Only limited data was available for Judge Echols since cases assigned to him at filing were not enough to yield meaningful statistics. A second table was prepared showing the same data but by type of case and includes only those case types for which at least 30 cases were filed in the last three years. See Exhibit 8 to this Appendix.

The statistics show that, while the life expectancy of cases has increased somewhat since 1983, the life expectancy of cases in this District approximates twelve months for all civil cases. The statistical information further reveals that, for the most part, nearly three quarters of civil cases are disposed of in the first year. There does not appear to be a significant statistical difference in the ability to terminate cases on a percentage basis among the judges. Although national studies have concluded that case filings between 1971 and 1986 amounted to a serious problem for the federal courts,[6] an examination of the data for the sheer number of filings in this District do not support this conclusion. The filings have been relatively stable in this District during the past decade. The private civil caseload has not grown rapidly in this District nor have the criminal filings increased. The statistics do reveal, however, that certain types of cases take increasingly longer, particularly securities, personal injury, product liability and asbestos cases.[7]

The workload assigned to the Magistrate Judges increased substantially between 1988 and 1991 in the number of preliminary criminal matters, although there was a decrease in such matters held before Magistrate Judges between 1991 and 1992.[8] The number of civil matters assigned to Magistrate Judges increased dramatically between 1988 and 1990, and increased again substantially in 1991. In 1992, the number of civil matters assigned to Magistrate Judges decreased over the 1991 level, but still reflected an increase over the 1990 level. The number and types of matters handled by Magistrate

---

[6] Dungworth, T., Rand Corporation, "Statistical Overview of Civil Litigation in the Federal Courts," 1990.

[7] Pursuant to the order of the Judicial Panel on MultiDistrict Litigation, filed July 29, 1991, all asbestos cases pending in this District were transferred to the Eastern District of Pennsylvania.

[8] The decrease in preliminary criminal matters heard before Magistrate Judges between 1991 and 1992 may be attributable to the decrease in criminal case filings over the same period of time.

Judges between 1988 and 1992 are included in Exhibit 9 to this Appendix.[9]

One potential measure of the increased demand on the Court's resources relates to the number of motions pending over six months or bench trials undecided for more than six months. Another indicator of strain on the docket load is the number of older cases, over three years old and over five years old.[10]

The District ranked first among United States District Courts in the number of terminations per judgeship in SY 1990, with an average of 640 terminations per active district judgeship.[11] In SY 1991, the average number of terminations per active District Judge decreased to 493. By the end of the twelve month period ending September 30, 1992, the average number of terminations per active District Judge decreased again to 408, but that calculation included the fourth judgeship, so it reflected a greater number of cases terminated district-wide. Over the last decade, this District has been almost consistently at or within the top third of the courts nationwide in time from filing to disposition.[12] For SY 1992, this District was the 15th most expeditious in resolving cases from filing to disposition. The District has also been consistently within the top half of the Districts Courts between the time cases are at issue and the time cases are tried.

---

[9] The statistics reflecting matters assigned to each Magistrate Judge for each year 1988 through 1992 are on file with the Clerk's Office.

[10] Bi-annual listings of cases pending over three years are on file with the Clerk's Office. Pursuant to the Civil Justice Reform Act, each District is also required to compile bi-annual listings of pending motions that have been filed for more than seven months and bench trials that have not been resolved after six months. The first reporting under the CJRA was submitted for data as of September 30, 1991. These reports are on file in the Clerk's Office. Prior to the CJRA reporting requirements, the all District Judges were required to report pending dispositive motions to the Court of Appeals on a quarterly basis.

[11] The total terminations for the District, including those closed by Senior District Judge Morton, are totalled and then divided by three. The Administrative Office of the United States Courts includes the number of active District Judges; it does not include Senior Judges, although the cases assigned to and closed by Senior Judges are included.

[12] The exception was in 1990, when Court ranked with the slowest half of the Courts nationwide. However, that same year, the District ranked the 12th highest in disposition time from issue to trial.

III. Conclusion

Upon an examination of a variety of statistics, it appears that this District is resolving civil cases expeditiously. The ratio of pending cases to terminated cases consistently shows that the District is terminating more cases than pending cases over the last twelve years. The comparisons between other District Courts has also consistently shown that this District is resolving cases more expeditiously than most District Courts.

EXHIBIT 1 TO APPENDIX F

TOTAL CASE FILINGS

1984 - 1992

The attached graph reflects the trend in total case filings for this District between statistical year 1984 and statistical year 1992. Total case filings include all civil cases filed and reopened and all criminal felony cases. For the graph depicting the trends in civil case filings, see Exhibit 2 to Appendix F. For graph depicting the trend in criminal felony case filings, see Exhibit 4 to Appendix F.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF TENNESSEE

Total Case Filings

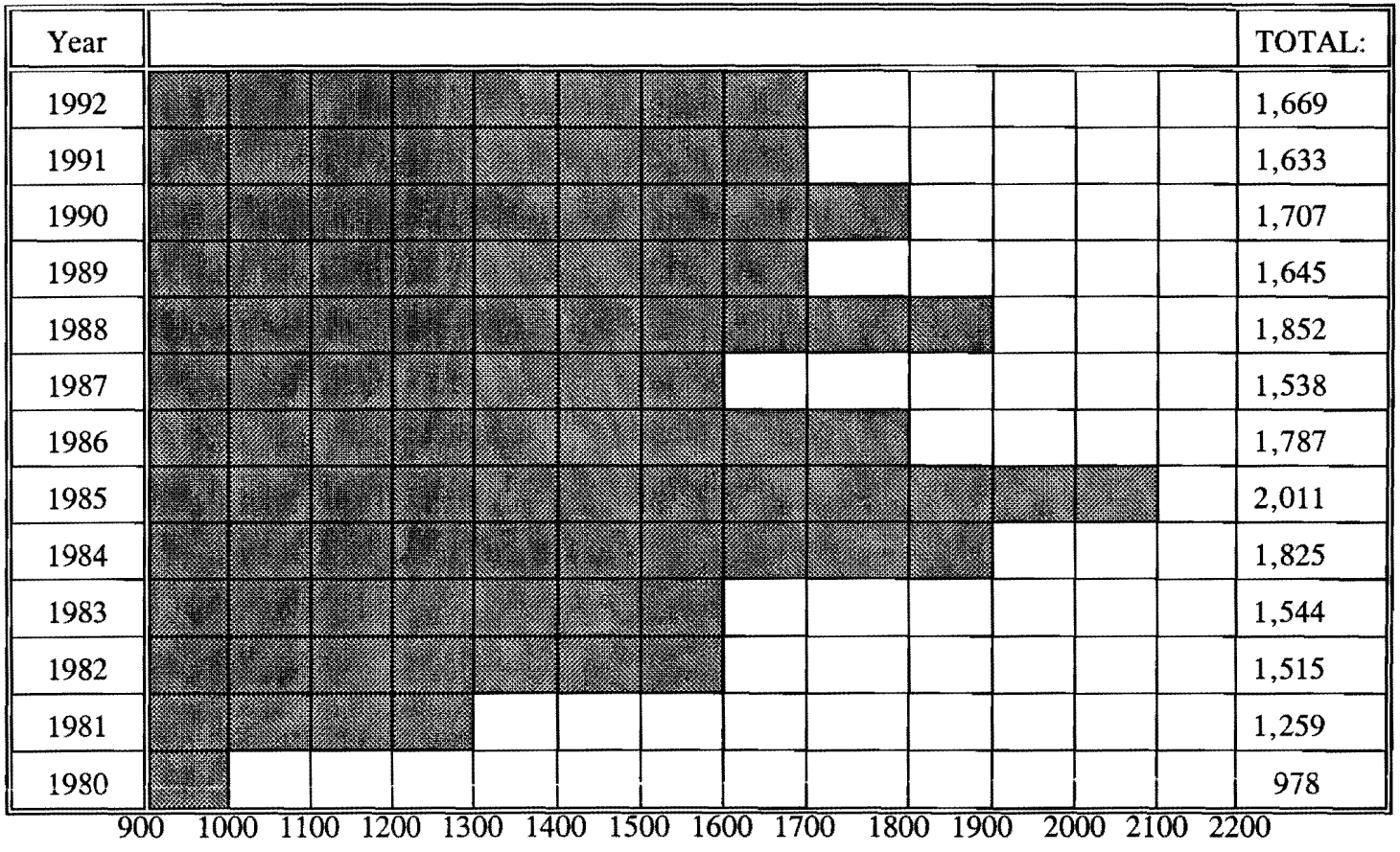

EXHIBIT 2 TO APPENDIX F

CIVIL CASE FILINGS

1984 - 1992

The attached graph reflects the trend in civil case filings for this District between statistical year 1984 and statistical year 1992. For the graph depicting the trends in total case filings, see Exhibit 1 to Appendix F. For graph depicting the trend in criminal felony case filings, see Exhibit 4 to Appendix F.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF TENNESSEE

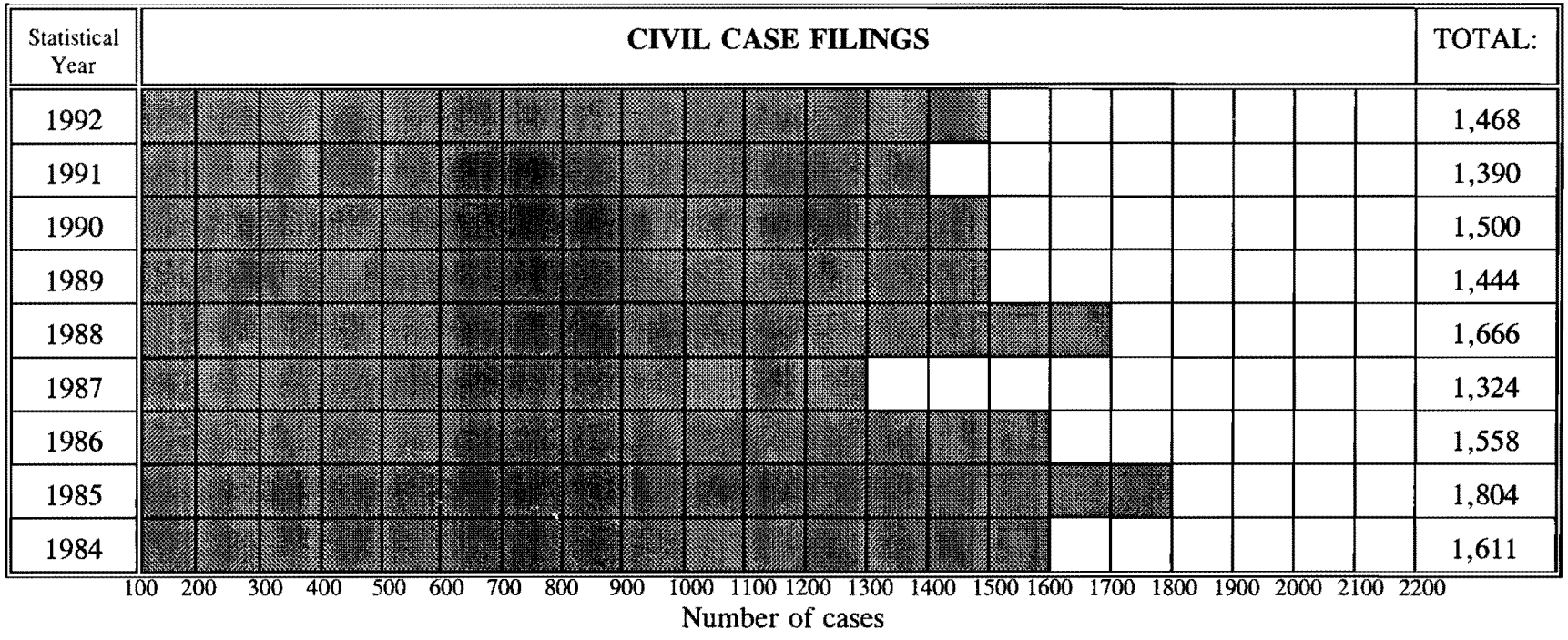

EXHIBIT 3 TO APPENDIX F

TYPES AND NUMBER OF CIVIL CASE FILINGS
1984 - 1992

The attached chart reflects the categories of civil cases filed and the number of case filings within each category between statistical year 1984 and statistical year 1992. For these purposes, a statistical year begins on July 1 and ends on June 30. For example, statistical year (SY) 1984 began July 1, 1983, and ended June 30, 1984. The numbers of cases in each category include not only original case filings but also cases that were reopened.

NUMBER AND CATEGORIES OF CIVIL FILINGS

Statistical Year 1984 - 1992

Year	Social Security	Recovery of Overpayments	Prisoner	Forfeitures and Tax	Real Property	Labor	Contracts	Torts	Copyright, Patent, and Trademark	Civil Rights	Antitrust	Other	Total
1992	55	110	429	67	16	77	162	165	28	221	5	133	1468
1991	66	32	524	69	32	33	151	182	33	158	7	92	1390
1990	49	67	518	68	20	55	187	242	30	165	1	98	1500
1989	92	106	411	52	26	52	233	188	35	140	2	107	1444
1988	42	77	375	25	26	43	223	581	26	134	3	111	1666
1987	85	53	367	39	25	39	257	181	35	128	6	109	1324
1986	109	203	446	59	20	32	231	176	30	131	6	115	1558
1985	101	457	390	70	30	36	235	205	19	128	3	130	1804
1984	230	346	271	66	8	39	202	127	20	177	6	119	1611

EXHIBIT 4 TO APPENDIX F

CRIMINAL FELONY CASE FILINGS

1984 - 1992

The attached graph reflects the trend in criminal felony case filings for this District between statistical year 1984 and statistical year 1992. For the graph depicting the trends in total case filings, see Exhibit 1 to Appendix F. For graph depicting the trend in civil case filings, see Exhibit 2 to Appendix F.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF TENNESSEE

Statistical Year	CRIMINAL FELONY CASE FILINGS	TOTAL:
1992		196
1991		243
1990		204
1989		189
1988		174
1987		214
1986		208
1985		185
1984		210

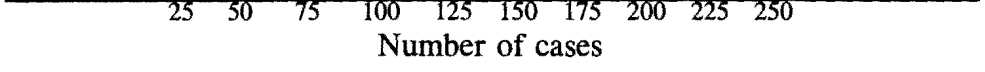

EXHIBIT 5 TO APPENDIX F

Ratio of Pending Cases to Terminated Cases

The attached chart reflects the number of civil cases pending at the end of each year between 1980 and 1992, the number of cases terminated for each of those years, and the ratio of pending cases to terminated cases. When the ratio equals 1.0, the District is closing as many cases as there were cases pending at the end of the year. When the ratio exceeds 1.0, the District is closing more cases during the year than there were pending cases at the end of the year.

TIME TO DISPOSITION

Ratio of Pending Cases to Terminated Cases

YEAR	RATIO	NUMBER OF CASES	
		Pending Cases	Terminated Cases
1992	**1 : 1.1**	1,461	1,651
1991	**1 : 1.0**	1,418	1,478
1990	**1 : 1.4**	1,349	1,921
1989	**1 : 1.0**	1,588	1,612
1988	**1 : 1:0**	1,552	1,581
1987	**1 : 1.1**	1,281	1,450
1986	**1 : 1.5**	1,190	1,829
1985	**1 : 1.6**	1,232	1,949
1984	**1 : 1.4**	1,170	1,623
1983	**1 : 1.6**	971	1,522
1982	**1 : 1.6**	949	1,488
1981	**1 : 1.3**	922	1,183
1980	**1 : 1.1**	846	954

EXHIBIT 6 TO APPENDIX F

Ratio of Cases Terminated to Cases Filed

The attached chart reflects the number of civil cases filed and terminated during each year between 1980 and 1992, and the ratio of the number of cases terminated to the number of cases filed during each year. When the ratio equals 1.0, the District is closing as many cases as there were cases filed. When the ratio exceeds 1.0, the District is closing fewer cases than filings. Finally, when the ratio is less than 1.0, the District is closing more cases than filings.

Ratio of Terminated Cases to Filed Cases

YEAR	RATIO	NUMBER OF CASES	
		Case Terminations	Cases Filed
1992	**1 : 1.0**	1,651	1,669
1991	**1 : 1.1**	1,478	1,633
1990	**1 : 0.9**	1,921	1,707
1989	**1 : 1.0**	1,612	1,645
1988	**1 : 1.2**	1,581	1,852
1987	**1 : 1.1**	1,450	1,538
1986	**1 : 1.0**	1,829	1,787
1985	**1 : 1.0**	1,949	2,011
1984	**1 : 1.1**	1,623	1,825
1983	**1 : 1.0**	1,522	1,544
1982	**1 : 1.0**	1,488	1,515
1981	**1 : 1.1**	1,183	1,259
1980	**1 : 1.0**	954	978

EXHIBIT 7 TO APPENDIX F

CIVIL CASES FILED, TERMINATED, AND PENDING BY ACTIVE DISTRICT JUDGE

SY 1987 - SY 1992

The attached table reflects the number of cases filed, number of cases terminated, and number of cases pending at the end of the year for Judge Nixon, Judge Wiseman, and Judge Higgins for the statistical years 1987 through 1992. The table also shows the percentage of cases terminated during those years that were less than one year old, between one and two years old, between two and three years old, and over three years old when they were closed.

CASES FILED, TERMINATED, AND PENDING
BY ACTIVE DISTRICT JUDGE
SY 1987 - 1992

JUDGE NIXON

Statistical Year	Filed	Terminated	Pending	Percentage Terminated aged 0-1 yrs.	Percentage Terminated aged 1-2 yrs.	Percentage Terminated aged 2-3 yrs.	Percentage Terminated aged 3 or more yrs.
1992	409	412	393	68.0%	23.3%	5.3%	3.4%
1991	410	383	396	72.8%	17.0%	5.2%	5.0%
1990	433	368	369	71.7%	14.9%	7.3%	6.0%
1989	314	339	304	61.7%	26.3%	7.1%	5.0%
1988	302	329	329	59.3%	23.4%	9.4%	7.9%
1987	321	294	356	71.4%	21.1%	3.4%	4.1%

JUDGE WISEMAN

Statistical Year	Filed	Terminated	Pending	Percentage Terminated aged 0-1 yrs.	Percentage Terminated aged 1-2 yrs.	Percentage Terminated aged 2-3 yrs.	Percentage Terminated aged 3 or more yrs.
1992	425	424	351	71.2%	19.1%	4.0%	5.7%
1991	400	368	350	73.9%	19.0%	3.5%	3.5%
1990	434	680	318	43.5%	52.4%	2.5%	1.6%
1989	321	369	564	63.7%	27.1%	4.3%	4.9%
1988	650	338	612	62.4%	24.3%	8.9%	4.4%
1987	294	303	300	64.4%	23.4%	7.3%	5.0%

JUDGE HIGGINS

Statistical Year	Filed	Terminated	Pending	Percentage Terminated aged 0-1 yrs.	Percentage Terminated aged 1-2 yrs.	Percentage Terminated aged 2-3 yrs.	Percentage Terminated aged 3 or more yrs.
1992	422	404	410	69.8%	23.0%	5.0%	2.2%
1991	422	359	392	79.9%	15.0%	3.9%	1.1%
1990	431	375	329	77.9%	14.7%	4.8%	2.7%
1989	326	304	273	77.0%	15.8%	3.6%	3.6%
1988	296	317	251	71.9%	20.5%	6.0%	1.6%
1987	322	284	272	77.1%	21.8%	0.7%	0.4%

EXHIBIT 8 TO APPENDIX F

CASES FILED, TERMINATED, AND PENDING BY TYPE OF CASE

The attached table reflects the same information as included in Exhibit 4 to Appendix F, except that the attached table provides the number of cases filed, the number of cases terminated, and the number of cases pending at the end of the year by type of case. The case categories are those in which at least 30 cases were filed within the last three years in this District. For each case category, the attached table reflects the percentage of cases that were less than one year old, between one and two years old, between two and three years old, and over three years old when they were closed.

Nature-of-suit code - description	Year	Filed	Termi-nated	Pending	Percent Termi-nated at Age: 0-1 year	1-2 years	2-3 years	3 or more years
550 - Civil Rights: Prisoner	1987	266	283	186	81%	14%	3%	1%
	1988	264	287	163	72%	17%	8%	3%
	1989	281	284	160	81%	12%	4%	4%
	1990	413	329	244	91%	5%	2%	2%
	1991	385	349	280	84%	13%	2%	1%
	1992	309	291	298	71%	23%	3%	2%
440 - Civil Rights: Other	1987	53	41	76	56%	34%	5%	5%
	1988	69	78	67	51%	32%	13%	4%
	1989	84	82	69	71%	20%	2%	7%
	1990	124	82	111	77%	16%	5%	2%
	1991	97	100	108	78%	10%	7%	5%
	1992	124	117	115	68%	25%	7%	0%
190 - Other Contract	1987	184	146	157	73%	15%	6%	5%
	1988	145	163	139	72%	18%	7%	2%
	1989	162	169	132	68%	25%	4%	2%
	1990	123	150	105	71%	20%	5%	4%
	1991	97	99	103	73%	14%	9%	4%
	1992	102	99	106	67%	16%	9%	8%
530 - Habeas Corpus	1987	85	90	36	91%	7%	1%	1%
	1988	76	78	34	90%	6%	3%	1%
	1989	100	101	33	85%	7%	3%	5%
	1990	79	76	36	91%	8%	0%	1%
	1991	127	92	71	91%	8%	1%	0%
	1992	95	101	65	85%	11%	3%	1%
442 - Civil Rights: Jobs	1987	69	61	83	56%	34%	5%	5%
	1988	55	62	76	65%	16%	8%	11%
	1989	53	64	65	58%	20%	13%	9%
	1990	45	60	50	58%	17%	10%	15%
	1991	55	43	62	60%	19%	12%	9%
	1992	90	59	93	64%	22%	8%	5%
863 - Social Security-DIWC	1987	78	52	71	75%	23%	2%	0%
	1988	23	84	10	70%	24%	1%	5%
	1989	68	34	44	97%	3%	0%	0%
	1990	49	54	39	67%	31%	0%	2%
	1991	57	55	41	69%	31%	0%	0%
	1992	38	51	28	80%	18%	0%	2%

Nature-of-suit code - description	Year	Filed	Termi-nated	Pending	0-1 year	1-2 years	2-3 years	3 or more years
350 - Motor Vehicle	1987	40	39	42	67%	28%	3%	3%
	1988	49	46	45	54%	39%	4%	2%
	1989	47	49	43	73%	20%	6%	0%
	1990	50	48	45	63%	29%	4%	4%
	1991	40	42	43	57%	38%	5%	0%
	1992	49	45	47	58%	31%	4%	7%
152 - Recovery of defaulted student loans	1987	8	10	4	100%	0%	0%	0%
	1988	23	22	5	95%	0%	5%	0%
	1989	57	49	13	100%	0%	0%	0%
	1990	29	31	11	97%	0%	0%	3%
	1991	15	20	6	90%	10%	0%	0%
	1992	85	61	30	100%	0%	0%	0%
360 - "Other" Personal Injury	1987	36	46	38	63%	33%	2%	2%
	1988	389	49	378	57%	39%	2%	2%
	1989	53	69	362	42%	57%	1%	0%
	1990	66	390	38	15%	83%	2%	0%
	1991	34	36	36	61%	31%	6%	3%
	1992	27	32	31	53%	31%	9%	6%
890 - Other Statutory Actions	1987	34	40	30	80%	15%	3%	3%
	1988	27	27	30	59%	22%	7%	11%
	1989	27	33	24	58%	36%	3%	3%
	1990	33	33	24	64%	21%	6%	9%
	1991	38	28	34	64%	32%	4%	0%
	1992	43	41	36	83%	10%	2%	5%
110 - Contract: Insurance	1987	45	37	54	68%	27%	3%	3%
	1988	45	51	48	57%	22%	14%	8%
	1989	46	46	48	72%	20%	7%	2%
	1990	38	45	41	56%	33%	7%	4%
	1991	25	28	38	43%	32%	7%	18%
	1992	41	36	43	61%	28%	6%	6%
422 - Bankruptcy Appeals Rule 801	1987	21	31	11	68%	32%	0%	0%
	1988	18	17	12	65%	18%	12%	6%
	1989	31	31	12	94%	6%	0%	0%
	1990	34	28	18	96%	4%	0%	0%
	1991	29	35	12	83%	17%	0%	0%
	1992	32	32	12	97%	3%	0%	0%

Nature-of-suit code - description	Year	Filed	Termi-nated	Pending	0-1 year	1-2 years	2-3 years	3 or more years
365 - Personal Injury Product Liability	1987	21	24	30	50%	38%	8%	4%
	1988	33	29	34	48%	28%	14%	10%
	1989	27	29	32	59%	31%	10%	0%
	1990	23	23	32	52%	26%	17%	4%
	1991	26	30	28	50%	33%	10%	7%
	1992	44	12	60	67%	17%	8%	8%
870 - Taxes	1987	23	33	8	88%	6%	3%	3%
	1988	9	13	4	54%	38%	8%	0%
	1989	31	7	28	86%	0%	0%	14%
	1990	30	36	22	83%	14%	3%	0%
	1991	30	32	20	81%	19%	0%	0%
	1992	33	43	10	81%	16%	2%	0%
791 - ERISA	1987	15	5	18	100%	0%	0%	0%
	1988	15	14	19	64%	7%	14%	14%
	1989	20	17	22	65%	29%	6%	0%
	1990	25	23	24	74%	9%	17%	0%
	1991	19	23	20	61%	26%	4%	9%
	1992	47	27	40	74%	19%	7%	0%
368 - Asbestos	1987	11	9	15	11%	78%	11%	0%
	1988	40	11	44	45%	45%	9%	0%
	1989	5	24	25	58%	38%	4%	0%
	1990	39	6	58	33%	33%	17%	7%
	1991	23	7	74	57%	43%	0%	0%
	1992	1	74	1	14%	61%	4%	22%
140 - Contract: Negotiable Instrument	1987	14	17	12	71%	24%	6%	0%
	1988	17	14	15	71%	21%	7%	0%
	1989	16	19	12	68%	26%	5%	0%
	1990	19	22	9	86%	5%	0%	9%
	1991	24	22	11	86%	9%	5%	0%
	1992	16	13	14	92%	8%	0%	0%
153 - Recovery of veterans benefit overpayment	1987	42	48	7	100%	0%	0%	0%
	1988	44	42	9	98%	2%	0%	0%
	1989	41	42	8	98%	2%	0%	0%
	1990	28	31	5	100%	0%	0%	0%
	1991	10	13	2	100%	0%	0%	0%
	1992	19	17	4	100%	0%	0%	0%

Nature-of-suit code - description	Year	Filed	Termi-nated	Pending	0-1 year	1-2 years	2-3 years	3 or more years
510 - Vacate Sentence	1987	8	6	3	83%	17%	0%	0%
	1988	14	10	7	100%	0%	0%	0%
	1989	17	20	4	95%	5%	0%	0%
	1990	18	13	9	100%	0%	0%	0%
	1991	11	16	4	88%	13%	0%	0%
	1992	21	18	7	94%	6%	0%	0%
690 - Miscellaneous Forfeiture and Penalty	1987	9	8	11	75%	25%	0%	0%
	1988	7	16	2	63%	38%	0%	0%
	1989	17	8	11	100%	0%	0%	0%
	1990	18	16	13	88%	6%	0%	6%
	1991	16	8	21	50%	50%	0%	0%
	1992	14	23	12	78%	17%	4%	0%
370 - Fraud; Truth in Lending	1987	14	9	15	67%	22%	11%	0%
	1988	11	19	7	58%	32%	11%	0%
	1989	6	8	5	88%	13%	0%	0%
	1990	27	26	6	96%	4%	0%	0%
	1991	10	6	10	67%	17%	0%	17%
	1992	6	10	6	60%	40%	0%	0%
840 - Trademark	1987	12	8	11	88%	13%	0%	0%
	1988	6	12	5	58%	42%	0%	0%
	1989	17	10	12	90%	10%	0%	0%
	1990	13	14	11	50%	43%	7%	0%
	1991	19	12	18	75%	25%	0%	0%
	1992	11	15	14	53%	40%	0%	7%
820 - Copyright	1987	20	10	22	90%	10%	0%	0%
	1988	14	21	15	48%	52%	0%	0%
	1989	14	12	17	83%	8%	0%	8%
	1990	16	20	13	70%	15%	10%	5%
	1991	13	12	14	67%	8%	25%	0%
	1992	13	14	13	71%	21%	7%	0%
210 - Land Condemnation	1987	13	3	16	100%	0%	0%	0%
	1988	10	15	11	67%	33%	0%	0%
	1989	5	11	5	45%	45%	0%	9%
	1990	11	4	12	75%	0%	25%	0%
	1991	24	19	17	95%	0%	5%	0%
	1992	5	15	7	73%	27%	0%	0%

Nature-of-suit code - description	Year	Filed	Termi-nated	Pending	0-1 year	1-2 years	2-3 years	3 or more years
720 - Labor Management Relations	1987	7	7	8	71%	29%	0%	0%
	1988	9	9	8	44%	44%	0%	11%
	1989	6	7	7	57%	43%	0%	0%
	1990	12	12	7	67%	17%	0%	17%
	1991	13	9	11	89%	0%	0%	11%
	1992	11	10	12	80%	10%	10%	0%
850 - Securities, Commodities Exchange	1987	21	15	33	27%	53%	7%	13%
	1988	21	26	28	65%	15%	8%	12%
	1989	16	13	31	46%	46%	0%	8%
	1990	12	24	19	33%	29%	25%	13%
	1991	9	6	22	67%	33%	0%	0%
	1992	9	13	18	46%	15%	23%	15%

EXHIBIT 9 TO APPENDIX F

MAGISTRATE JUDGE WORKLOAD

The attached chart reflects the number and type of matters assigned to Magistrate Judges in this District between 1988 and 1992, including both criminal and civil cases. Data reflecting the individual workloads of Magistrate Judge Sandidge and Magistrate Judge Haynes between 1988 and 1992 are on file in the Clerk's Office.

MAGISTRATE JUDGE WORKLOAD - NASHVILLE TN(M) 2F/T

	1988	1989	1990	1991	1992
MISDEMEANORS	40	35	42	20	11
Traffic	2	2	1	0	0
Other	38	33	41	20	11
(Total Trials)	(2)	(0)	(0)	(0)	(0)
PETTY OFFENSES	115	60	87	66	71
Traffic	78	42	46	42	42
Immigration	0	0	0	0	0
Other	37	18	41	24	29
(Total Trials)	(33)	(25)	(23)	(14)	(21)
PRELIMINARY PROCEEDINGS	703	751	866	953	774
Search Warrants	38	38	134	136	58
Arrest Warrants	57	54	64	65	82
Initial Appearances	385	380	422	440	351
Detention Hearings	75	97	78	94	73
Bail Reviews	5	17	16	32	20
Preliminary Exams	37	54	26	63	69
Arraignments	69	62	78	74	66
Other	37	49	48	49	55
ADDITIONAL DUTIES	434	453	600	749	671
Criminal					
Motions §636(b)(1)(A)	2	1	2	0	0
Motions §636(b)(1)(B)	0	0	0	0	0
Pretrial Conferences	0	0	0	0	0
Evidentiary Hearings	1	0	1	0	0
Other	9	2	1	3	0
Prisoner Litigation					
State Habeas	4	18	14	26	23
Federal Habeas	12	2	2	0	3
Prisoner Civil Rights	168	257	216	217	206
Evidentiary Hearings	(104)	(84)	(65)	92	86
Civil					
Motions §636(b)(1)(A)	42	18	62	128	62
Motions §636(b)(1)(B)	87	79	161	142	102
Pretrial Conferences	24	9	35	48	49
Evidentiary Hearings	1	7	13	6	5
Special Masterships	19	28	24	15	23
Social Security	57	28	57	40	60
Other	8	4	12	32	52
CIVIL CASES ON CONSENT	13	25	10	11	20
Without Trial	12	19	7	6	17
Jury Trial	0	4	0	4	1
Nonjury Trial	1	2	3	1	2
TOTAL	1305	1324	1605	1799	1547