UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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June 13, 1997

Mr. Abel J. Mattos
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Ms. Donna Steinstra
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Thurgood Marshall Federal Judiciary Bldg.
One Columbus Circle, N.E.
Washington, D.C. 20002-8003

Dear Mr. Mattos and Ms. Steinstra:

I am pleased to enclose a copy of the 1993-1996 CJRA Assessment Report of the Civil Justice Reform Act Advisory Group for the District of Minnesota. If you have any questions, please call me at (612) 290-3212 or our CJRA Analyst, Wendy Schreiber at (612) 664-5010.

Sincerely,

Francis E. Dosal
Clerk of Court

Enclosure

cc: Honorable Richard S. Arnold
Honorable D. Brook Bartlett
Honorable Richard H. Battey
Honorable William G. Cambridge
Honorable Jean C. Hamilton
Honorable Michael J. Melloy
Honorable Stephen M. Reasoner
Honorable H. Franklin Waters
Honorable Rodney S. Webb
Honorable Charles R. Wolle
Eighth Circuit Judicial Council
Ms. June Boadwine, Circuit Executive
Ms. Mary Coyne, West Publishing

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA

CIVIL JUSTICE REFORM ACT IMPLEMENTATION PLAN 1993-96 ASSESSMENT

Submitted to the Court
Pursuant to Title 28, Section 475
of the United States Code

PREPARED BY THE CIVIL JUSTICE REFORM ACT ADVISORY GROUP

MARCH 1997

Table of Contents

I. Introduction

The Civil Justice Reform Act of 1990, 28 U.S.C. §§ 471-82 (CJRA) requires that each of the ninety-four district courts develop a Civil Justice Expense and Delay Reduction Plan (Plan). The Plan for the United States District Court for the District of Minnesota (Court) was adopted on August 23, 1993. This Plan essentially incorporated recommendations made in a report dated May 15, 1993, by the CJRA Advisory Group appointed by the Court in 1991.

The CJRA also requires that each district court periodically, in consultation with its Advisory Group, reassess its Plan in relation to the state of its docket to determine if amendments to the Plan or Local Rules are needed -- all in the interest of reducing "cost and delay" in civil litigation in this district. Pursuant to this directive, the Court in May 1995 requested the CJRA Advisory Group to make the required assessment of the Plan since its inception. Annual assessments were not made in either 1994 or 1995 because the Plan had not been in effect long enough to determine if it was having any effect on civil litigation costs and delays. Moreover, changes in the Local Rules designed to implement the Plan were not approved in final form until November 1, 1996.

The CJRA Advisory Group, whose members are listed in Appendix A, undertook, at the direction of the Court, four tasks:

1. A docket assessment of the Court;

2. A review of case complexity standards and the pretrial management of complex cases, including an assessment of the district's case assignment system and the possible increased use of alternative dispute resolution devices in this district;

3. Surveys of attorneys, litigants, and the district's judges to determine their opinion as to whether the Plan was having the intended effect of reducing costs and delays and their satisfaction with the Plan; and

4. The development of a litigant handbook describing in terms understandable to lay persons how the Court operates and where to get further information about the Court.

The members of the various subcommittees assigned to perform these projects are listed in Appendix B. The CJRA Advisory Group formally began its work in the early fall of 1995 and completed all its assigned tasks in the fall of 1996. This report will be submitted to the Court in March 1997.

The statistical data used to make the docket assessment is attached as Appendix C and is summarized in Section II. The 1996 Attorney and Litigation Survey Report is attached as Appendix D. The survey results are described in Section III. A brief summary of the survey of the district judges is also found in Section III. A complete copy of the survey of the judges, which consists of individual interviews by members of the CJRA Advisory Group with each of the District Court Judges and Magistrate Judges, is on file at the District Court Clerk's office. The contents of the proposed litigant handbook are briefly described in Section IV. The final section contains the CJRA Advisory Group's findings and recommendations.

II. Docket Assessment

Knowledge of the kinds of cases filed is a necessary prerequisite to understanding the state of the docket in this District. Chart 1 shows a distribution of civil case filings in this District during the past three fiscal years (October 1 - September 30) by type of case.

Chart 1: Distribution of Civil Case Filings, FY94-96
District of Minnesota

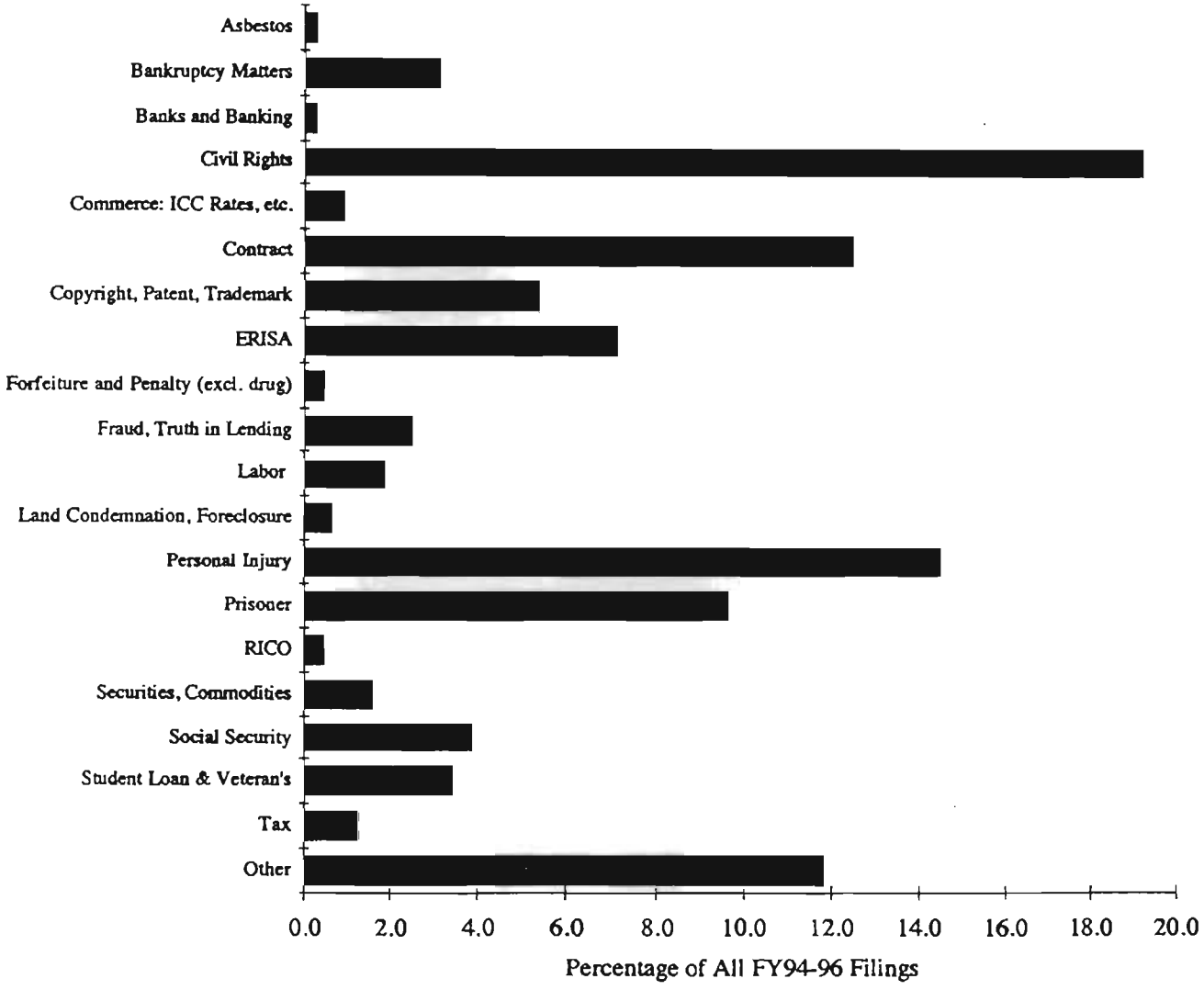


Chart 2 provides a ten-year history of civil case filings in this District.

Chart 2: Filings of Civil Cases by Case Type, FY87-96

District of Minnesota	YEAR									
	1987	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**
Asbestos	8	4	1	51	1	7	3	4	3	11
Bankruptcy Matters	68	71	90	53	65	50	83	107	76	46
Banks and Banking	12	19	9	4	23	20	6	8	1	9
Civil Rights	145	174	169	161	180	276	321	358	477	587
Commerce: ICC Rates, etc.	9	7	10	18	10	21	19	32	12	18
Contract	361	407	351	307	309	327	303	277	328	317
Copyright, Patent, Trademark	106	94	80	84	81	97	124	136	137	124
ERISA	151	111	197	174	197	195	172	193	168	163
Forfeiture and Penalty (excl. drug)	40	17	54	19	10	3	20	12	10	7
Fraud, Truth in Lending	6	8	14	10	10	22	17	40	38	105
Labor	64	70	41	49	43	52	38	57	35	43
Land Condemnation, Foreclosure	18	20	16	21	25	28	9	11	12	18
Personal Injury	231	212	212	282	309	261	269	551	274	243
Prisoner	266	282	286	253	179	216	225	231	215	265
RICO	20	7	7	21	9	16	14	13	6	10
Securities, Commodities Tax Co	65	48	54	51	50	23	38	42	31	40
Social Security	145	156	99	78	62	109	149	119	74	92
Student Loan and Veteran's	235	216	280	124	73	169	86	51	32	166
Tax	23	41	37	27	31	32	22	28	27	32
All Other	180	200	177	231	248	287	333	220	335	314
All Civil Cases	2153	2164	2184	2018	1915	2211	2251	2490	2291	2610

Chart 3: Time to disposition

This chart is intended to assist in the assessment of "delay" in civil litigation in this district. This is an alternative way of examining data to estimate the time that will be required to dispose of newly filed cases. The charts in Appendix C show the median time from filing to disposition for civil cases and for felonies. These data are commonly used to assess the dispatch with which cases have moved through a court in the past. When enough years are shown and the data for those years are looked at collectively, reasonable assessments of a court's pace might be made.

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

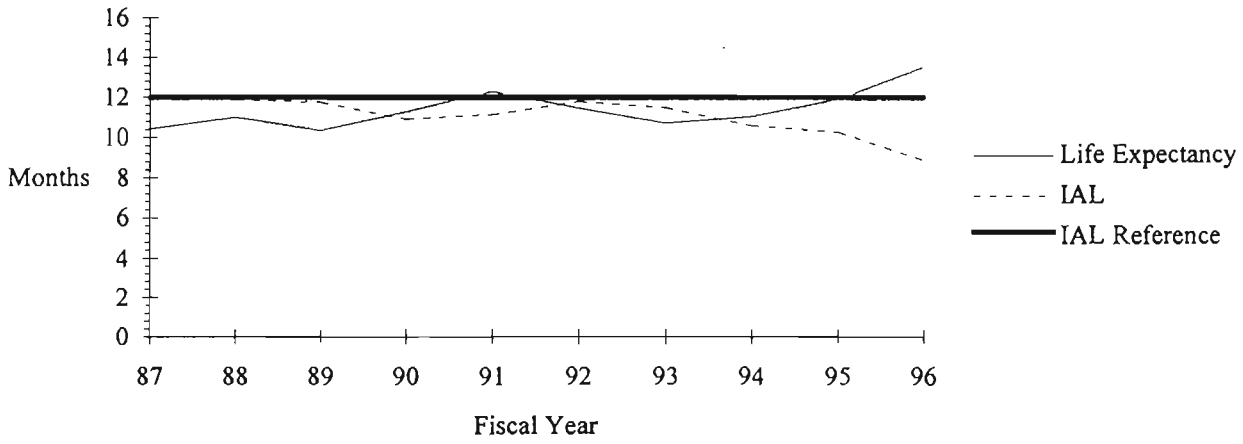
cases, the age of cases terminated in that year may suggest that the court is losing ground rather than gaining.

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

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

Note that these measures serve different purposes. Life expectancy is used to assess change in the trend of actual case lifespan; it is a timeliness measure, corrected for changes in the filing rate but not for changes in case mix. IAL is used for comparison among districts; it is corrected for changes in the case mix but not for changes in the filing rate. Chart 3 displays calculations for the District of Minnesota using these measures.

Chart 3: Life Expectancy and Indexed Average Lifespan, All Civil Cases FY87-96
District of Minnesota



There are several interesting conclusions that can be discerned from these charts and the Docket Assessment Statistics in Appendix C. The most striking is the dramatic increase in the number of Civil Rights cases filed in this District. The number has increased fourfold in the last decade and 83 percent since 1993, the year in which the District's Civil Justice Reform Act Expense

and Delay Reduction Plan was adopted. Civil Rights cases now constitute the largest category of case filings, accounting for 30 percent of all civil case filings in this District. Moreover, as Table 7 in Appendix C indicates, the number of Civil Rights cases filed in this District has increased more rapidly than the filing of such cases in the entire United States and in all other districts within the Eighth Circuit. Civil Rights cases are, as a general rule, quite complex as a comparison of Tables 6 and 8 in Appendix C indicates, and have a median disposition time significantly longer than the median disposition time for all civil cases.

A second category of complex, time-consuming cases of importance in this District are Copyright, Patent, and Trademark cases. Although the number of cases filed has been relatively stable since the inception of the District's Plan, as Table 9 indicates, the number of such cases filed in this District is much higher than both the national average and the Eighth Circuit averages.

Moreover, as Table 10 of Appendix C indicates, although the number varies considerably from year to year, Antitrust case filings in this District are also much higher than in either the national or Eighth Circuit averages.

Thus, the available statistics indicate that this District handles a higher number of complex civil cases than most other Federal District Courts. This conclusion is borne out by Tables 21-23 in Appendix C, which show that the number of civil trials lasting more than three days is significantly higher in this District than in other districts.[1]

Given the number of complex cases filings and the high number of vacant judgeship months in this District during the past several years (see Tables 13-20 in Appendix C), it is remarkable that

[1] The high number of complex cases filed in this District also may explain why the number of trials per judge completed in this District is lower than in other districts. See Table 5 in Appendix C.

in the fiscal year ending in October 1996, there were only 2.9 percent of civil cases that have been pending more than three years compared to the national average of 6.4 percent (see Table 3 in Appendix C) and that the median filing to disposition time in civil cases is two months less than the Eighth Circuit average and only a month more than the national average (see Table 6 in Appendix C).

In short, the statistics confirm the Advisory Group's conclusion that the judges in this District are doing an excellent job of managing the civil docket. In this connection, it is worth noting that the Magistrate Judges in this District handle far more matters than is the case in other District Courts in the Eighth Circuit (see Tables 27-30 in Appendix C).

In assessing the docket, it is necessary to examine criminal as well as civil cases because of the priority given to criminal cases. This District has traditionally had a less volatile criminal caseload than most other districts but concerns have been raised about increases in recent years in the average number of felony defendants per case and the median disposition time in criminal felony cases. During the past two years, however, both figures have been coming down and are now more in line with national and Eighth Circuit averages (see Tables 11 and 12 in Appendix C), although the number of criminal trials lasting more than three days is still significantly higher in this District than in other districts (see Tables 24-26 in Appendix C).

In summary, despite a significant increase in filings of civil cases since the inception of the Plan in 1993 (16 percent), most notably in complex Civil Rights cases, the docket in this District is currently in very good shape. Moreover, since the District now has a full complement of both Article III Judges and Magistrate Judges, the docket should stay in relatively good shape during the

next several years, barring significant changes in the types and numbers of case filings or in the number of available judges.

Finally, the impact of changes made by the Plan on the state of the docket is impossible to determine from recent filing statistics. This issue is examined further in the next section.

III. Surveys

A. Overview

The Court's Civil Justice and Delay Reduction Plan necessitated numerous amendments to the Local Rules. These new Local Rules, as well as recent procedural changes in the Federal Rules of Civil Procedure, increase the amount and timing of Court supervised pretrial management of civil cases filed in this district and limit the amount of discovery that can be conducted without Court approval. The major procedural changes implemented by the Plan, the revised Local Rules, and revisions in the Federal Rules of Civil Procedure are:

1. Initial Pretrial Conference. A mandatory meeting between counsel and either the United States District Judge or Magistrate Judge held within 90 days after the filing of the responsive pleading.
2. Rule 26(f) Report. A report prepared by counsel following a meeting held at least 14 days before the Initial Pretrial Conference. This report must contain the following:
   a. Short description of the essential elements of the case;
   b. Proposed discovery limitations and deadlines;

c. Proposed motion deadlines;

d. Proposed "ready for trial" date;

e. Information related to relevant insurance coverage of the parties; and

f. Proposed settlement conference date.

The Rule 26(f) Report must be filed with the Court within 10 days of the meeting and at least 4 days before the Initial Pretrial Conference.

3. Pretrial Schedule Order. An order, issued by the presiding judicial officer after the Initial Pretrial Conference, which contains:

a. Cut-off dates for:

i. joinder of parties;

ii. completion of discovery;

iii. filing of all motions;

b. Number and identification of expert witnesses;

c. Discovery limitations;

d. Whether the trial is a jury trial or a bench trial;

e. Presumptive trial date.

4. Limitations on Discovery. The parties are each limited to 25 interrogatories, 10 depositions, and new rules regarding expert witnesses except with specific permission of the Court.

5. Mandatory Prediscovery Disclosures. FRCP 26(a)(1) requires the voluntary disclosure of the following:

a. Names and addresses of witnesses;

b. Copies or a description of relevant documents;

c. Computation of damages; and

d. Information relating to any relevant insurance coverage.

6. Case Management Pretrial Conference. Requested for very complex cases, as set forth in Local Rule 16.4.

7. Settlement Conferences. The initial Settlement Conference must be held within 45 days of the presumptive trial date. Trial counsel as well as a representative having full settlement authority for each party shall attend every settlement conference. Additional Settlement Conferences are authorized if the judge believes necessary.

8. Final Pretrial Conference. The Pretrial Conference may be combined with a Settlement Conference, and must be held no earlier than 45 days prior to the presumptive trial date.

9. Final Pretrial Order. Issued following the final Pretrial Conference, the Final Pretrial Order sets forth, among other things, the cutoff dates for filing motions in limine, various disclosures, and filing and exchanging of documents.

The surveys of attorneys, litigants, and judges were designed to determine the opinions of the persons surveyed as to whether these procedural devises were increasing or decreasing the cost and disposition time of civil cases filed in this district. The survey of attorneys also explored the attitudes of lawyers that practice in the district toward the increased use of ADR in civil cases and their opinion as to the effectiveness of the District Court Judges and Magistrate Judges in managing civil cases.

The attorney and litigant surveys were designed by Anderson Neibuhr and Associates, a local, independent survey consulting firm. The attorneys and litigants surveyed were chosen on a random selection basis from civil cases filed in this district between September 1, 1993, (the first month after Court's Civil Justice Expense and Delay Reduction Plan was signed) and March 18, 1996. The response rate from the 900 attorneys who were surveyed was 74 percent and 60 percent from the 350 litigants who were surveyed. These levels of response are considered quite good.

The judge's survey was conducted by members of the CJRA Advisory Group. Each judge was asked the same series of questions in a personal interview. All the District Court Judges and Magistrate Judges participated in the interviews.

In addition to these formal surveys, the Advisory Group conducted informal surveys of the District Court staff and jurors who heard cases tried before the Court.

The complete results of the attorney and litigant surveys are found in Appendix D. Highlights from the attorney and litigant survey will be summarized in Parts B and C of this section. A brief summary of the results from the judge's survey is found in part D of this section. A copy of the judges' survey questionnaire and the judges' responses is located in the District Court Clerk of Court's Office.

B. Attorney Survey

The most significant results from the attorney survey are:

1. New Trial Procedures. The new pretrial procedures implementing the Court's Plan and recent amendments to the Federal Rules of Civil Procedure and to the Local Rules have increased the cost but have decreased the disposition time of civil cases filed in this district. Fifty-three percent of the attorneys who replied were of the opinion that these new procedures have increased

costs, whereas only 14 percent thought they had decreased costs, and 14 percent of the attorneys thought these new procedures had decreased the time of case disposition but 30 percent of the attorneys who replied thought that the new procedures had decreased the time of disposition. These findings are consistent with the results of a national survey of CJRA Expense and Delay Reduction Plans conducted by the Rand Institute for Civil Justice.[2] According to the Rand Institute Study, the increased attorney time, and hence attorney fees, at the inception of a case necessary to comply with the new pretrial management requirements is the primary reason for the opinion that overall costs have increased.[3] The Rand Institute Study also concluded that early case management, discovery limitations, setting an early presumptive trial, and settlement conferences where the parties are present "are associated with a significantly reduced time to disposition."[4] This conclusion is also reflected in the attorney survey. For example, twice as many attorneys who replied to the survey said the new mandatory initial pretrial conference increased costs rather than decreased costs (35 percent vs. 17 percent decreased), but more that twice as many said this conference decreased

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[2] Rand Institute for Civil Justice, *Just Speedy, and Inexpensive? An Evolution of Judicial Case Management Under the Civil Justice Reform Act 2,16 (1996)* (hereafter Rand Institute Study).

[3] Id. at 16.

[4] Id. at 2. The Rand Institute Study also concluded that the increased cost associated with early case management can be offset by decreased costs associated with the new discovery limitations, particularly in complex cases. Id. at 2, 29-30. Although there was no attempt to measure this offset factor in the attorney survey, the results of the attorney survey are not inconsistent with this theory. The attorney survey, for example, shows that approximately five times as many lawyers thought that the new discovery limitations decreased both costs and disposition time (34 percent decreased cost and 32 percent decreased time) as thought these limitations increased cost and disposition time (7 percent increased cost and 5 percent increased disposition time).

disposition time as said it increased disposition time (14 percent increased vs. 34 percent decreased).[5]

2. Deadlines. The deadlines for the completion of discovery and the filing of motions, the setting of the presumptive trial date, and the new limitations on the number of depositions and interrogatories, all of which are set forth in the pretrial scheduling order, together with pretrial settlement conferences, and the final pretrial conferences, are the most effective of the new case management procedures in reducing both costs and disposition time.[6] Only 8 percent of the attorneys replying to the survey thought that the pretrial scheduling order increased costs, whereas 22 percent thought the scheduling order decreased costs and 62 percent thought the scheduling order had no impact on costs. Only 3 percent of those replying thought the scheduling order increased the time of case disposition, whereas 44 percent thought it decreased the time of disposition and an additional 44 percent thought the scheduling order had no effect on disposition time. Only 7 percent of the attorneys who replied thought the new discovery limitations increased costs, whereas 34 percent thought they decreased costs and another 48 percent thought these limitations had no effect on costs. Only 5 percent thought the discovery limitations increased the time of case disposition, whereas 28 percent thought they decreased the time of disposition and 54 percent thought these limitations had no effect on the time of disposition. Only 17 percent of the attorneys who replied

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[5] The number of replies stating that the initial pretrial conference had no effect on either costs or disposition time was approximately the same (41 percent for cost and 43 percent for disposition time).

[6]The Case Management Pretrial Conference required for very complex cases by Local Rule 16.4 also was rated as effective in reducing costs and disposition time by the majority of attorneys who had an opinion on this issue. Since three-fourths of the attorneys who answered the questionnaire said they had no opinion as to the effectiveness of this conference, however, it is logical to conclude that very few attorneys have participated in this type of conference. Therefore, it is difficult to assess the overall effectiveness of this device at the present time.

to the survey thought the settlement conferences increased costs, whereas 31 percent thought they decreased costs and another 28 percent thought they had no effect on costs. Only 3 percent thought the settlement conferences increased the time of disposition, whereas 46 percent thought they decreased the time of disposition and another 25 percent thought they had no effect on the disposition time.[7] Similarly, only 11 percent of the attorneys thought that the final pretrial conference increased costs, whereas 19 percent thought they had decreased costs and 37 percent thought this conference had no effect on costs. Only 2 percent thought the final settlement conference increased the time of disposition, whereas 29 percent thought this conference decreased the time of disposition and another 34 percent thought this requirement had no effect on the time of disposition.

3. Settlement Conferences. The requirement that the parties be present or have representatives with authority to settle present at settlement conferences increases the likelihood of settlement. More than 75 percent of the attorneys replying to the survey agreed or strongly agreed with this assertion, whereas fewer than 10 percent of the attorneys disagreed with this assertion.

4. Mandatory Pretrial Disclosures. Even though twice as many of the lawyers who replied to the survey thought the mandatory prediscovery disclosures in FRCP Rule 26(a)(1) decreased the time of disposition (32 percent decreased time vs. 15 percent increased time), 48 percent of the attorneys who replied thought that the Court should opt out of the Rule 26(a)(1) mandatory

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[7] Interestingly, 31 percent of the replies said that the new procedures decreased the likelihood of cases going to trial but only 2 percent of the replies said that the new procedures increased the likelihood of cases going to trial. Although the question was general and did not specifically refer to the settlement conference requirement, it is reasonable to infer that those conferences are an important factor in the overall conclusion that the new procedures have decreased the likelihood of cases being tried.

disclosures, an option authorized by the Federal Rules of Civil procedure, whereas only 34 percent of the attorneys replying opposed opting out.

5. Mandatory ADR. Although, as previously stated, the attorneys who replied to the survey think the settlement conference, which is essentially conducted as a mediation, is effective, they were much less certain that any other form of mandatory or nonbinding ADR should be used in civil cases filed in this district. While 36 percent of the replying attorneys thought additional mandatory ADR should be required and 42 percent favored more frequent use of nonbinding ADR, 43 percent of the replying attorneys thought that additional mandatory ADR should not be authorized and 39 percent thought that nonbinding ADR procedures should not be used more frequently than at the present time. This ambivalence toward increased ADR was a factor in the CJRA Advisory Group's decision not to recommend any changes in the current rules authorizing ADR in civil cases filed in this district.[8]

6. District Judges and Magistrate Judges. The District Court Judges and Magistrate Judges received very high marks for their good faith efforts to comply with the new procedures, their management of civil cases, and their effective assistance in settlement of cases.[9] For example, 88

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[8] See, infra Section V, Part A (5).

[9] One area of concern about the judges performance relates to the timeliness of orders on dispositive motions. While 45 percent of the attorneys who replied thought orders in dispositive motions are being issued on a timely basis, 32 percent thought dispositive motion orders are not being issued on a timely basis. By way of contrast, 68 percent of the attorneys who replied that orders on nondispositive motions are being issued on a timely basis and only 13 percent thought such orders were not being issued on a timely basis. In addition, a substantial number of the attorneys who replied to the open-ended question at the end of the survey requesting suggestions for reducing litigation cost and delay stated that the judges need to be more consistent and stringent in strictly enforcing the new case management procedures and discovery limitations and also need to be more willing to impose sanctions against attorneys who violate these new procedures and discovery abuses.

percent of the attorneys who replied to the survey thought that the District Court Judges and Magistrate Judges are making a good faith effort to follow the new procedures, whereas only 3 percent of the replies disagreed with this assertion. Moreover, a substantial majority (66 percent) of the attorneys who replied feel that the judges manage cases at an appropriate level and 70 percent feel that the Court is effective in helping the parties to reach settlement of civil cases whereas only 13 percent feel that the Court is ineffective in helping to settle cases. Interestingly, the vast majority (82 percent) of those attorneys who think the judges have been ineffective in helping to settle cases think that the main cause of the ineffectiveness is the failure of the judges to press hard enough for settlement.

7. New Case Management Procedures. Although a majority of the attorneys who replied to the survey think that the new case management procedures increase both the costs to clients and amount of time they are required to spend on civil cases, they also feel that these new procedures reduce or at least do not increase the likelihood of civil cases going to trial (31 percent said they decreased the likelihood of trial and another 67 percent said they have no effect, whereas only 2 percent said the new procedures have increased the likelihood of trial) they also feel that these new procedures, on the whole, have no adverse effect and may even increase their ability to adequately represent their clients in civil cases filed in this district (22 percent said the ability to represent clients was increased, 72 percent said the new procedures had no effect on their ability to represent their clients and only 7 percent said the new case management procedures decreased their ability to represent their clients). A logical conclusion from these results is that the new case management procedures are viewed by attorneys as being at best marginally beneficial, or perhaps more accurately as not being positively harmful. This conclusion is consistent with the results of the

previously mentioned Rand Institute National Study of CJRA Expense and Delay Reduction Plans which found that the case management procedures implementing the Plans and recent amendments to the Federal Rules of Civil Procedure have not had any significant effect on attorney satisfaction or views of fairness about the federal civil justice system.[10]

C. Litigant Survey

The litigant survey, which was much shorter than the attorney survey, was designed to discover the overall impressions of litigants with the handling of their cases. The most significant finding in this survey is the litigants' praise of the Court's judges. For example, 51 percent of the litigants who replied thought the judges were helpful in managing cases compared to only 18 percent who thought the judges were not helpful (12 percent were neutral and 19 percent did not know whether or not the judges were helpful). Moreover, 54 percent of the litigants who replied thought the Court's management of their cases was fair to both sides as opposed to only 20 percent who disagreed with this assertion (11 percent were neutral and 15 percent did not know whether or not the judges management of their case was fair).

The litigants who replied to the survey were also satisfied with their attorney's handling of their cases. For example, 76 percent of the litigants who replied said they participated as much as they desired in the proceeding as compared to only 8 percent who felt they had not participated as much as they wanted, and 72 percent thought their attorney's explanation of the Court process was sufficient as compared to only 10 percent who thought that this was not the case.

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[10] See Rand Institute Study, supra, note 1 at 2, 30.

D. Judge Survey

The questions for the individual interviews with the District Court Judges and Magistrate Judges were designed to elicit the judges' opinions and impressions concerning the new pretrial procedures and discovery limitations imposed by the Court's Plan and the related amendments to the Federal Rules of Civil Procedure and to the Local Rules. The judges and magistrate judges had been given a copy of the attorney and litigant surveys and results before the interviews, so they were presumably familiar with the findings of those surveys. Although they were given a copy of the questions, they were not asked to study any Court statistics or other materials prior to the interviews.

While there are considerable differences among the judges on specific issues, a not unexpected result, the judges' opinions, for the most part, are consistent with those of the attorneys and litigants. One significant difference is that the judges, unlike many of the attorneys, think the prediscovery mandatory disclosure requirement in Rule 26(a)(1) are beneficial in helping to promote early settlements of cases.

The following is a brief composite summary of the major issues discussed by the judges:

1. It is unclear whether the new pretrial procedures and discovery limitations have resulted in cost savings to the litigants, but they have produced cost savings to the Courts in the form of more efficient use of judge time.
2. The new procedures and limitations have, at least marginally, reduced the disposition time of civil cases filed in this District. Earlier settlements than was the case under the prior rules and procedures is the principal reason given for this opinion.
3. The majority of the judges were of the opinion that the new procedures and limitations have resulted in better and more just results in civil cases primarily

because more cases were being settled before trial. Two of the judges, however, were more cautious in their assessment. However, all judges agree that the new rules do not get in the way of justice.[11]

4. The judges had a number of suggestions that, in their opinion, could help to reduce the cost and disposition time of civil cases, including:

   (a) More consistent enforcement of the new procedures and limitations;

   (b) Authorizing more telephone hearings;[12]

   (c) Imposing shorter time limits, especially with respect to discovery;

   (d) Holding earlier settlement conferences;

   (e) Strict adherence to making the presumptive trial date the actual time when the case will be ready for trial; and

   (f) Having client representatives present at the initial pretrial conference.

5. The judges thought that certain bad lawyer habits are responsible for at least some excessive litigation costs and unnecessary delay in disposition of civil cases filed in

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[11] This somewhat negative praise is shared by many of the lawyers who replied to the attorney survey. See paragraph 7 in Part B of this section.

[12] Telephone hearings on any pretrial matter are authorized, in the discretion of the Court, by LR 7.3, which was one of the new Local Rules implementing recommendations contained in the 1993 CJRA Advisory Group report and the Court's Civil Justice Expense and Delay Reduction Plan.

this district. The list of bad habits includes:

(a) Lack of adequate preparation, inadequate briefs and unstructured oral arguments;

(b) Lack of familiarity with the Federal Rules of Civil Procedure and the Federal Rules of Evidence;

(c) Excessive discovery; and

(d) Incivility and a lack of cooperation on the part of some lawyers.

6. When asked what additional resources the judges needed to be more effective and efficient, the most frequent replies were:

(a) Additional judges;

(b) Additional law clerks; and

(c) Upgrading of the Court's computer system.

E. Informal Surveys of the Court Support Staff and Jurors

The Clerk of Court's staff were very helpful in providing information and suggestions for the Litigant Handbook. In addition, Frank Dosal, Clerk of Court, and Wendy Schreiber, CJRA Analyst, supplied voluminous amounts of statistical information about the Court's operations. Their expertise and assistance was critical to the success of this project.

The jurors who were interviewed were very pleased with how they were treated and the Court process. The only concerns they had related to inadequacies in the jury room facilities. The Court is aware of these problems and is taking appropriate remedial action.

IV - Litigant Handbook

Both the 1993 CJRA Advisory Group Report and the Court's 1993 Civil Justice Expense and Delay Reduction Plan recommended that a handbook for litigants describing the Court's operations be prepared and distributed free of charge to all litigants. Additional support for such a handbook is found in the Litigant Survey described in an earlier part of this section.[13]

As part of its research the CJRA Advisory Group looked at handbooks distributed by other federal district courts and conducted a telephone survey to the front desk personnel and calendar clerks in all three divisions of the Court to determine the kinds of information that was most frequently requested.

The handbook, which will have as its title: ***Directory to Minnesota's United States District Court***, is, assuming Court approval, expected to be printed and ready for distribution in May of 1997 to coincide with the opening of the new Minneapolis Courthouse. The table of contents is as follows:

TABLE OF CONTENTS

[13] See Part C. The non-lawyer litigants more strongly supported a handbook than did the litigants who were lawyers: 48 percent of the non-lawyer litigants as compared to only 21 percent of the litigants who were lawyers agreed that the handbook would have been helpful, whereas only 12 percent of the non-lawyer litigants compared to 31 percent of the litigants who were lawyers thought the handbook would not have been helpful.

Part B **Court Information**

Part C **Civil Case Processing in the U.S. District Court, District of Minnesota**

Part D **Forms**

V. Summary of Findings and Recommendations

A. Major Findings

The major findings of the CJRA Advisory Group are:

1. The civil case docket in the District of Minnesota is in good shape, especially when compared to other district courts in metropolitan areas. A growing backlog of cases due to two judicial vacancies was substantially reduced by the efforts of thirteen visiting judges during 1995-96. The two Article III judge vacancies have now been filled and a new magistrate judge to replace Judge Ann Montgomery, who was recently confirmed for one of the Article III judge vacancies, has also been appointed. Assuming the Court continues to have its full complement of judges, it should be able to keep the docket in this district in relatively good shape during the foreseeable future.

2. The number of criminal case filings, the number of defendants per case and the time to disposition in criminal cases continues to increase, but on a comparative basis the criminal docket in this district does not adversely affect the ability of the district judges to keep civil cases moving through the system in an efficient and cost-effective manner nearly as much as in districts that traditionally have a much higher criminal caseload.

3. Both the Article III Judges and the Magistrate Judges are doing an excellent job of effectively managing civil cases filed in this district. This opinion is widely shared by attorneys and litigants who participated in the surveys conducted by the CJRA

Advisory Group as part of this assessment. The only major complaint directed against the judges in the surveys concerns the delay in issuance of orders on dispositive motions.

4. In the opinion of attorneys who practice in this district, the Plan and recent changes in the Federal Rules of Civil Procedure and the Local Rules have, because of the heavy emphasis on pretrial management of civil cases, increased the attorney fees and hence the cost of civil cases in this district. However, there is evidence that these case management devices have reduced the time of disposition of civil cases. These findings are consistent with those found by the Rand Institute for Civil Justice in a nationwide analysis of Civil Justice Reform Act Expense and Delay Reduction Plans[14] commissioned by the Judicial Conference of the United States.

5. The Advisory Group determined that additional rules requiring various ADR techniques were not necessary or appropriate at this time. The pretrial settlement conferences, which are essentially mediation sessions, are working well. Moreover, under the existing Local Rules the judges have the discretion to require the parties to participate in all types of nonbinding dispute resolution methods (e.g., nonbinding arbitration and summary jury trials) before a District Court Judge, a Magistrate Judge, or a third-party neutral who is not connected with the Court.[15] Because of concerns raised by the judges about the amount of judge time devoted to individual employment cases, the Advisory Group carefully considered the possibility of an

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[14] Rand Institute Study, supra note 1 at 2.

[15] See LR 16.5(b), (c).

ADR pilot project for these cases, but ultimately concluded that the existing Local Rules allowed sufficient flexibility for the District Court Judges and Magistrate Judges to craft special settlement conferences or whatever other ADR methods they deem appropriate to aid in the resolution of these admittedly very difficult cases.

B. Recommendations

Because of the relatively good state of the docket and the overall assessment that the judges in this district are doing an excellent job of managing cases, the recommendations of the CJRA Advisory Group are relatively minor "fine tuning" measures:

1. With respect to the civil case assignment system:

   (a) Copyright, patent, and trademark cases should be combined into one category or deck (this is the way they are reported for statistical purposes by the Administrative Office of the United States Courts).

   (b) Individual employment cases, currently classified as Civil Rights cases should be separated into a new category or deck called "Individual Employment Relationship" cases.

   (c) Because of the significant decline in the number of filings in recent years, FELA cases should be eliminated as a separate category or deck and in the future be reported as part of the miscellaneous or "other" category.

2. With respect to existing pretrial procedures implementing the Plan and recent changes in the Federal Rules of Civil Procedure, the CJRA Advisory Group recommends the following:

(a) Opt out of the mandatory prediscovery disclosure requirements in FR(Rule 26(a)(1). The principal argument in favor of opting out is concern that this disclosure requirement creates both delay and additional costs because lawyers in this district routinely ask for the same information, albeit in a different format, in the initial set of interrogatories filed in each case. The proponents of opting out also point to the CJRA Attorney Survey which indicates that approximately 48 percent of all the lawyers surveyed favor opting out of the Rule 26(a)(1) disclosure requirements. The rejection of a Rule similar to FRCP Rule 26(a)(1) by the Minnesota Supreme Court Advisory Committee on Rules of Civil Procedure is an additional argument advanced by the proponents for opting out. Furthermore, the proponents point to the results of a national survey of lawyers by the American Bar Association Litigation Section showing that approximately 75 percent of those responding to the survey thought that Rule 26(a)(1) should be discontinued. The members of the Advisory Group voting against this recommendation argued that the requirement has only been in effect for three years, there is no concrete evidence that the disclosure requirements are materially increasing litigation costs and delays, and the judges in the district think this disclosure requirement is a positive factor in getting civil cases settled more quickly than was the case before Rule 26(a)(1) was effective.

(b) The District Judges and Magistrate Judges should increase the use of pretrial telephonic hearings, as authorized by Local Rule 7.3 in order to

accommodate the needs of attorneys and litigants. Telephone hearings a one tangible, simple way to reduce the overall cost of litigation, particularly where the attorneys or parties live a considerable distance from the place designated for the hearing.

(c) Magistrate Judges should be more pro-active in suggesting early ADR such as arbitration or mediation in appropriate cases, in scheduling initial settlement conferences earlier than is currently the practice in appropriate cases, and in exercising discretion to encourage parties and their lawyers not to make pretrial and settlement conferences meaningless and perfunctory.

(d) The Local Rules regarding the procedures for dispositive motions (e.g., motions for injunctive relief, summary judgment, to dismiss and to certify a class action), need to be simplified and streamlined. The current procedure builds in delay because all briefs must be exchanged before a hearing can be scheduled. This procedure often has the unintended effect of preventing a timely hearing and ruling before the presumptive trial date set for cases. The Court should also consider adopting a Local Rule setting a deadline for issuance of rulings on dispositive motions.

(e) The various procedures followed by all the judges should, to the greatest extent possible be uniform, and standing orders by one judge should not be authorized except for compelling reasons. Variations in procedures can have the unintended effect of causing confusion among lawyers and litigants and hence additional costs and delays.

3. The Advisory Group also recommends that the Court approve the publication and distribution of the proposed Litigant Handbook, the content of which is briefly described in Part V.

4. The Clerk's office needs to develop the capacity to produce more comprehensive statistics on the District Court's operations. The Advisory Group asked for several sets of data which the Clerk's office was not able to obtain or was obtained only by manual searches. Whether the increased statistical capacity will require additional computers or additional personnel, or both, is hard to determine. Regardless of the cause, this is a serious problem, which was also noted in the May 1993 Advisory Group Report, that needs to be addressed.

VI. Summary

The docket in this District is in good shape. The impact of the plan on reducing costs and delays of civil cases is debatable. What is not debatable are the superb efforts of the judges in this District and the able members of the court staff who support them, as well as the lawyers who practice before the court, in seeking to keep costs and delays at an acceptable level. We all owe them our deep appreciation for this achievement.

Special Acknowledgments

The members of the Advisory Group and the Court wish to extend special gratitude to Brian Short and Dean Harry Haynsworth in their respective roles as Chair and Reporter of the CJRA Advisory Group.

In less than one and one-half years, Brian and Harry attended more than twenty meetings pertaining to the CJRA. At each meeting, their contributions were invaluable to accomplishing the charge of the committee.

Brian brought a unique perspective by virtue of his experience as a former U.S. Magistrate Judge for the District of Minnesota. His knowledge of the federal system and his leadership skills kept the committee on track and allowed the members to focus on issues of importance.

Harry's former role as CJRA Reporter for the District Court in the Southern District of Illinois and his current position as President and Dean of William Mitchell College of Law was of great benefit to the committee. The credit for writing this exceptional assessment of the CJRA Plan goes solely to Dean Haynsworth. We thank him for volunteering his time and his staff for this effort.

We sincerely appreciate and applaud the efforts of Brian and Harry.

APPENDIX A

MEMBERS OF THE CJRA ADVISORY GROUP

CIVIL JUSTICE REFORM ACT IMPLEMENTATION PLAN
1993-96 ASSESSMENT

CIVIL JUSTICE REFORM ACT ADVISORY GROUP

October 1995

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APPENDIX B

SUBCOMMITTEE ASSIGNMENTS

CIVIL JUSTICE REFORM ACT IMPLEMENTATION PLAN
1993-96 ASSESSMENT

SUBCOMMITTEE ASSIGNMENTS

Annual Assessment	Case Complexity Standards	Litigant Handbook	Litigant Survey
Thomas Tinkham, Chair 340-2600	**George McGunnigle, Chair** 335-1500	**Linda Holstein, Chair** 339-6900	**Jack Farrell, Chair** 333-2434
Thomas Nelson 333-4800	Samuel Hanson 334-8445	Robert Henson 339-2500	Robert Henson 339-2500
Thomas Thibodeau 218-722-6331	Cecil Schmidt 371-5229	John Borg 574-3249	John Borg 574-3249
U.S.A. David Lillehaug (Ex Officio Member) 348-1500	John Ursu 733-8197	Mag. Judge Franklin Noel (Ex Officio Member) 290-3181	John Ursu 733-8197
	Judge James Rosenbaum (Ex Officio Member) 348-1926		Frank Dosal (Ex Officio Member) 290-3944

APPENDIX C

DOCKET ASSESSMENT STATISTICS

CIVIL JUSTICE REFORM ACT IMPLEMENTATION PLAN
1993-96 ASSESSMENT

DESCRIPTION OF TABLES

The sources for the information contained in Appendix C are the Federal Court Management Statistics booklet and the 1995 Report of the Director, both created by the Administrative Office of the U.S. Courts in Washington, D.C.

The content of tables 1-12 illustrate historical trends of the courts including filings, terminations, and cases pending, to name a few. For each graph, there is a line for the average of all ninety-four U.S. District Courts (U.S. average), a line for the average of the Eighth Circuit Districts (Eastern Arkansas, Western Arkansas, Northern Iowa, Southern Iowa, Minnesota, Eastern Missouri, Western Missouri, Nebraska, North Dakota, and South Dakota), and a line for the District of Minnesota.

Tables 13-20 display the difference in workload for the District of Minnesota during periods of judicial vacancies. The Administrative Office presents its workload statistics based on a full complement of active judges, which is seven for the District of Minnesota. During the years of 1992-1996, the court had one or more judicial vacancies. The graphs demonstrate the additional workload placed on the active judges during the vacancies.

Tables 21-26 show the duration of civil and criminal trials in days. As in earlier tables, there is a comparison of the U.S. average, Eighth Circuit average, and the District of Minnesota for each fiscal year.

Tables 27-30 show the workload of the Magistrate Judges for each Eighth Circuit District, highlighting the District of Minnesota.

Table 1

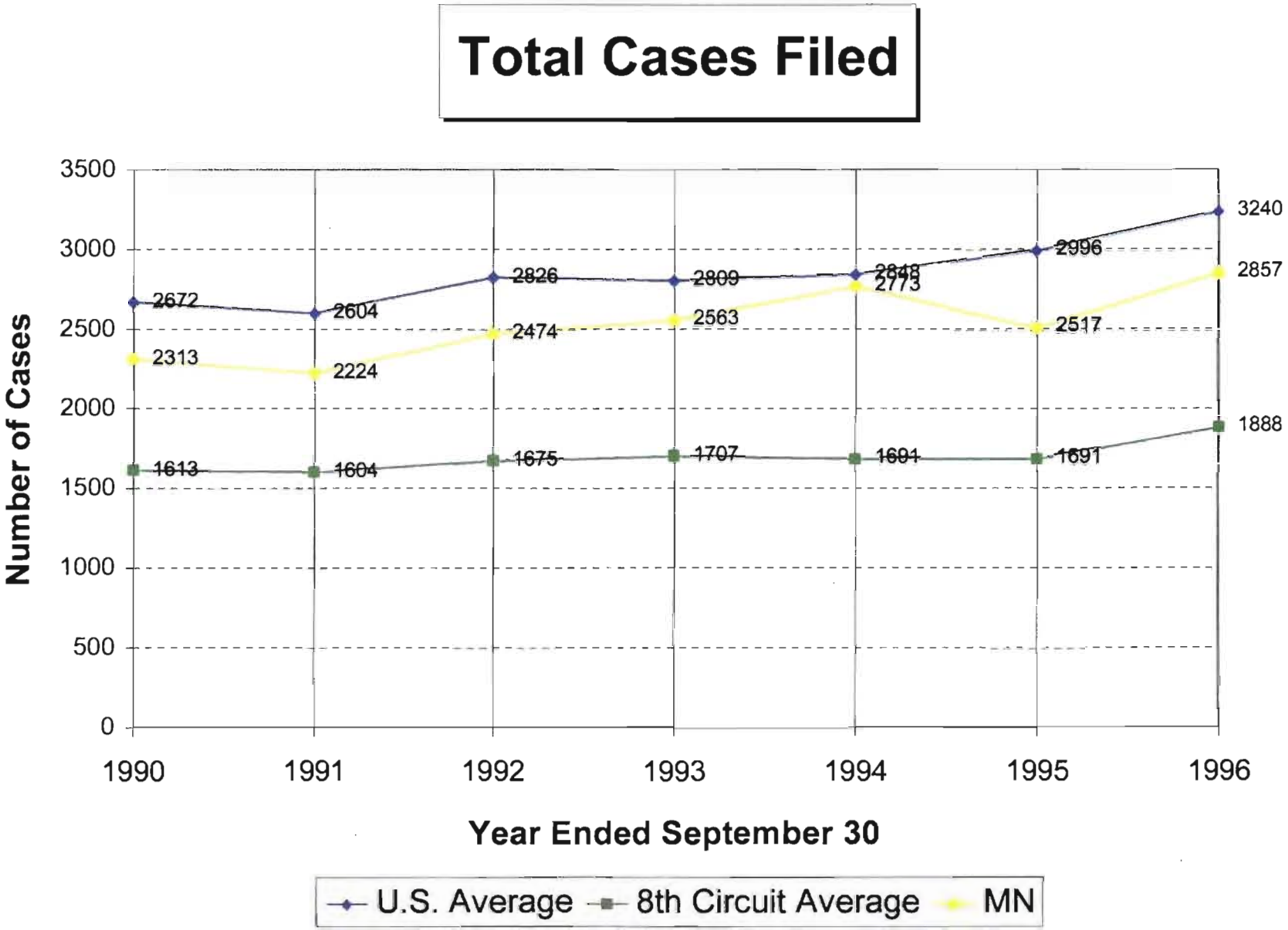

Total Cases Filed
Number of Cases
3500
3000
2500
2000
1500
1000
500
0
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
2672
2604
2826
2809
2848
2996
3240
2313
2224
2474
2563
2773
2517
2857
1613
1604
1675
1707
1691
1691
1888
U.S. Average
8th Circuit Average
MN

Table 2

Total Cases Terminated

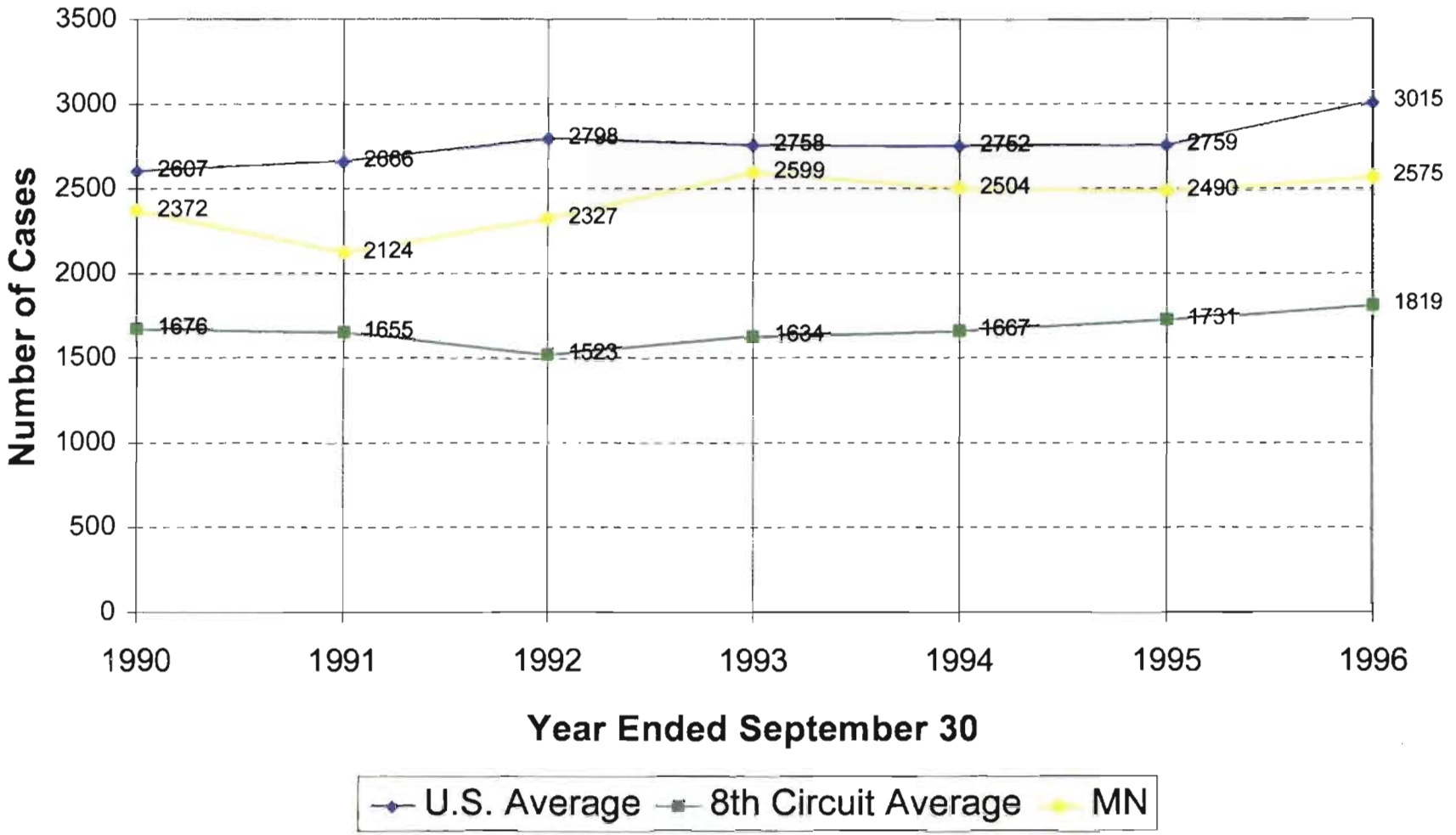


Table 3

Civil Cases Pending Over Three Years

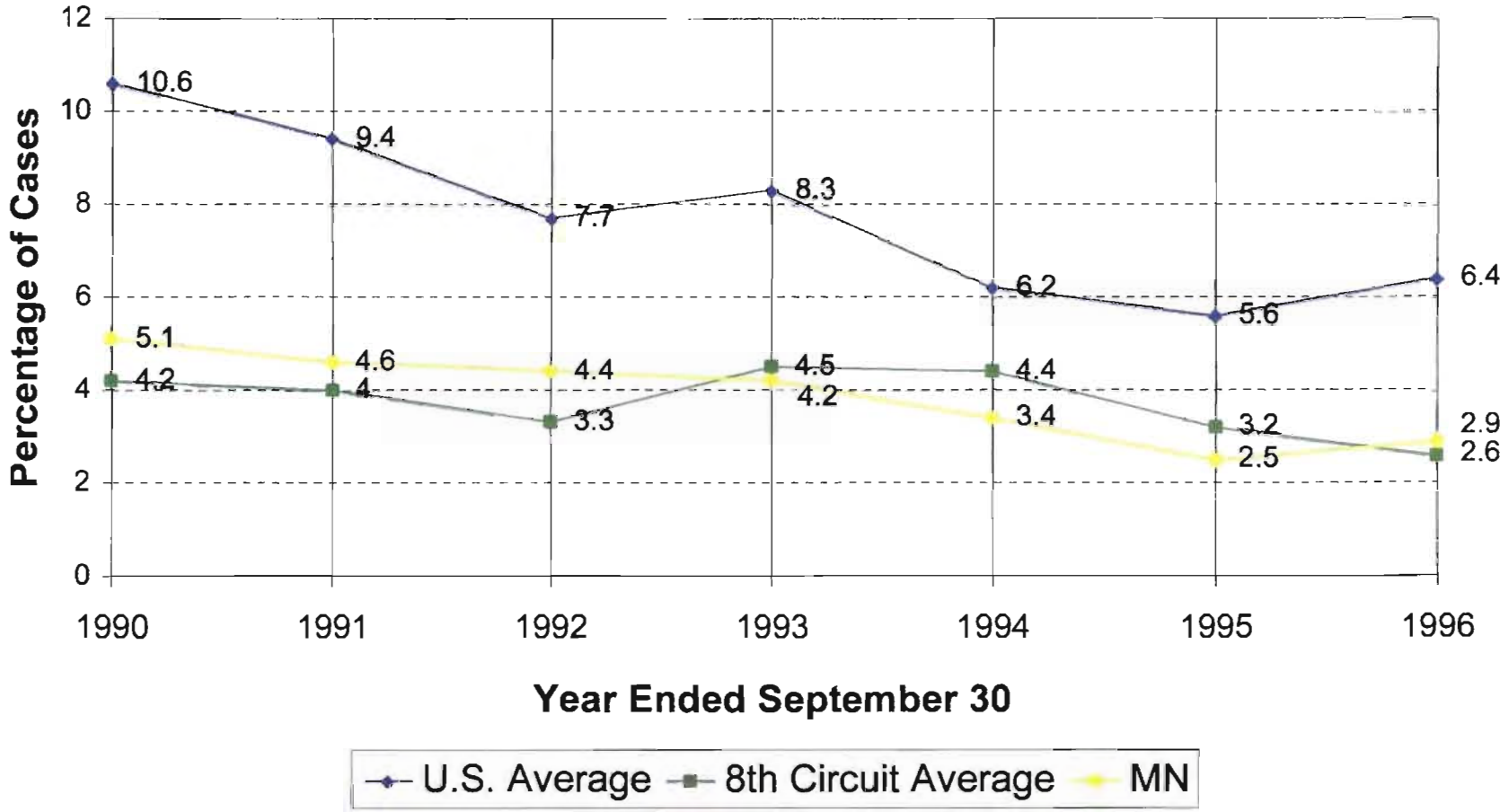


Table 4

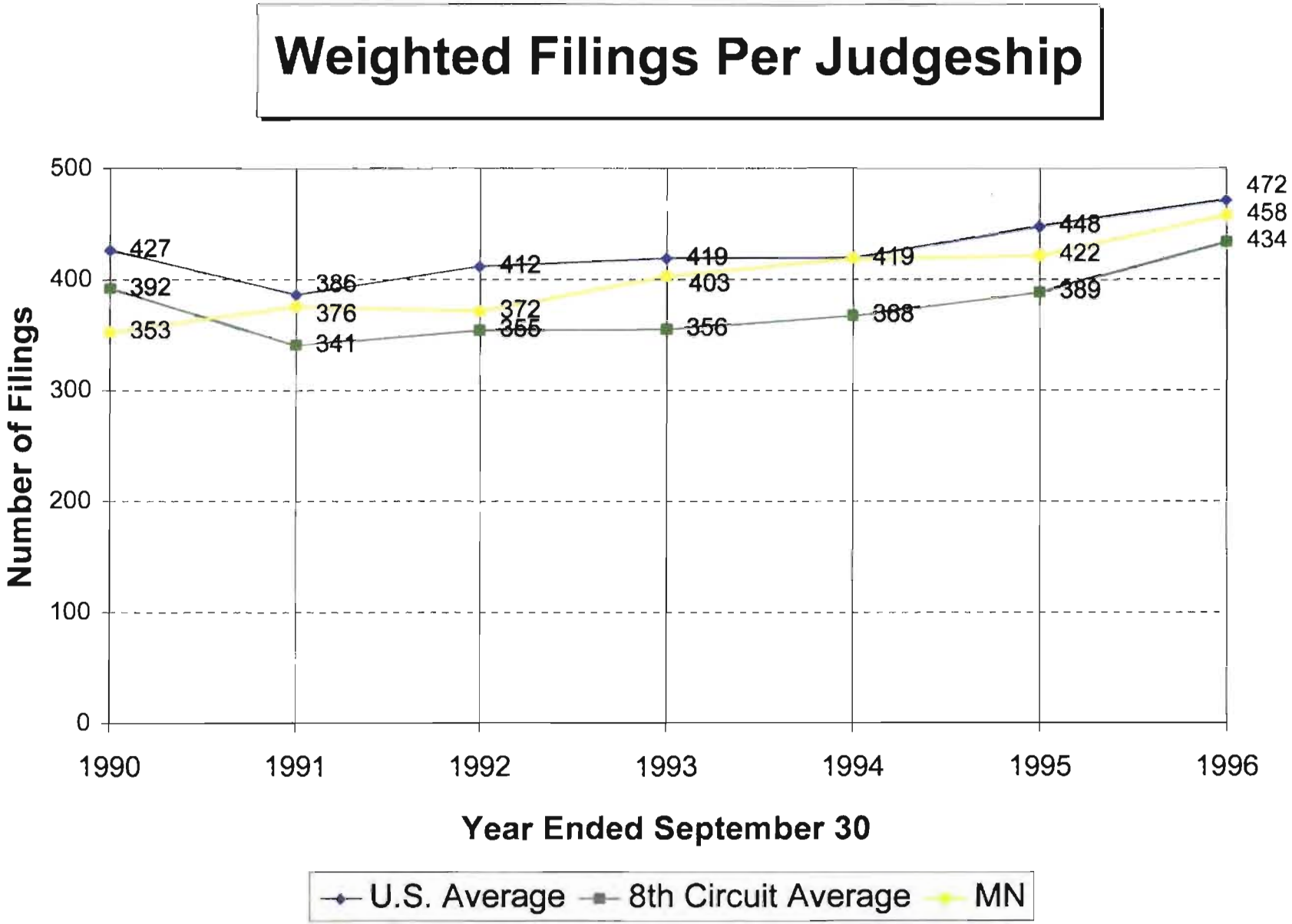

Weighted Filings Per Judgeship
500
400
300
200
100
0
Number of Filings
427
386
412
419
419
448
472
392
341
355
356
368
389
434
353
376
372
403
422
458
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
U.S. Average
8th Circuit Average
MN

Table 5

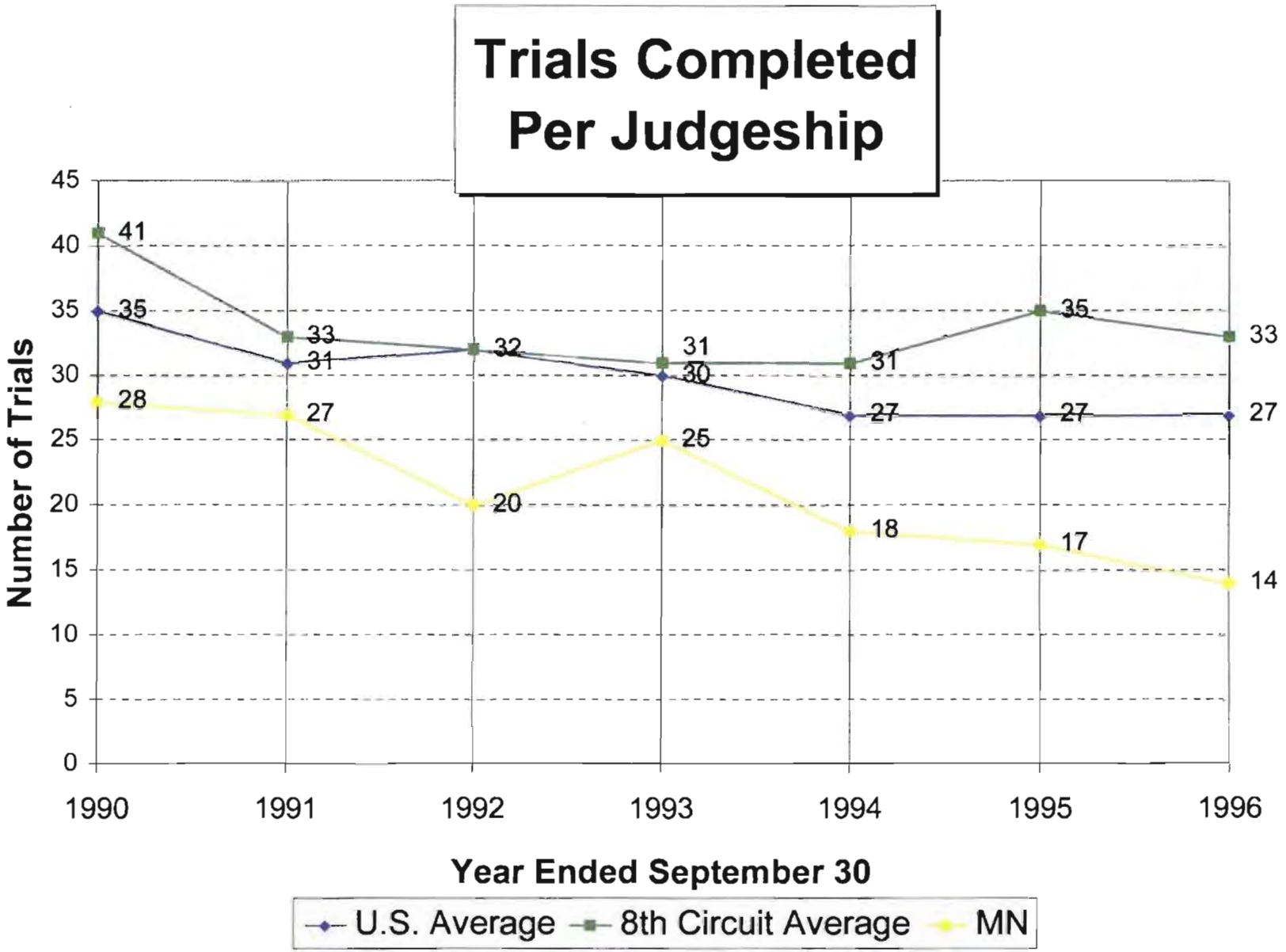

Trials Completed Per Judgeship
Number of Trials
45
40
35
30
25
20
15
10
5
0
1990
1991
1992
1993
1994
1995
1996
41
33
32
31
31
35
33
35
31
30
27
27
27
28
27
20
25
18
17
14
Year Ended September 30
U.S. Average
8th Circuit Average
MN

Table 6

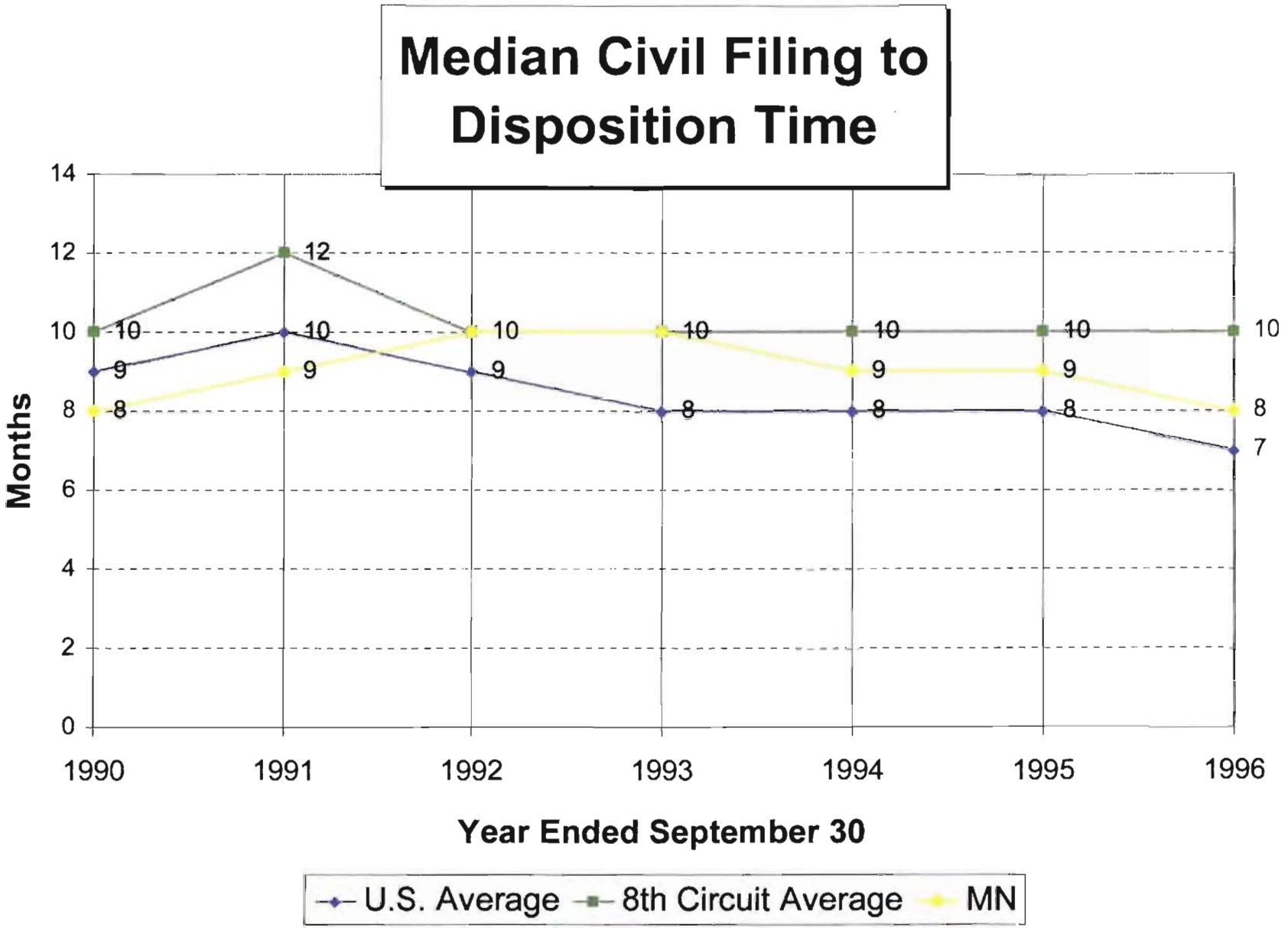

Median Civil Filing to Disposition Time
Months
14
12
10
8
6
4
2
0
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
10
12
10
10
10
10
10
10
9
9
9
8
8
8
8
9
9
8
7
U.S. Average
8th Circuit Average
MN

Table 7

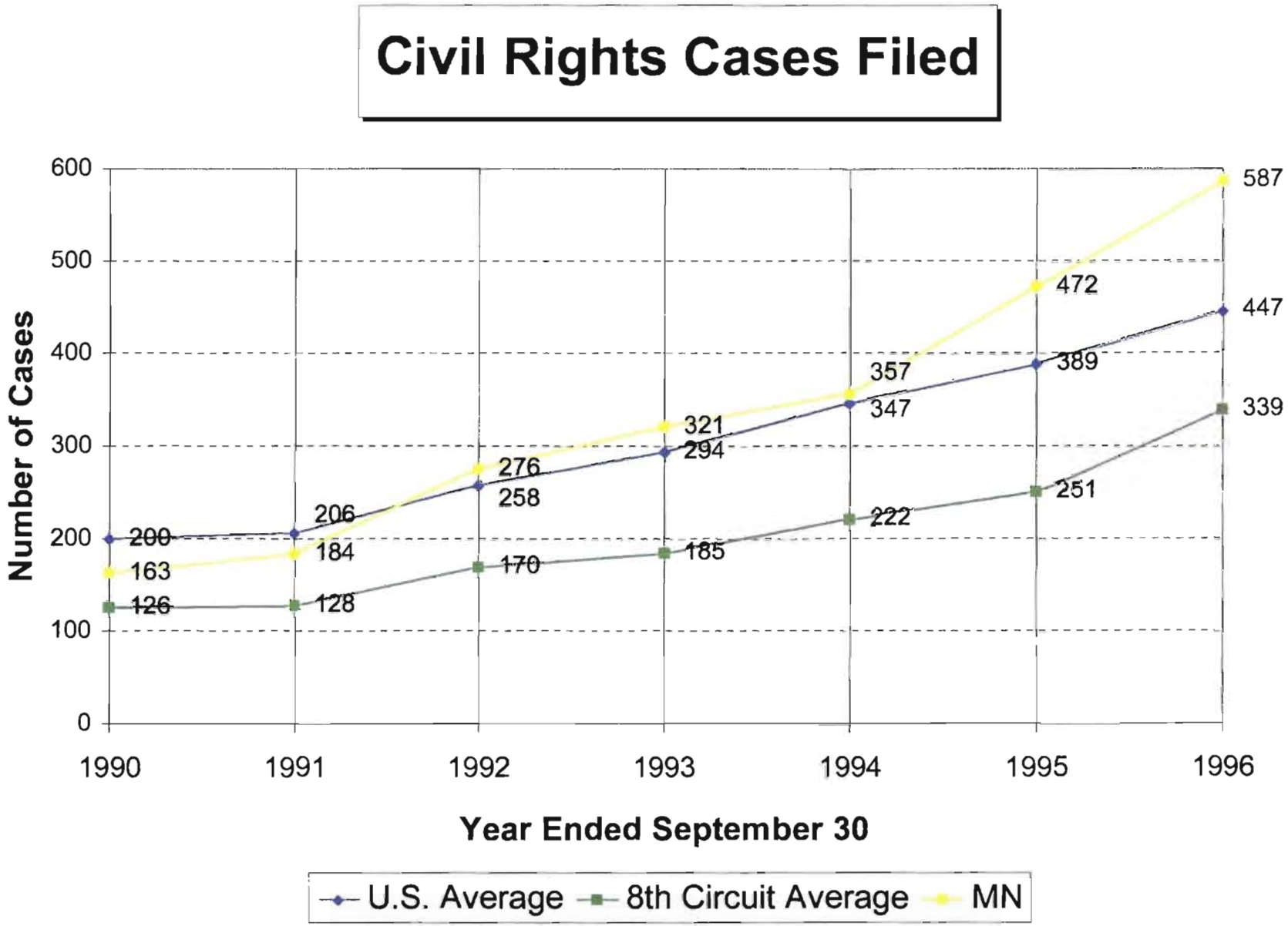

Civil Rights Cases Filed
Number of Cases
600
500
400
300
200
100
0
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
200
206
258
294
347
389
447
126
128
170
185
222
251
339
163
184
276
321
357
472
587
U.S. Average
8th Circuit Average
MN

Table 8

Median Time to Disposition for Employment Discrimination Cases District of Minnesota

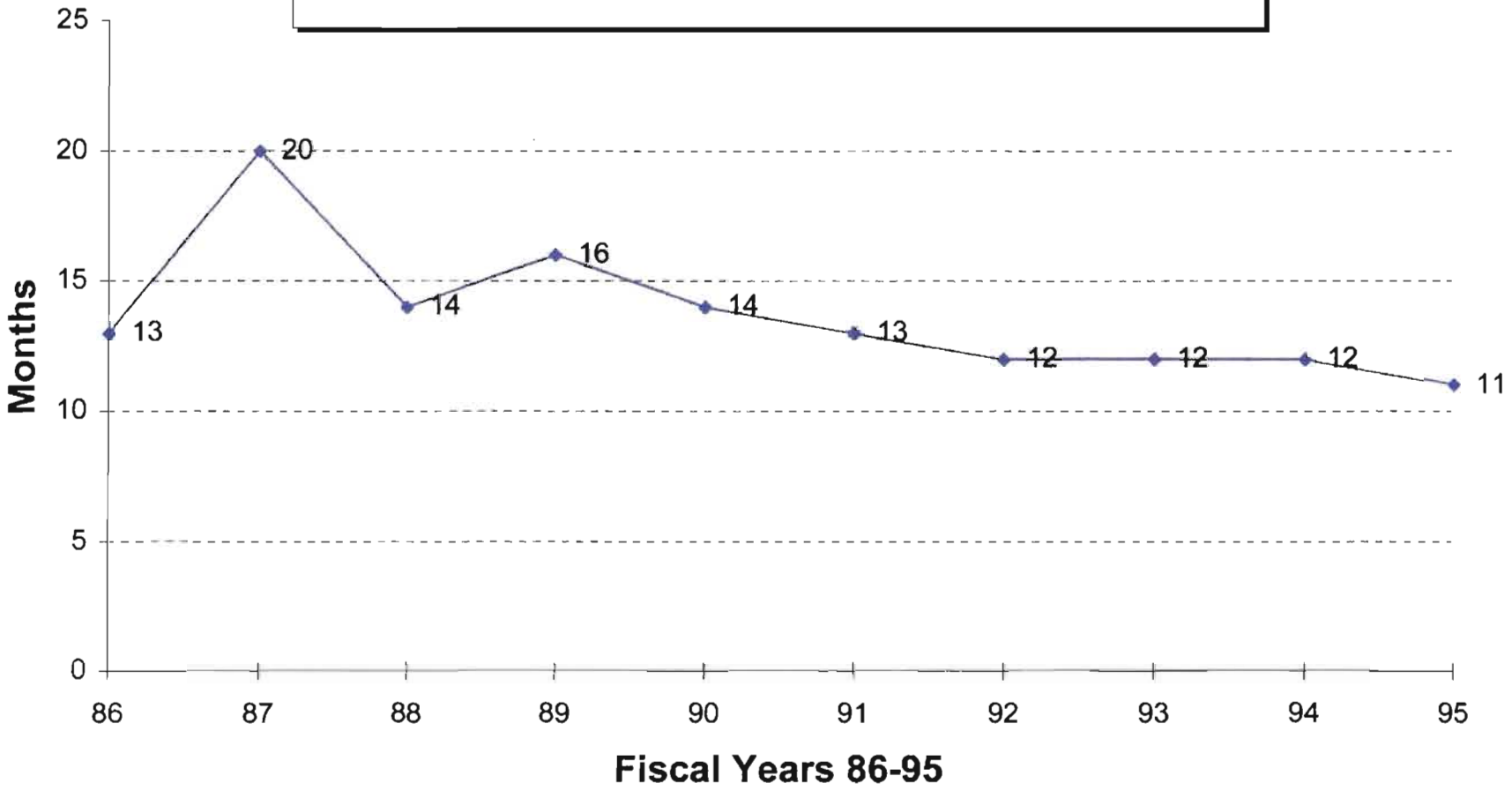
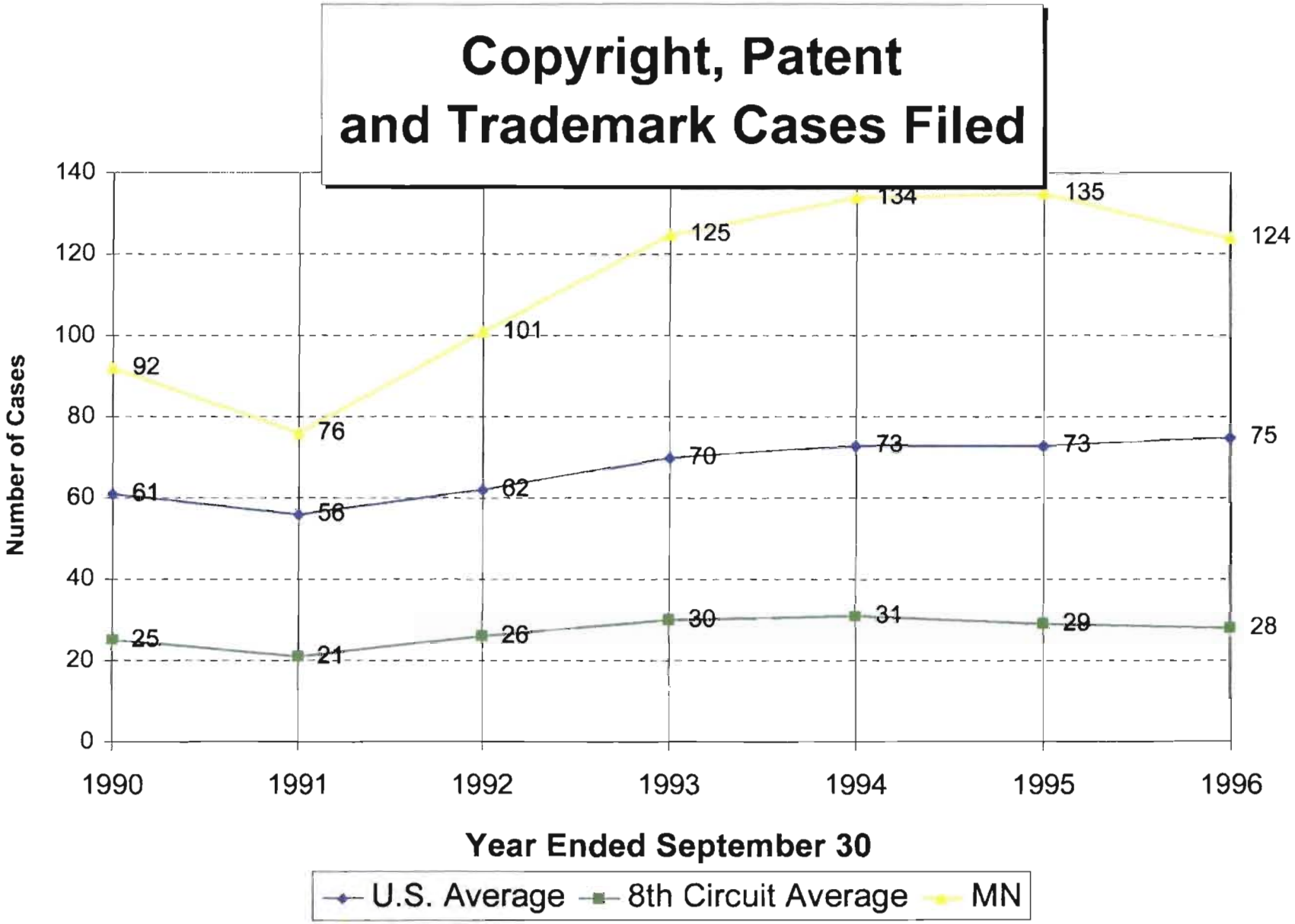


Table 9


Copyright, Patent and Trademark Cases Filed
Number of Cases
140
120
100
80
60
40
20
0
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
92
76
101
125
134
135
124
61
56
62
70
73
73
75
25
21
26
30
31
29
28
U.S. Average
8th Circuit Average
MN

Antitrust Cases Filed

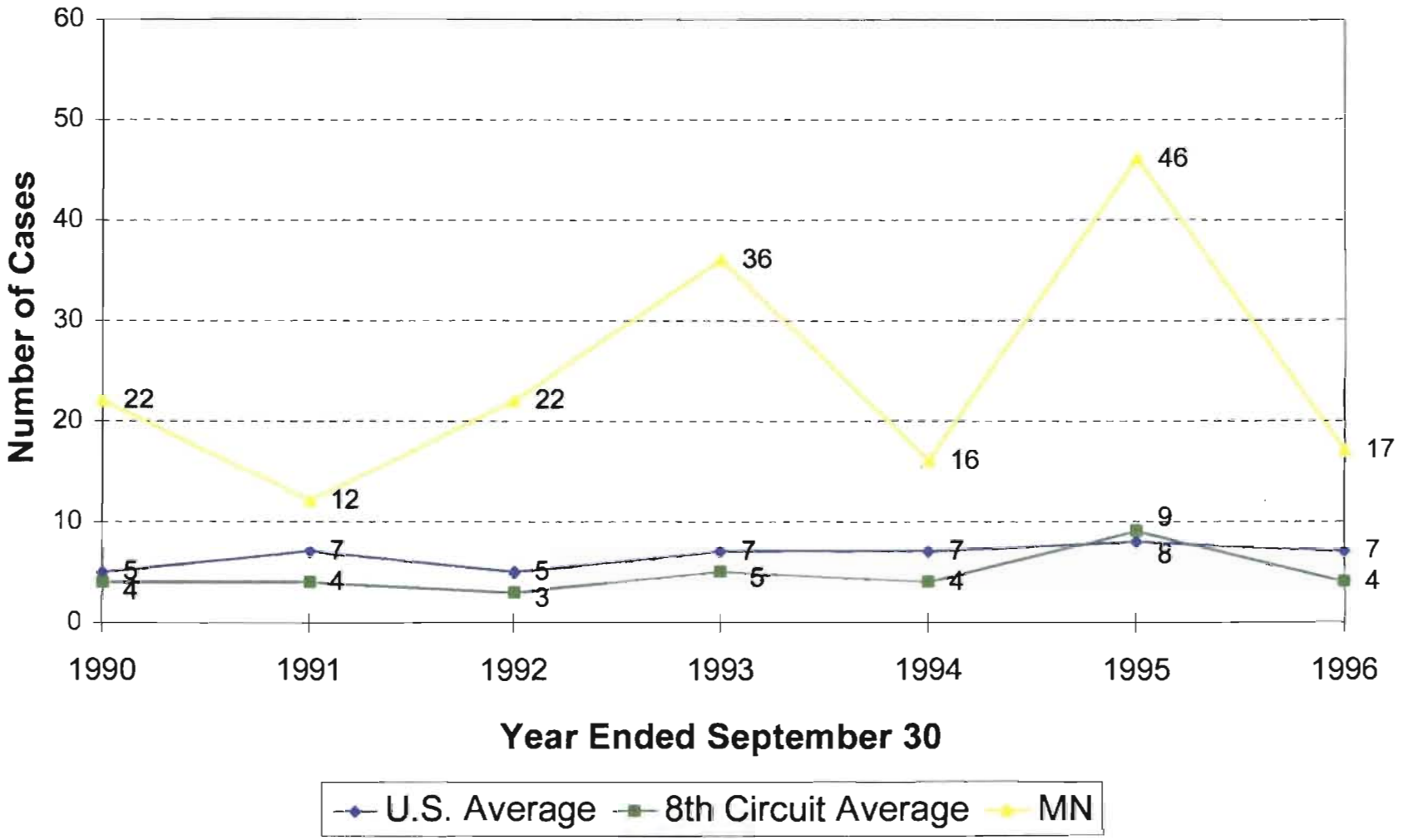


Table 11

Average Number of Felony Defendants Filed Per Case

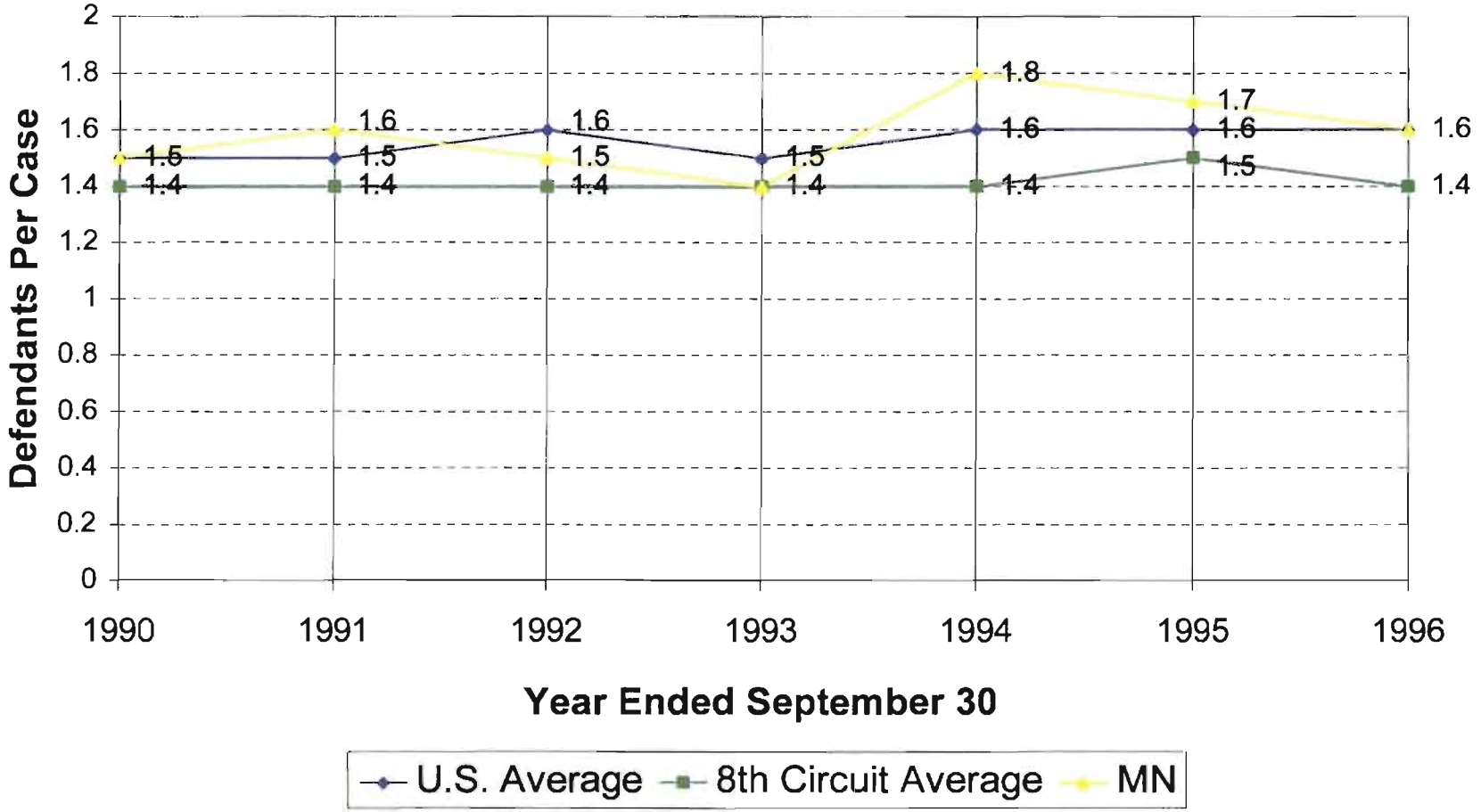


Table 12

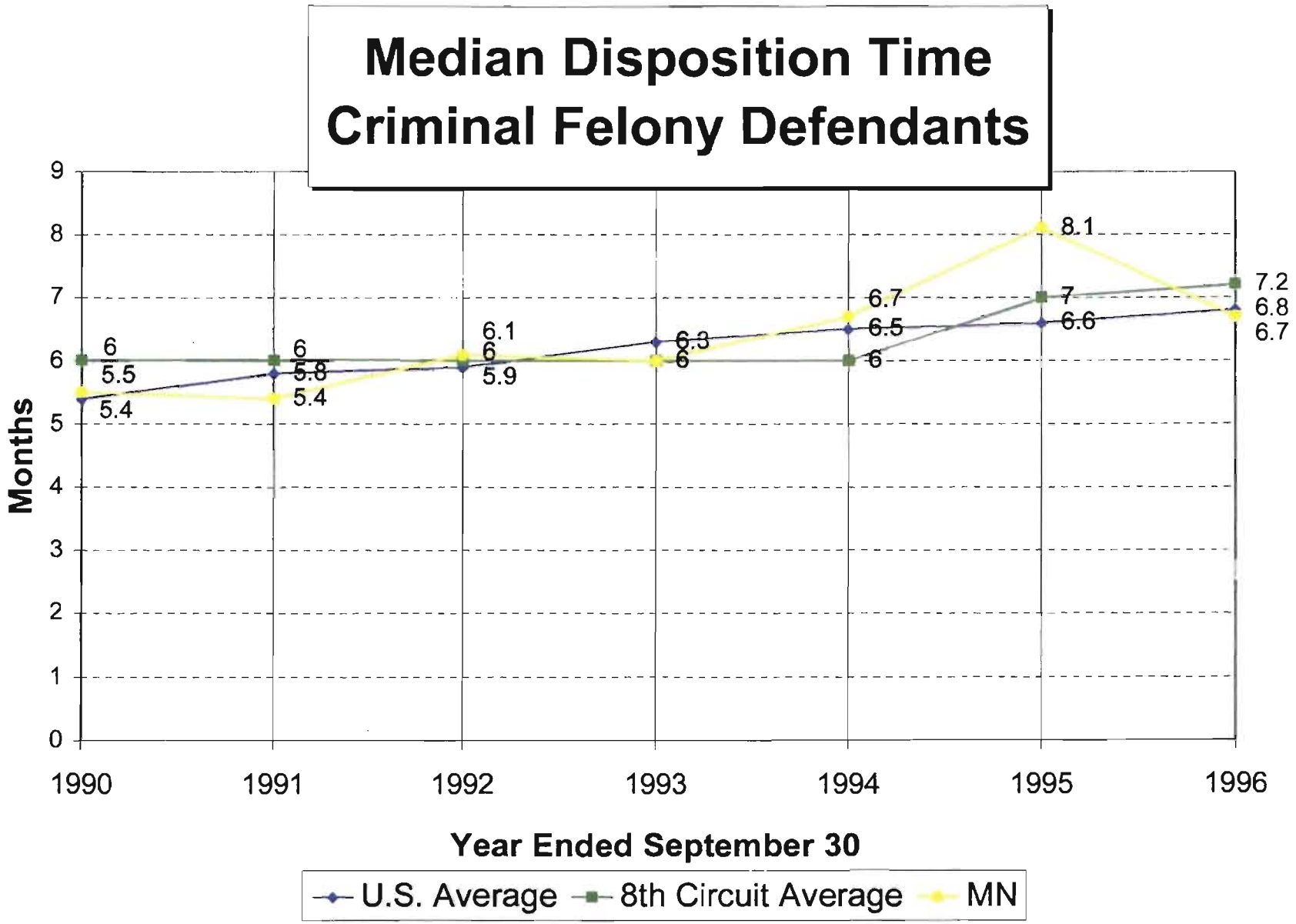

Median Disposition Time
Criminal Felony Defendants
Months
9
8
7
6
5
4
3
2
1
0
1990
1991
1992
1993
1994
1995
1996
6
5.5
5.4
6
5.8
5.4
6.1
6
5.9
6.3
6
6.7
6.5
6
8.1
7
6.6
7.2
6.8
6.7
Year Ended September 30
U.S. Average
8th Circuit Average
MN

Table 13

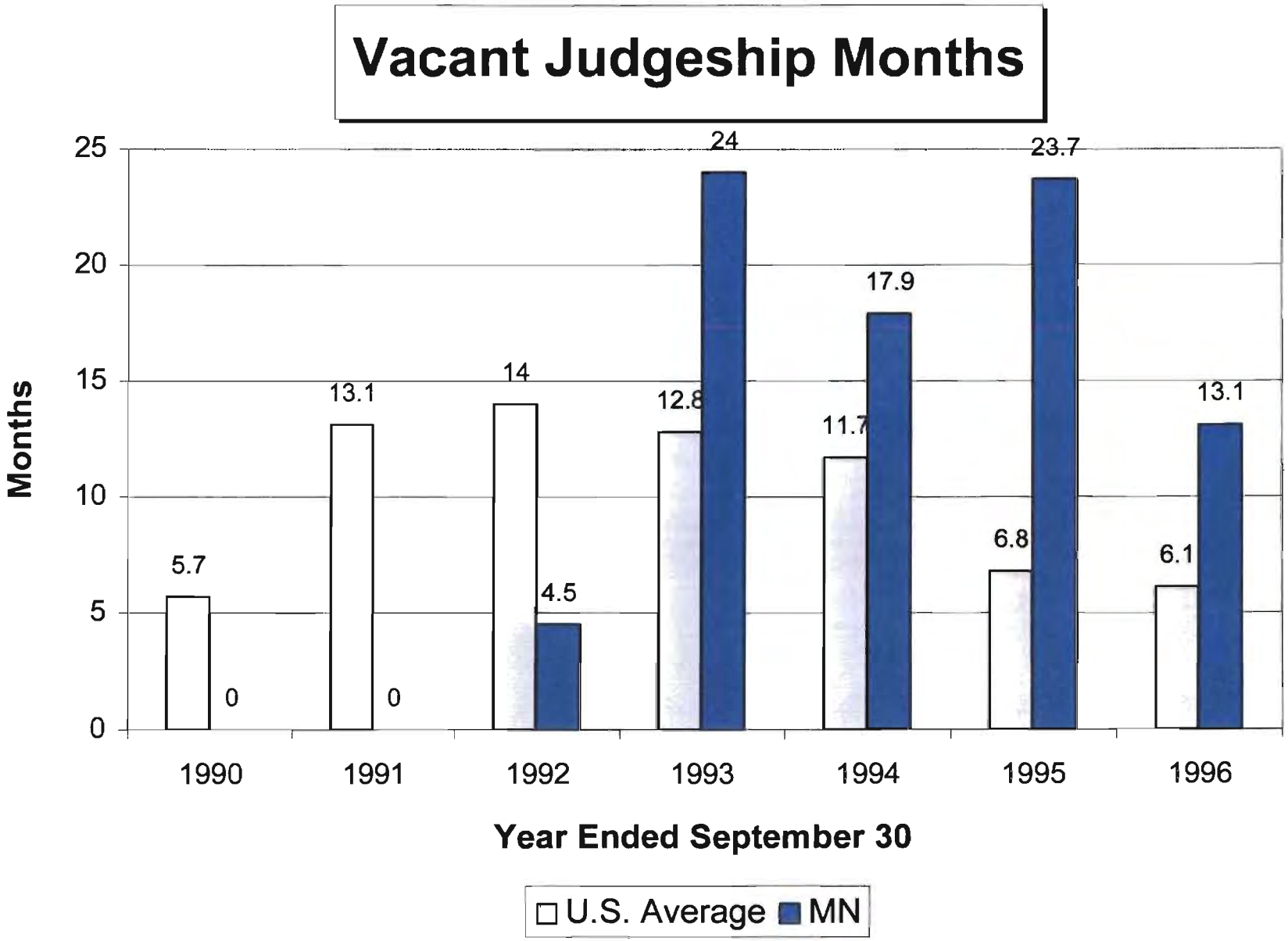

Vacant Judgeship Months
Months
25
20
15
10
5
0
5.7
0
13.1
0
14
4.5
12.8
24
11.7
17.9
6.8
23.7
6.1
13.1
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
U.S. Average
MN

Table 14

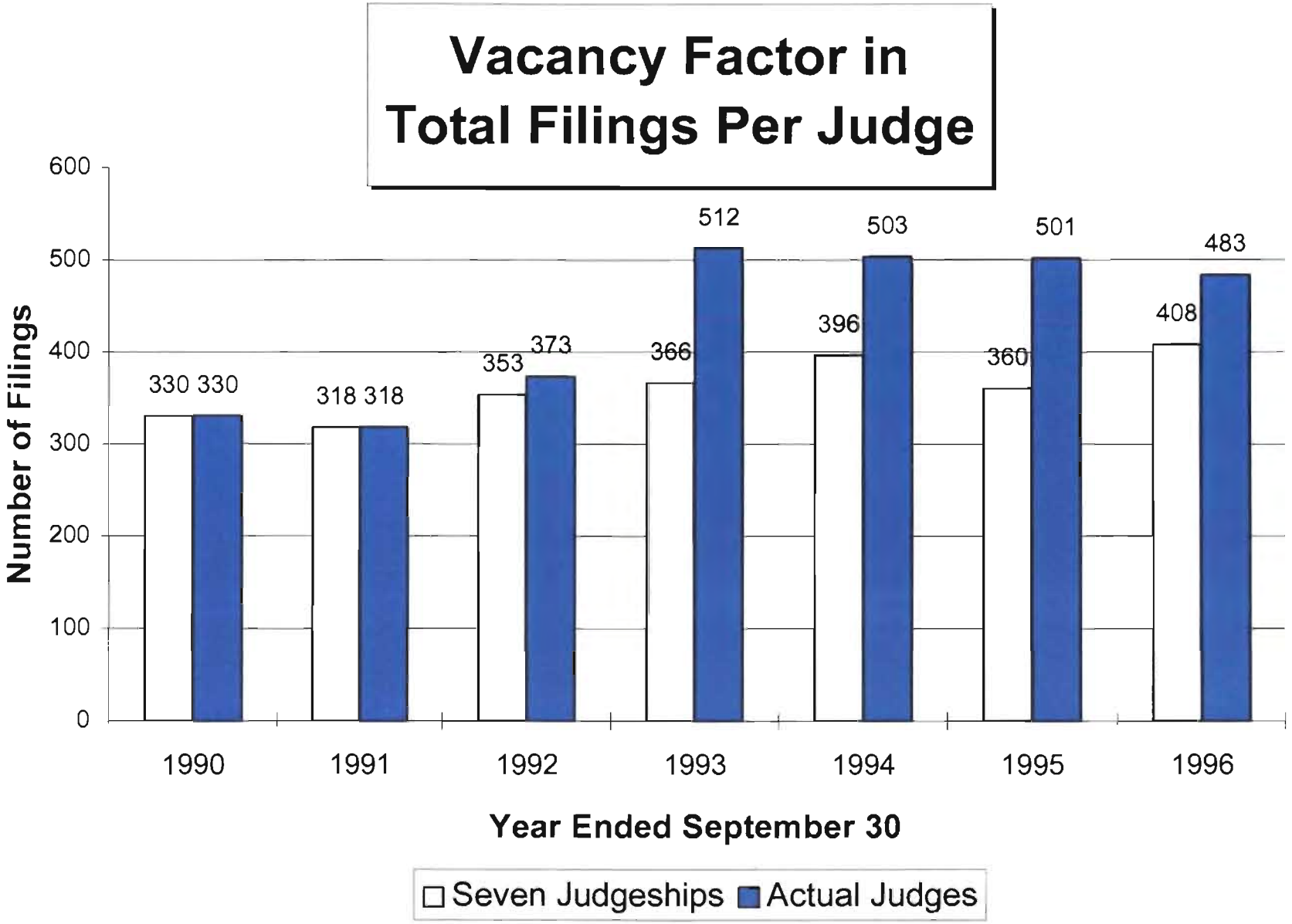

Vacancy Factor in
Total Filings Per Judge
Number of Filings
600
500
400
300
200
100
0
330 330
318 318
353
373
366
512
396
503
360
501
408
483
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
Seven Judgeships
Actual Judges

Table 15

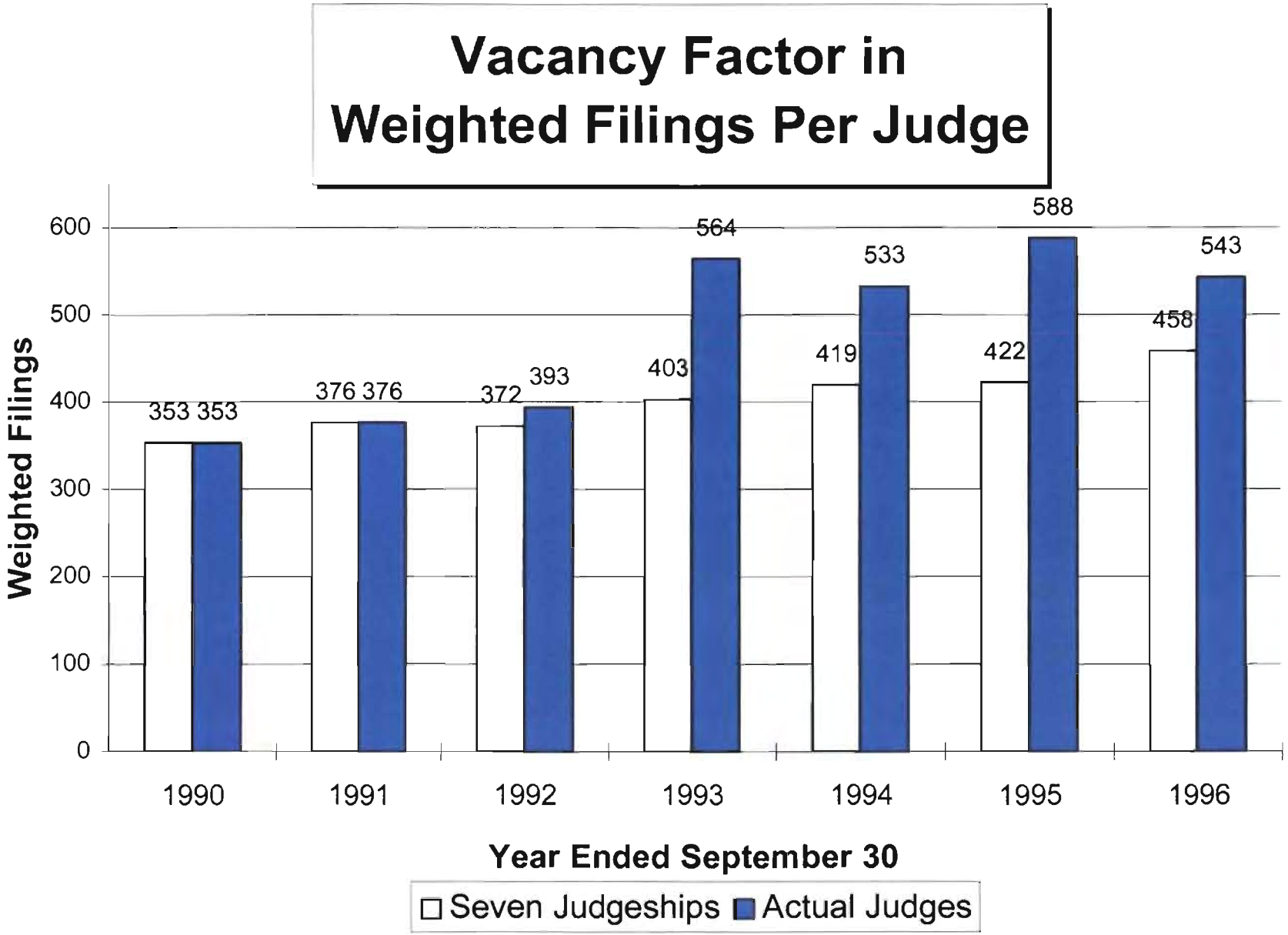

Vacancy Factor in Weighted Filings Per Judge
Weighted Filings
600
500
400
300
200
100
0
353 353
376 376
372 393
403 564
419 533
422 588
458 543
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
Seven Judgeships
Actual Judges

Table 16

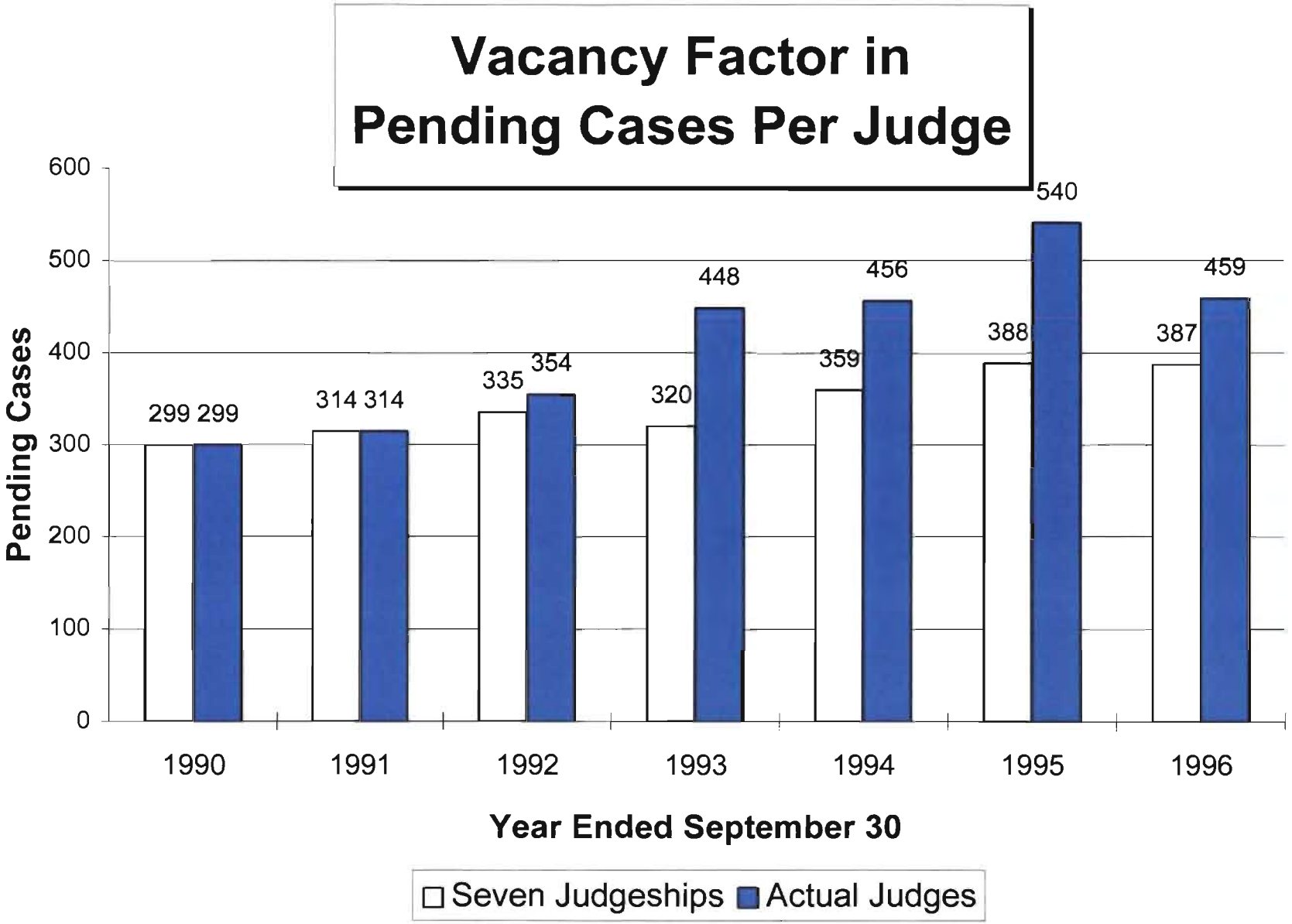

Vacancy Factor in Pending Cases Per Judge
Pending Cases
600
500
400
300
200
100
0
299 299
314 314
335
354
320
448
359
456
388
540
387
459
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
Seven Judgeships
Actual Judges

Table 17

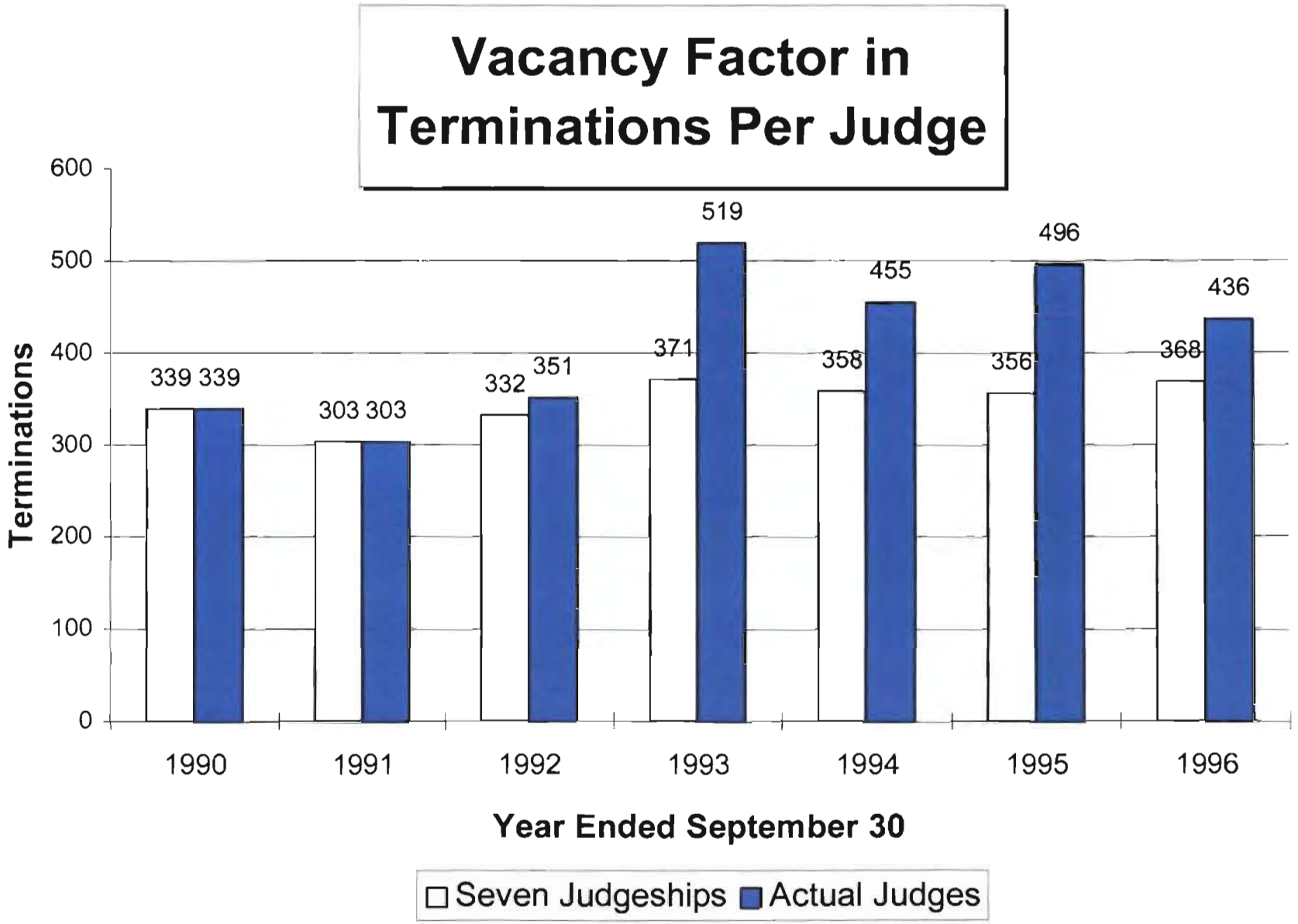

Vacancy Factor in Terminations Per Judge
600
500
400
300
200
100
0
Terminations
339 339
303 303
332
351
371
519
358
455
356
496
368
436
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
Seven Judgeships
Actual Judges

Table 18

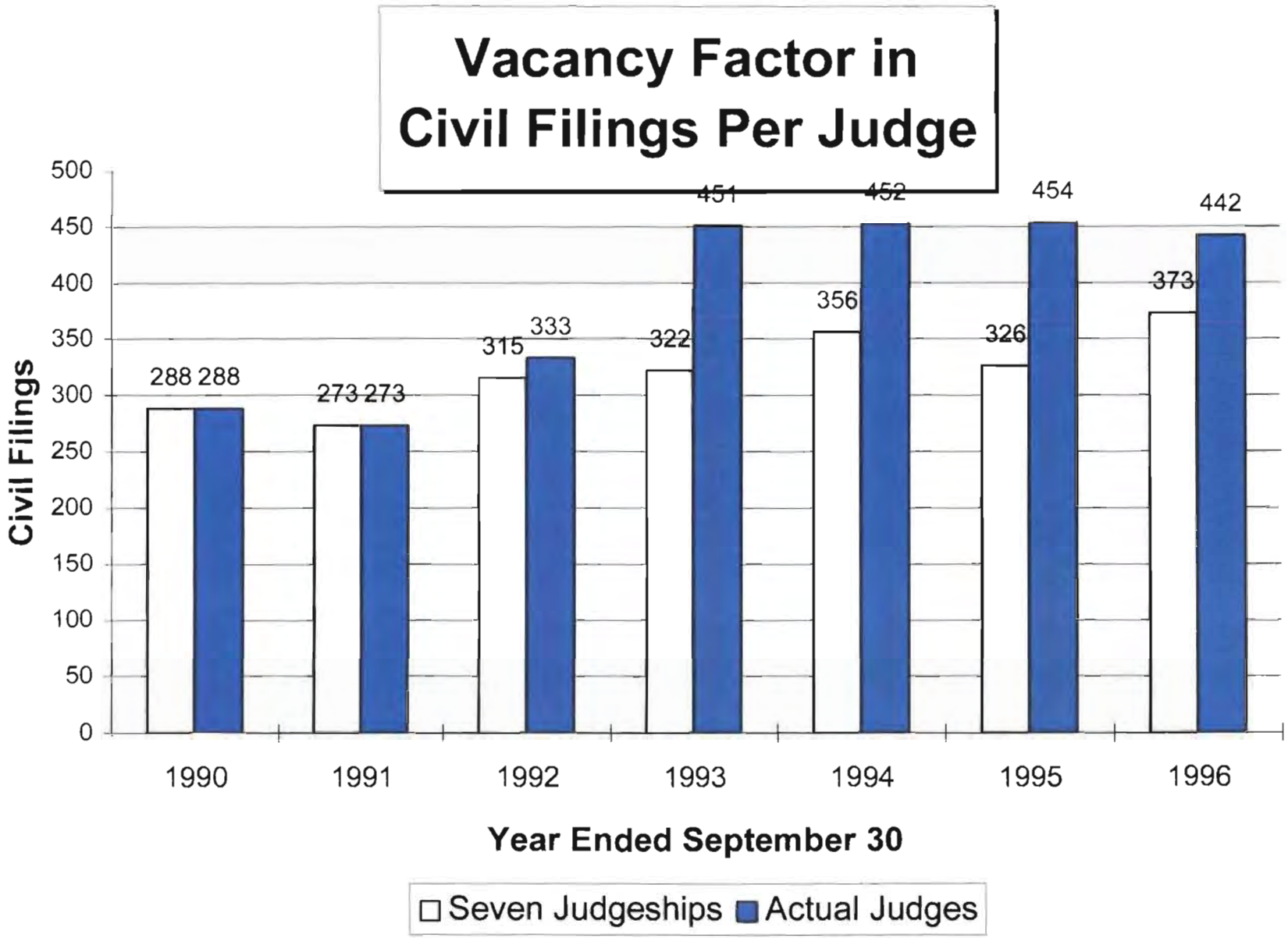

Vacancy Factor in Civil Filings Per Judge
Civil Filings
500
450
400
350
300
250
200
150
100
50
0
288 288
273 273
315 333
322 451
356 452
326 454
373 442
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
Seven Judgeships
Actual Judges

Table 19

Vacancy Factor in Criminal Felony Filings Per Judge

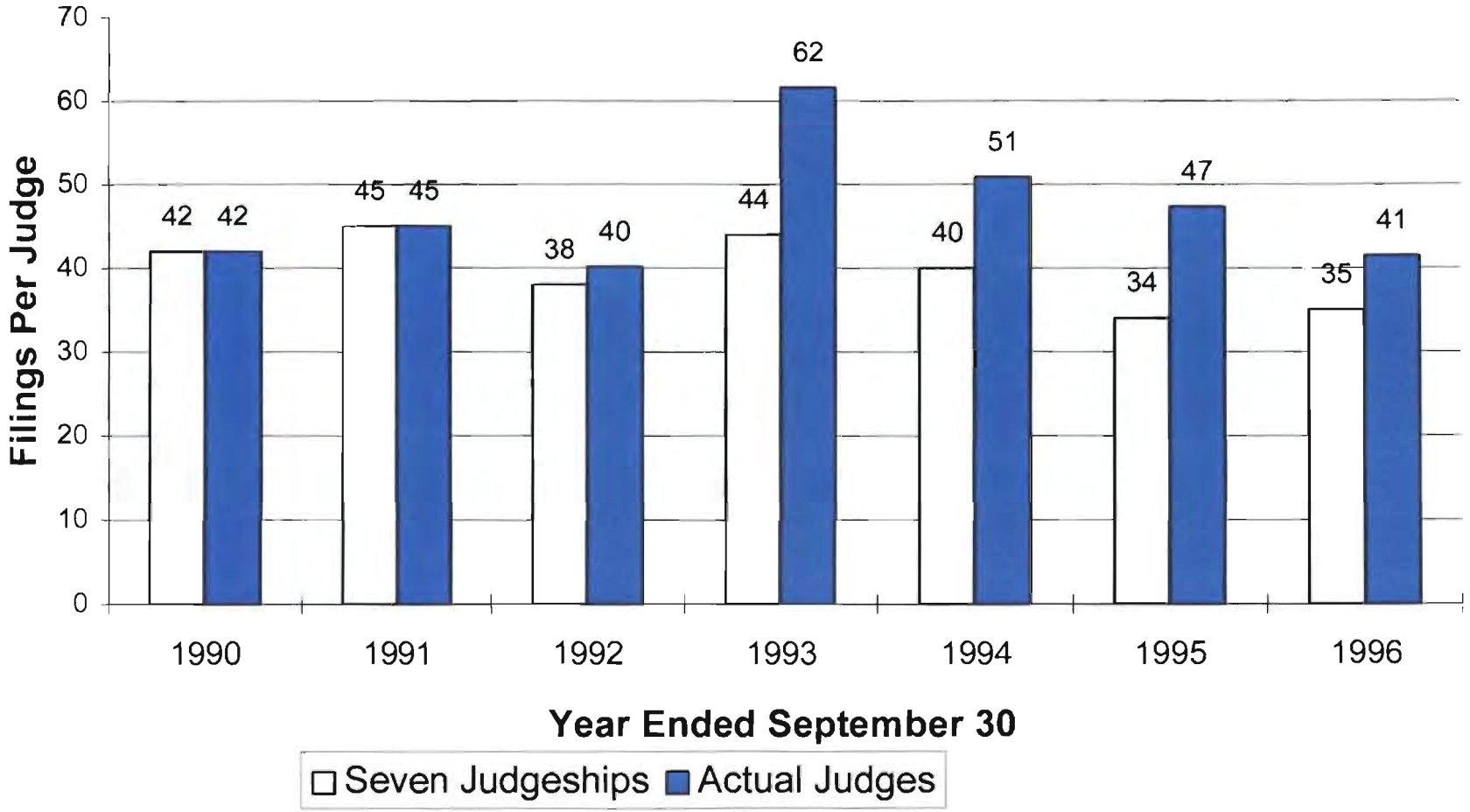


Table 20

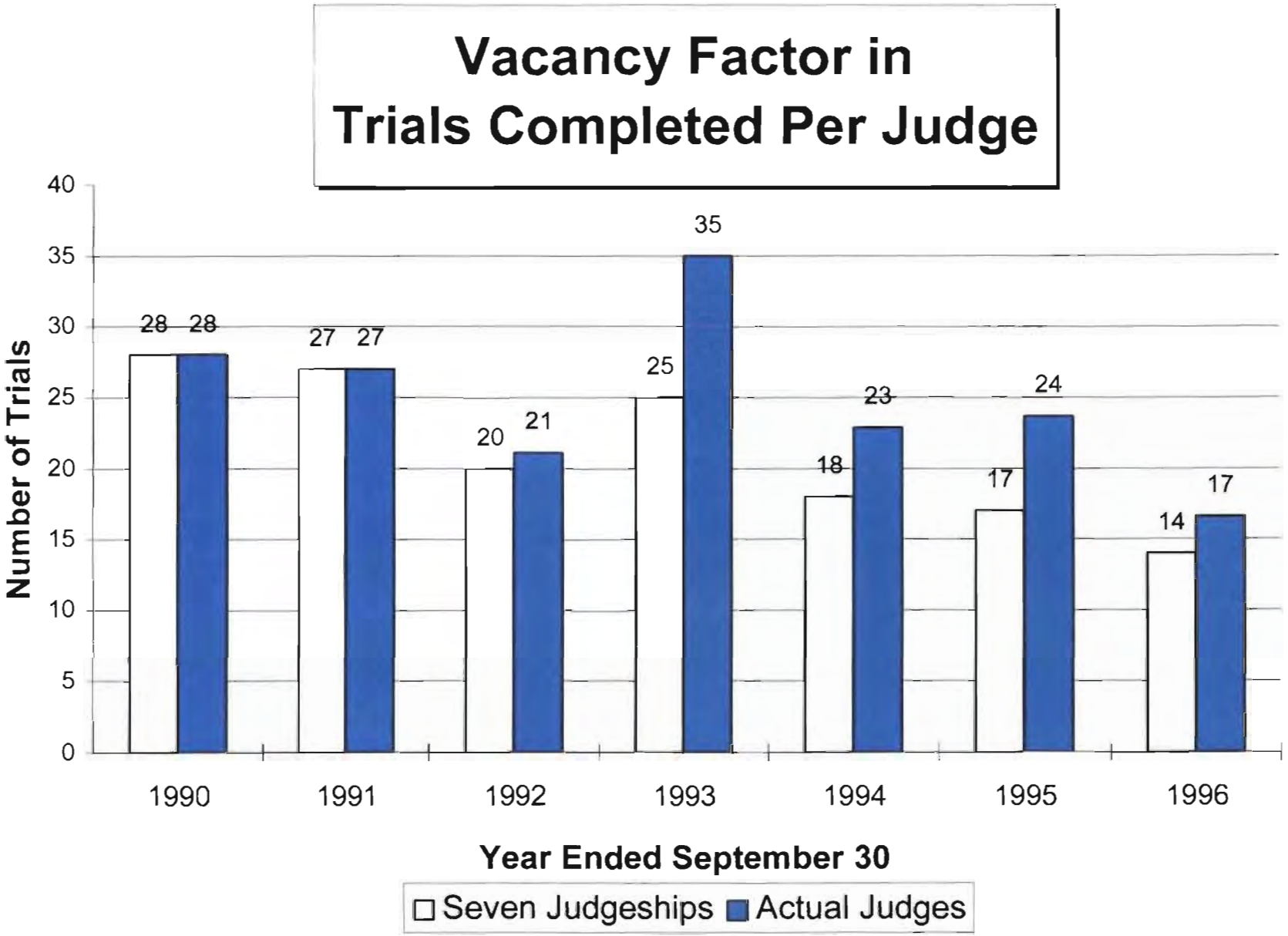
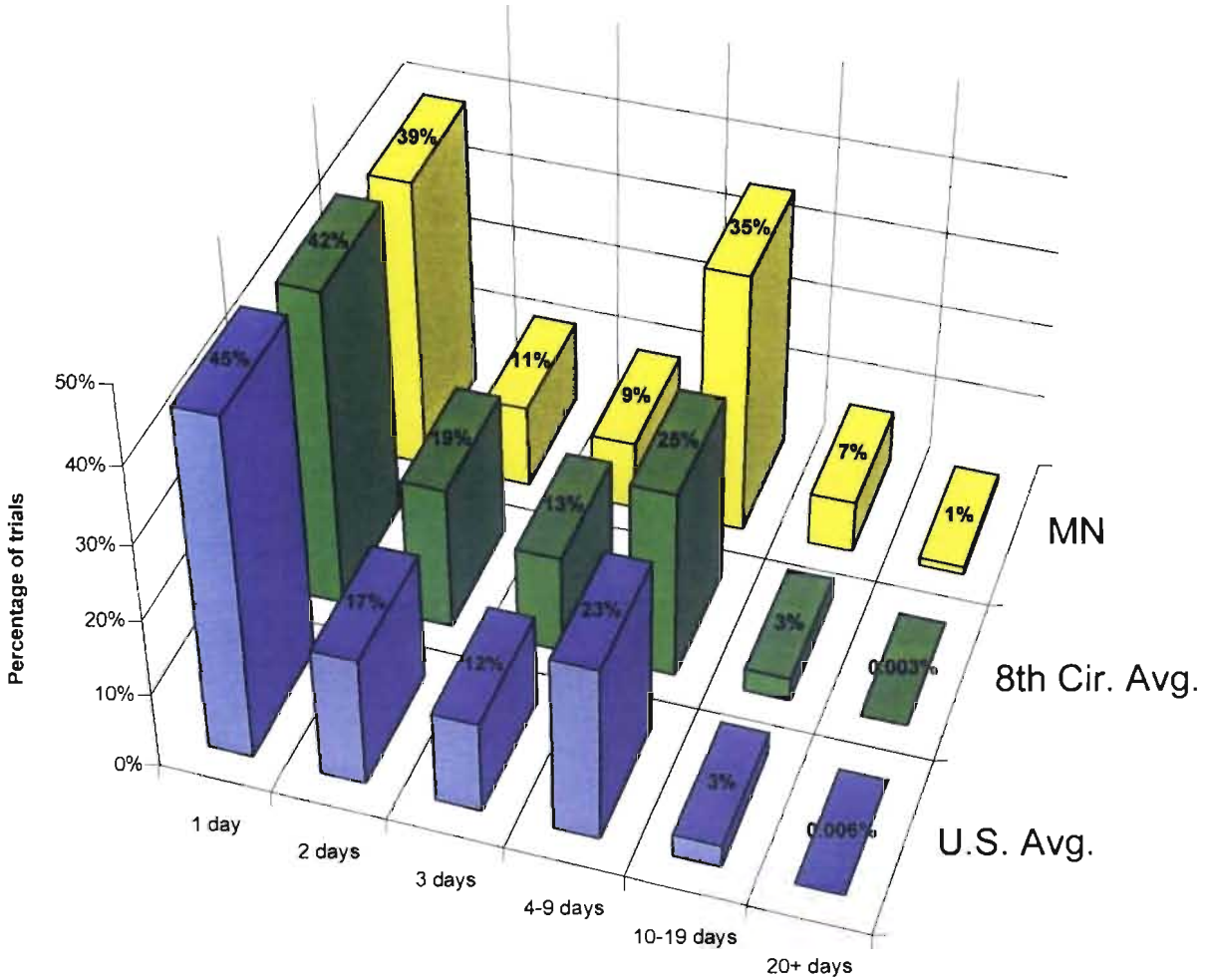
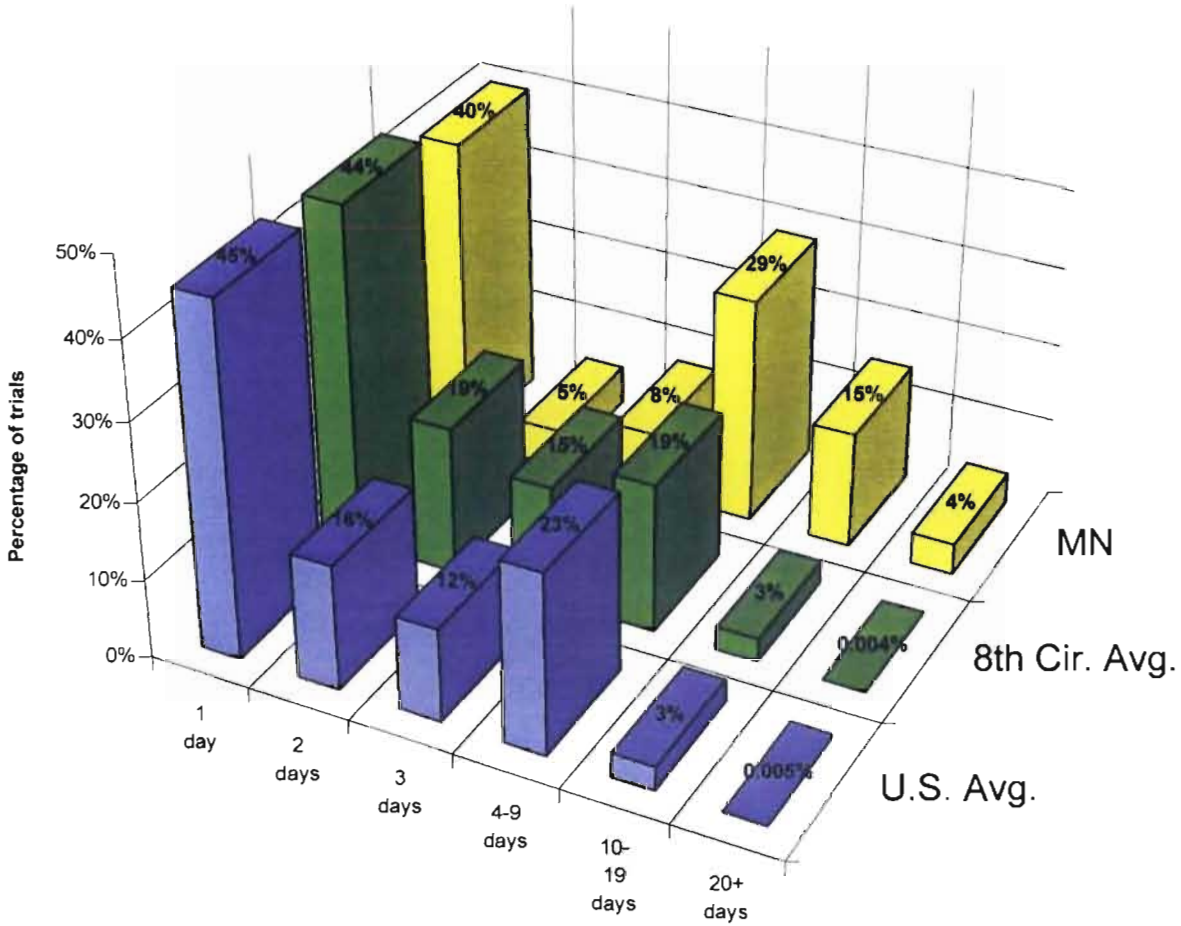

Vacancy Factor in
Trials Completed Per Judge
Number of Trials
40
35
30
25
20
15
10
5
0
28 28
27 27
20 21
25 35
18 23
17 24
14 17
1990
1991
1992
1993
1994
1995
1996
Year Ended September 30
Seven Judgeships
Actual Judges

Table 21

Duration of Civil Trials (in days)
Oct. 1, 1992 - Sept. 30, 1993



Duration of Civil Trials (in days)
Oct. 1, 1993 - Sept. 30, 1994



*Only CA Northern and CA Central had a higher number of trials lasting 20+ days

Table 23

Duration of Civil Trials (in days)
Oct. 1, 1994 - Sept. 30, 1995

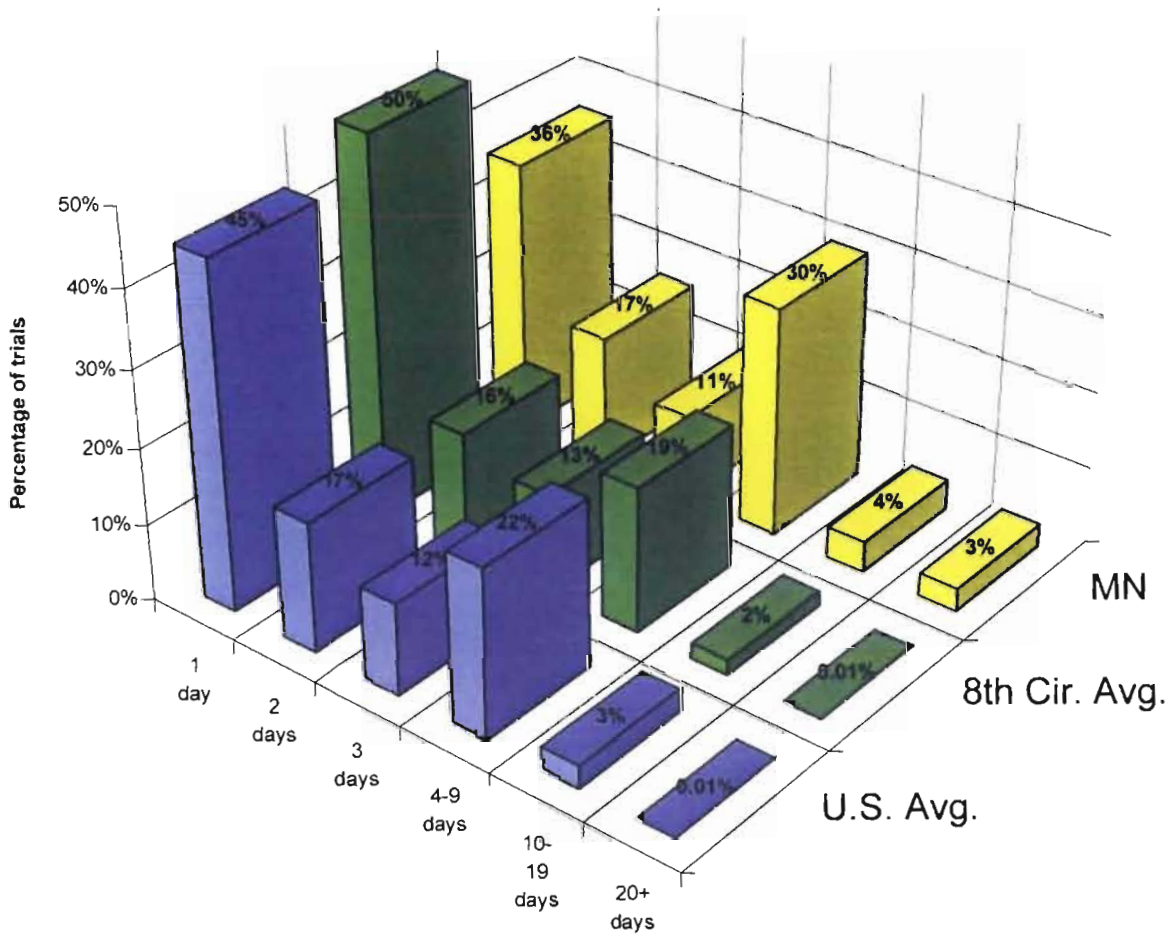


Table 24

Duration of Criminal Trials (in days)
Oct. 1, 1992 - Sept. 30, 1993

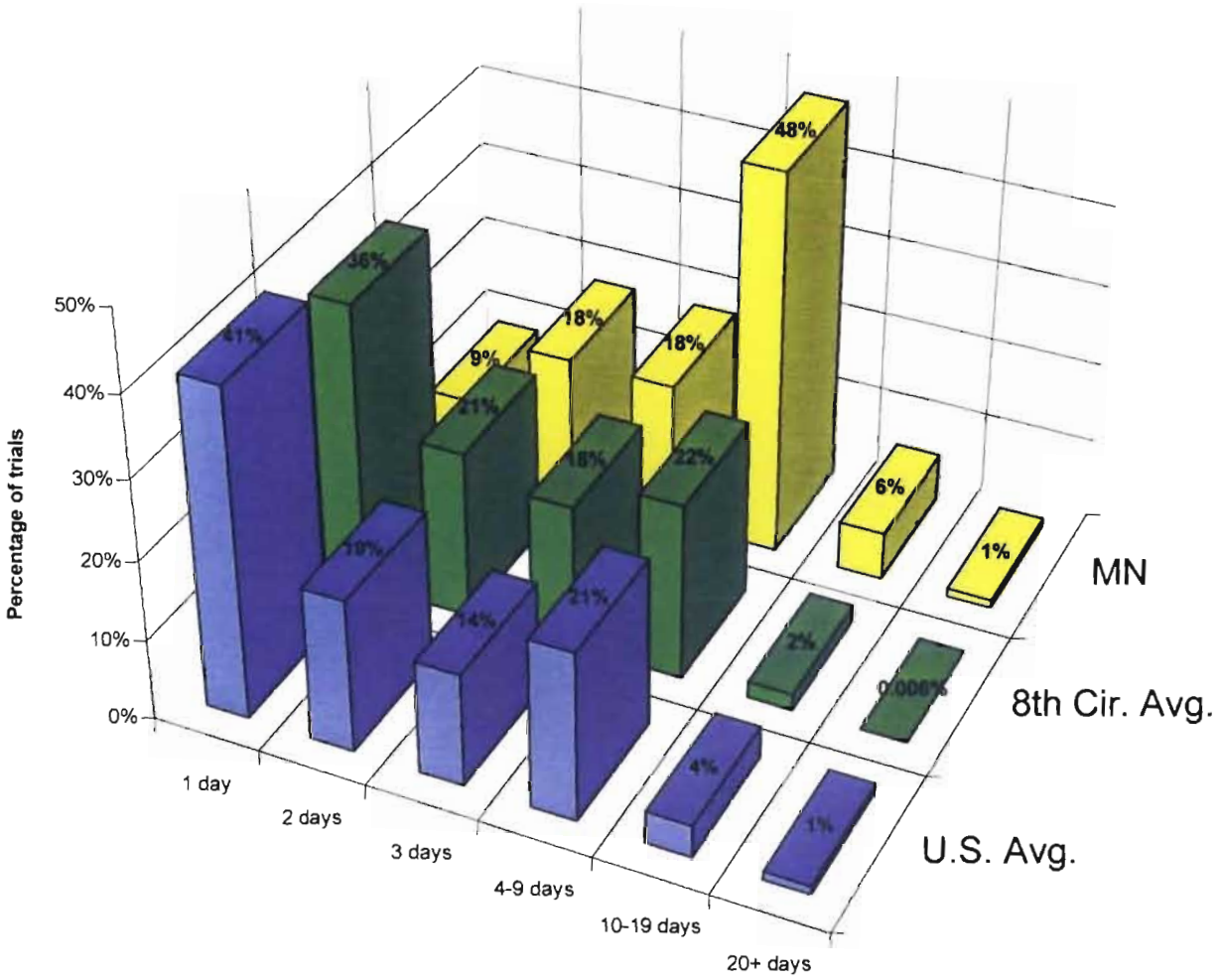


Table 25

Duration of Criminal Trials (in days)
Oct. 1, 1993 - Sept. 30, 1994

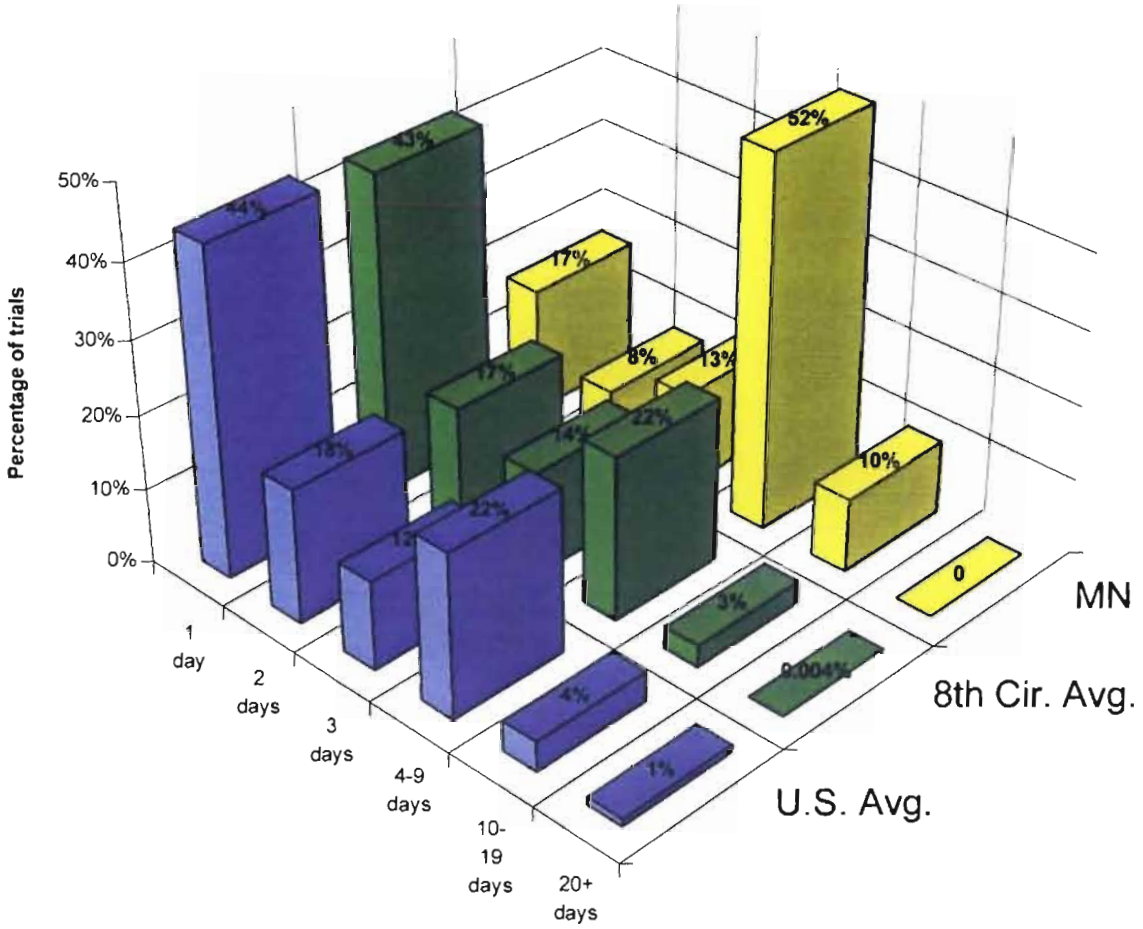
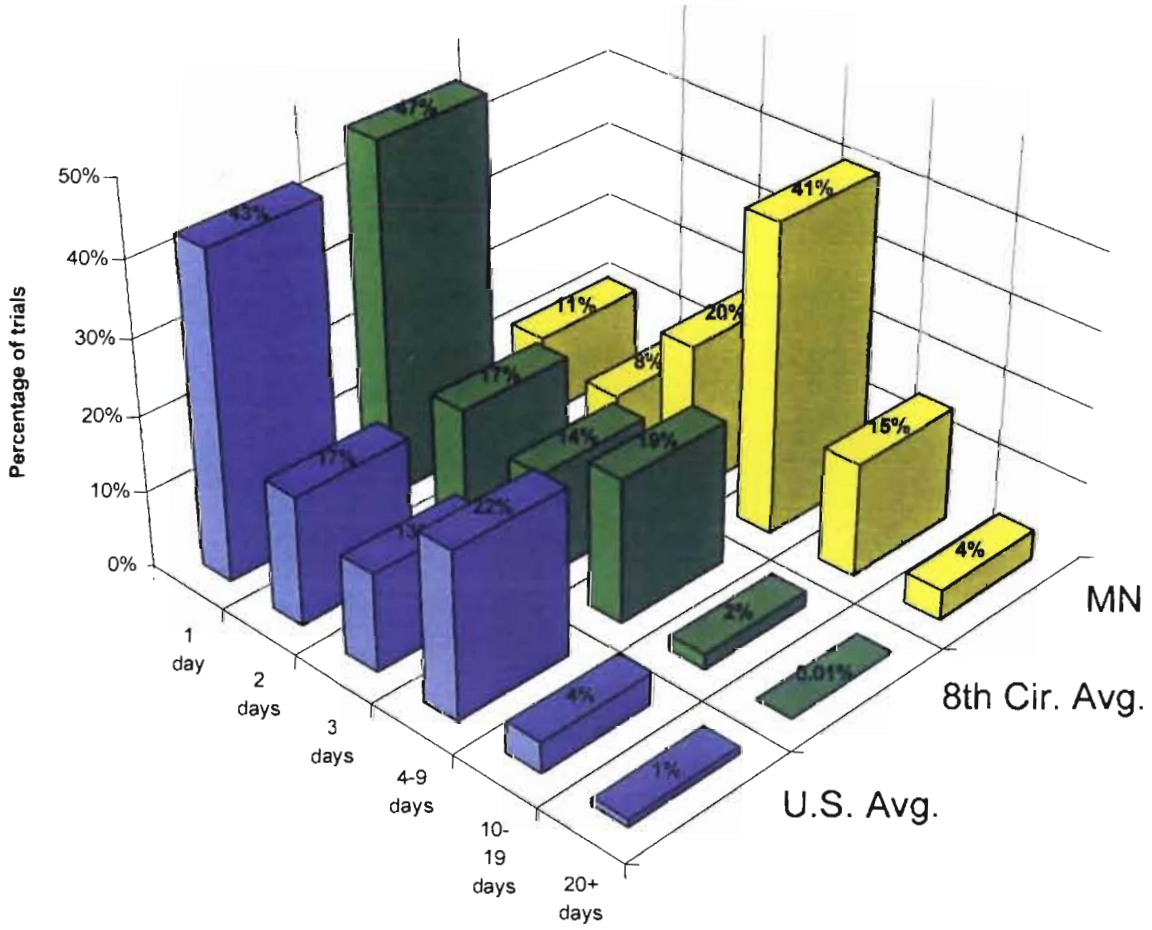
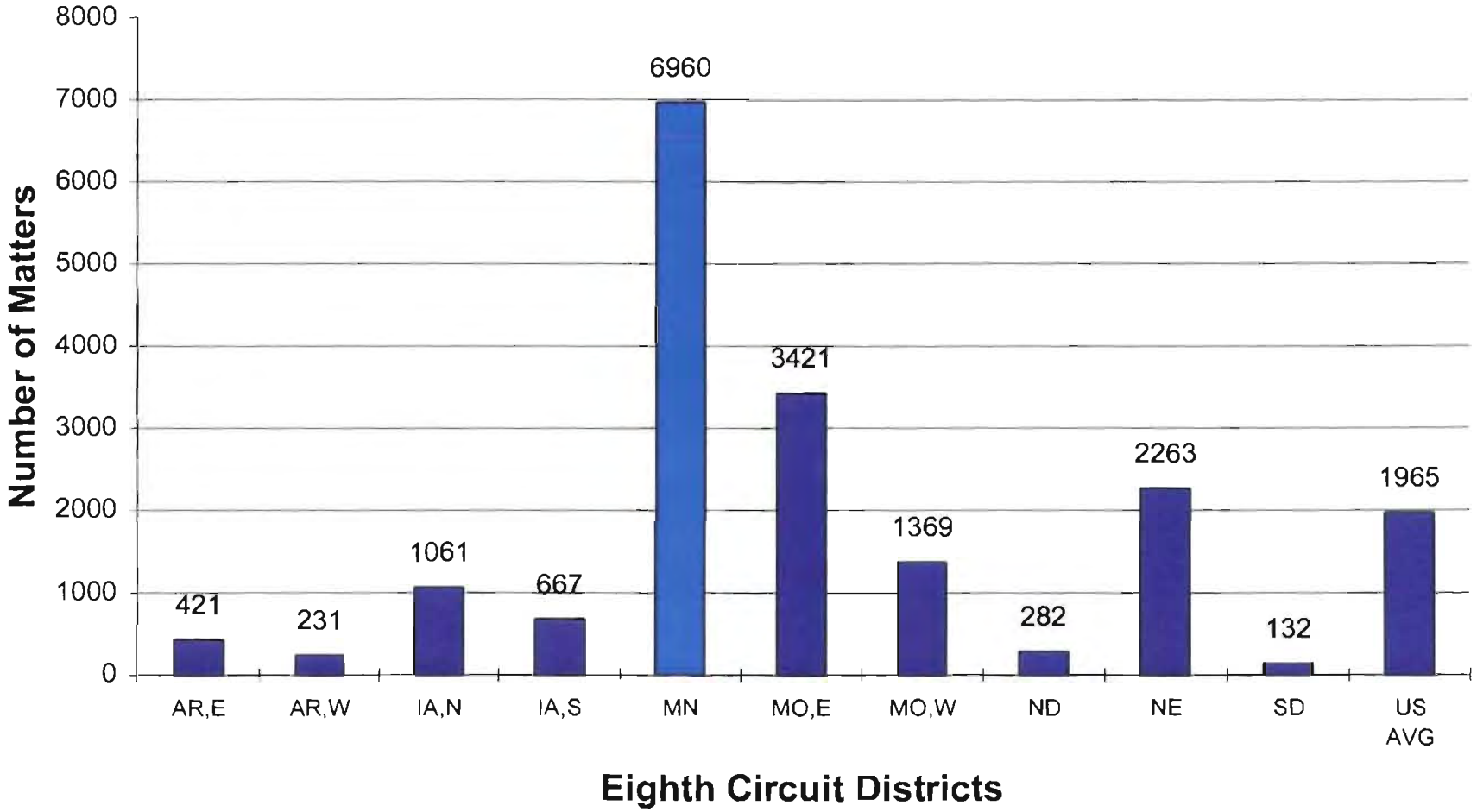


Table 26

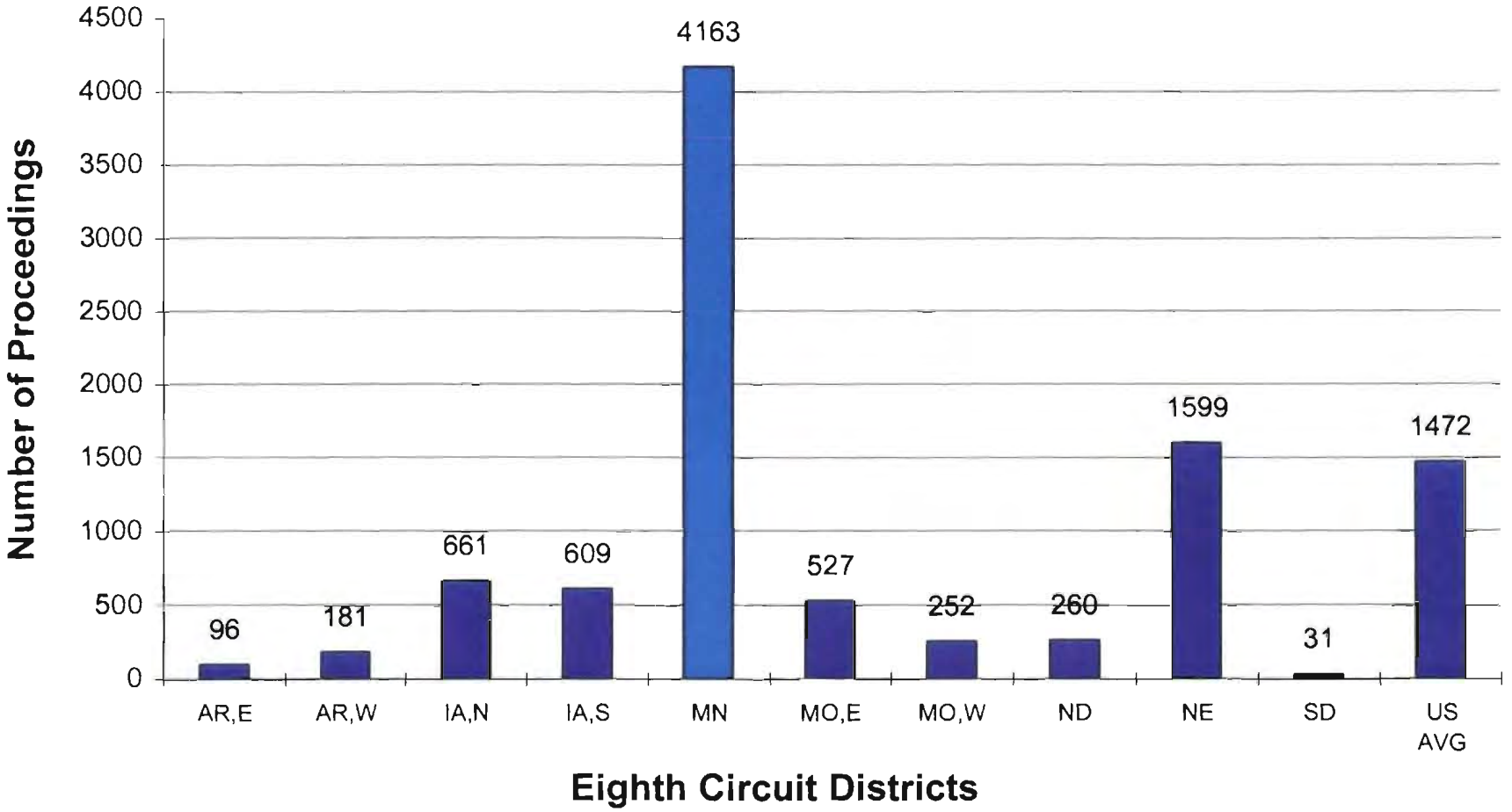
Duration of Criminal Trials (in days)
Oct. 1, 1994 - Sept. 30, 1995



Total 1995 Civil and Criminal Matters
Disposed of by Magistrate Judges



Total 1995 Civil Proceedings
Disposed of by Magistrate Judges



1995 Civil Pretrial Conferences
Conducted by Magistrate Judges

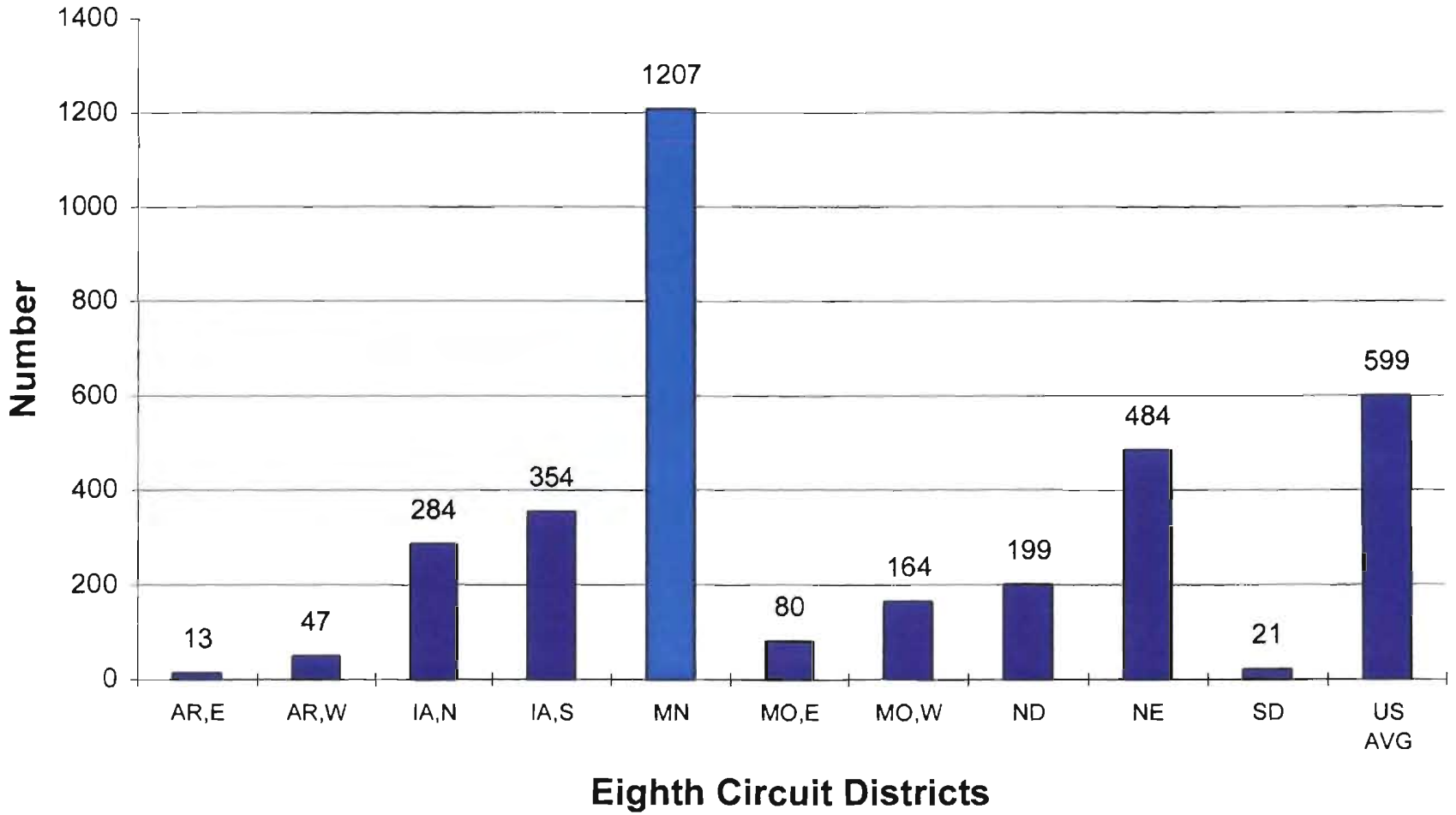
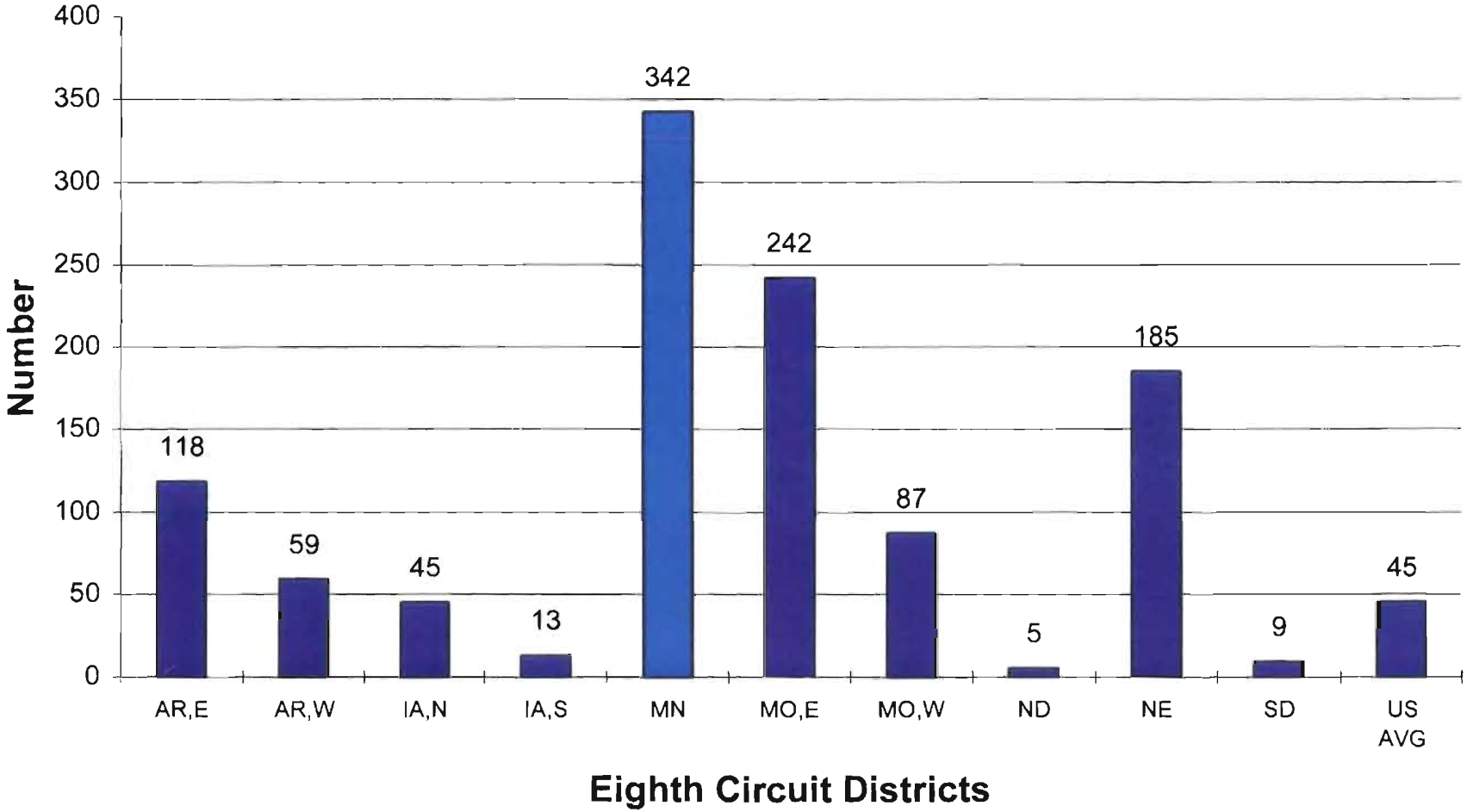


Table 30

1995 Evidentiary Hearings
Held by Magistrate Judges



APPENDIX D

1996 ATTORNEY AND LITIGANT SURVEY REPORT

CIVIL JUSTICE REFORM ACT IMPLEMENTATION PLAN
1993-96 ASSESSMENT

Civil Justice Reform Act
Advisory Group for the U.S. District Court for the District of Minnesota

1996 Survey

Note: In this survey, the 1993 Civil Justice Delay and Expense Reduction Plan (CJRA Plan), the 1993 Amendments to the Federal Rules of Civil Procedure (FRCP), and the revised Local Rules of the United States District Court for the District of Minnesota are referred to collectively as "The Rules."

Your responses to this survey are completely CONFIDENTIAL. Please do not put your name on the survey or the return envelope. Please complete this survey and return it in the enclosed envelope by no later than MAY 15, 1996.

1. Have you participated as an attorney of record in any civil case filed in the U.S. District Court for the District of Minnesota since the adoption of the Court's CJRA Plan in August 1993?

   a. _____ NO If NO, please do not complete this survey, but please DO return the survey in the envelope provided.

   b. _____ YES If YES, please continue with the rest of the survey.

2. For the following aspects of The Rules, please indicate separately whether each has increased or decreased the total cost and disposition time in your civil cases. (Please circle one for cost and one for disposition time.)

	COST				***DISPOSITION TIME***			
	Increased Cost	**No Effect**	**Decreased Cost**	**No Opinion**	**Increased Time**	**No Effect**	**Decreased Time**	**No Opinion**
A. The mandatory initial Pretrial Conference with a Judge or a Magistrate Judge which must be held within 90 days after the first responsive pleading is filed	I	NE	D	NO	I	NE	D	NO
B. The mandatory meeting of all attorneys which must be held no later than 14 days before the Initial Pretrial Conference	I	NE	D	NO	I	NE	D	NO
C. The Rule 26 (f) Report which must be filed with the Court by all attorneys within 10 days of the mandatory meeting of the attorneys	I	NE	D	NO	I	NE	D	NO
D. The new Pretrial Schedule Order containing deadlines for filing of motions, completion of discovery, and the presumptive trial date	I	NE	D	NO	I	NE	D	NO
E. The new limitations on discovery [depositions (10 per party, except with permission of the Court) and interrogatories (25 per party, except with permission of the Court)]	I	NE	D	NO	I	NE	D	NO
F. The initial pre-discovery disclosures required by FRCP 26 (a)	I	NE	D	NO	I	NE	D	NO

(Cont'd)

	COST				*DISPOSITION TIME*			
	Increased Cost	No Effect	Decreased Cost	No Opinion	Increased Time	No Effect	Decreased Time	No Opinion
G. The new rules relating to disclosure and discovery of expert testimony in new Local Rule 26.3 and FRCP 26(a)(2) and (b)(4)	I	NE	D	NO	I	NE	D	NO
H. The Case Management Pretrial Conferences for very complex cases, as set forth in Local Rule 16.4	I	NE	D	NO	I	NE	D	NO
I. The Settlement Conference before a Judge or Magistrate Judge, which must be held within 45 days of the presumptive trial date as required by Local Rule 16.5	I	NE	D	NO	I	NE	D	NO
J. The Final Pretrial Conference (which may be combined with the Settlement Conference) which is to be held no earlier than 45 days prior to the presumptive trial date	I	NE	D	NO	I	NE	D	NO

3. How have The Rules affected each of the following:

	Increased	No Effect	Decreased
a. The likelihood that your cases go to trial?	I	NE	D
b. The amount of time you are required to spend on cases?	I	NE	D
c. The total cost to your clients?	I	NE	D
d. Your ability to represent your clients?	I	NE	D

	Yes	No
4. Is the time from filing to disposition too long for civil suits?	Y	N
5. Is the total cost to clients, including attorney's fees, too high for civil suits?	Y	N
6. Does the Court adhere to its own deadlines?	Y	N

7. Please indicate your level of agreement with each of the following statements:

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
A. The failure of opposing counsel to follow the requirements of The Rules significantly *increases the disposition time* of civil suits filed in Minnesota.	SA	A	N	D	SD
B. The failure of opposing counsel to follow the requirements of The Rules significantly *increases the cost* of civil suits filed in Minnesota.	SA	A	N	D	SD
C. The Judges and Magistrate Judges are making a good faith effort to follow the requirements of The Rules.	SA	A	N	D	SD
D. Orders on non-dispositive motions are being issued on a timely basis.	SA	A	N	D	SD

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
E. Orders on dispositive motions are being issued on a timely basis.	SA	A	N	D	SD
F. The priority given to criminal trials is a significant factor in delaying the final disposition of civil cases filed in the District of Minnesota.	SA	A	N	D	SD
G. The likelihood of settlement is greater if the non-attorney representatives of parties having full settlement authority are present at all Settlement Conferences.	SA	A	N	D	SD
H. The likelihood of settlement is greater if the representatives of insurance companies having full settlement authority are present at all Settlement Conferences.	SA	A	N	D	SD
I. The District Court should opt-out of the FRCP 26(a) initial pre-discovery mandatory disclosure requirements.	SA	A	N	D	SD
J. Judges and Magistrate Judges should order non-binding alternative dispute resolution methods such as mediation and arbitration more frequently than they have in the past.	SA	A	N	D	SD
K. The CJRA Plan and the Local Rules should be amended to make various non-binding alternative dispute resolution methods, such as mediation and arbitration, mandatory in some categories of cases.	SA	A	N	D	SD

8. In your experience, does the U.S. District Court in Minnesota undermanage or overmanage civil cases?

_____ Greatly undermanages
_____ Somewhat undermanages
_____ Manages at an appropriate level
_____ Somewhat overmanages
_____ Greatly overmanages

9. How effective is the U.S. District Court in Minnesota in helping parties to reach settlement?

_____ Very effective
_____ Somewhat effective
_____ Neither effective nor ineffective
_____ Somewhat ineffective
_____ Very ineffective

10. Does the U.S. District Court in Minnesota press too hard or not hard enough for settlement?

_____ Too hard _____ Just about right _____ Not hard enough

11. What effect have The Rules had on the *disposition time* of civil cases?

a. _____ Increased time b. _____ Decreased time c. _____ About the same

12. What effect have The Rules had on the *total cost to clients*, including attorneys' fees, in civil cases?

a. _____ Increased expense b. _____ Decreased expense c. _____ About the same

13. Overall, how helpful or detrimental have The Rules been in moving your cases toward resolution?

a. _____ Very helpful
b. _____ Somewhat helpful
c. _____ No effect
d. _____Somewhat detrimental
e. _____ Very detrimental

ABOUT YOU...

14. Please indicate the approximate number of civil cases you have personally filed or defended in the U.S. District Court of Minnesota since August 1993:

____ Cases

15. How many years have you been practicing as an attorney?

_____ Years

16. Approximately what percentage of your practice since August 1993 involves *civil litigation* in the U.S. District Court of Minnesota?

_____ %

17. Approximately what percentage of your practice in the U.S. District Court of Minnesota is *plaintiff* oriented?

_____ %

18. Approximately what percentage of your practice in the U.S. District Court of Minnesota is *defendant* oriented?

_____ %

19. To what extent have your opinions of the CJRA Plan, the FRCP amendments, and the revised Local Rules been influenced by discussions with other lawyers regarding *specific cases?*

a. _____ Not at all b. _____ Moderately so c. _____ A great deal

YOUR COMMENTS:

20. What suggestions do you have to help reduce the delay and/or the cost to clients of civil litigation in this district? (Please do not be judge-specific.)

Thank you very much for your time in responding to this survey. Please utilize the postage-paid envelope that is provided to return your confidential response.

If you have comments that do not lend themselves to written form that you would like to share with the CJRA Advisory Group, please call the Clerk of Court at (612) 290-3212. A member of the Advisory Group will contact you to determine the nature of your information and when you may be able to appear before the Advisory Group.

ATTORNEY SURVEY REPORT

I. CJRA Attorney Survey

The survey project was initiated by the 1995-96 CJRA Advisory Group to determine the effect the CJRA Plan (The Plan), 1993 amendments to the Federal Rules of Civil Procedure, and the revised Local Rules have had on cost and delay in civil cases. The project was funded by the court with CJRA funds allocated for the assessment of The Plan. The results of the survey will be used to measure the effectiveness of The Plan on reducing costs and delay in civil cases. Based upon these results and other research, the CJRA Advisory Group will determine the necessity for changes to The Plan.

The survey instrument was designed by Anderson, Niebuhr and Associates, an independent survey firm based in Minneapolis. A special thanks to research associates Douglas Gentile and Julie Kampa who invested valuable time and effort and provided the Advisory Group with a quality product. The final survey was refined and finalized by the CJRA Survey Subcommittee members and the CJRA Chair, Reporter and Analyst. The survey mailing, data entry, analysis and report were administered by Wendy Schreiber of the St. Paul Clerk's Office with the assistance of Jill Gunderson-Gernes, Pamela Lien and a host of others who offered their time to the project. Finally, a special thank you to the attorneys who took the time to complete and return the questionnaires.

II. Survey Characteristics

A. Type of Survey

The survey instrument used for this project was a mailed, self-administered questionnaire. This type of instrument was chosen because of its ability to capture opinions from a larger population than telephone interviews or focus groups.

B. Contents

1. Questions

There is a total of 42 questions and the breakdown is as follows:

a. One question: participation in a civil case since August 1993;
b. Ten questions: cost and disposition time of specific provisions of The Plan
c. Four questions: the effect of the Rules on case results
d. Three questions: yes/no agreement questions on cost and time
e. Eleven questions: level of agreement with general statements
f. Three questions: courts' management of civil cases
g. Three questions: overall effect of The Rules on civil cases
h. Six questions: describing the respondent
I. One question: attorney comments

2. Scales

The questions were written with a variety of scales to measure the varying attitudes and perceptions of the selected attorneys.

a. A four-point scale to measure an increase/no effect/decrease/no opinion in the cost and disposition time due to a particular requirement of a civil case
b. A yes/no dichotomous scale
c. A five-level ordinal scale from strongly agree to strongly disagree
d. A trichotomous scale measuring level of agreement
e. An open-ended question

C. Validity and Reliability

1. Validity

Validity determines how well a survey measures what it sets out to measure. If the attorney survey is valid, it will measure the effect of the CJRA Plan on costs and delay in civil cases. So, how do we know that the survey measured costs and delays?

The survey was designed by selecting specific requirements of the CJRA Plan, Local Rules and new Federal Rules of Civil Procedures from which to measure perceptions on the increased or decreased cost or time to disposition. By incorporating such detail, the survey focuses on specific civil case requirements that result in an increase or decrease of cost or time which adds to the validity of the questionnaire.

The validity was also proven through a pretest sent to 33 attorneys with a cover letter from the Clerk of Court requesting comments on the questions and the flow of the survey instrument. Sixty-one percent of the questionnaires were returned with suggestions on asking questions that accurately measure cost and delay and attorney perceptions.

2. Reliability

Reliability of a survey allows for the ability to draw inferences about your total population. In other words, if the attorney survey is reliable, the results from responding attorneys can be applied generally to all attorneys who practice in federal court.

A good measure of reliability is the test-retest indicator in which the same group of respondents complete the survey at two different points in time to determine the consistency of responses. In this survey, the attorney pretest and actual survey results are mirror images of each other in a vast majority of the questions.

D. Administration

1. Survey Administrators

Research associates Doug Gentile and Julie Kampa from Anderson Niebuhr have their graduate degrees in the behavioral sciences. Wendy Schreiber has her graduate degree in Judicial Administration.

2. Quality Assurance

The surveys were coded and entered in the statistical software SPSS. In order to detect input error, the software was coded with a cleaning range for the data. The program cleans the data set and indicates the locations of the input error which allows for simple editing.

E. Design

1. Descriptive Survey

The questionnaire was designed to solicit the overall opinions and perceptions of attorneys rather than case specific-information. The attorneys were not notified of the particular case from which their name was selected. Rather, they were asked about all of their cases filed since the adoption of the CJRA Plan in August of 1993.

2. Layout and Content

The layout of the questionnaire was revised several times based upon comments from survey subcommittee members and pretesting comments. One especially helpful comment came from an attorney who suggested that the overall cost and delay questions be placed at the end of the survey because his overall impression on cost and delay had changed after answering the cost and disposition time section.

In the actual survey, a number of attorneys responded to the cost questions and left the disposition questions unanswered in the first section. This can be attributed to a faulty design in that section or that those attorneys thought cost and delay were interchangeable and thus their response was applicable to both questions. Unfortunately, this trend didn't emerge in the pretesting phase.

An important aspect of the content is the placement of a stamped control number 1-900 on each questionnaire to monitor the return of surveys. This reduced the printing and postage costs for subsequent mailings but still maintained the confidentiality.

F. Sample

1. Population

a. Source population - 1677 cases filed after August of 1993 and closed between June 1, 1994 and March 18, 1996.

2. Selection

a. 514 cases were randomly selected from the population (every sixth case) and the plaintiff and defendants' attorneys from those cases were included in the survey mailing.

b. Social security, habeas corpus, forfeiture, and condemnation cases were excluded.

c. A survey pretest to 33 attorneys asking for suggestions on the survey instrument. A 61% response rate was received and resulted in valuable

changes to the questionnaire format and content.

4. Time Line
    a. The first questionnaire mailing to 900 attorneys was on April 1, 1996. The due date was April 22, 1996. The response rate by April 22 was 43%.
    b. A postcard reminder was mailed to 626 non-respondents on April 11, 1996.
    c. A second questionnaire mailing to 475 non-respondents occurred on May 1, 1996. The due date was May 15, 1996.
5. Response Rate
    a. The total response rate was 74%.
    b. 14 surveys were returned to sender, address unknown.
    c. Seven attorneys were sent duplicate copies of the survey.
6. Confidence
    a. The survey has 95% confidence rate; all responses are accurate +/- 5% in either direction.

III. Analysis

A. Frequencies

For each survey question, a bar chart of frequencies was created with both the total number of responses shown on each bar and the overall percentage per value shown above the bar. The charts allow the reader to determine the rate of responses at a glance, eliminating the need to pore over columns of numbers.

B. Crosstab Tables

The crosstab tables show specific responses to survey questions compared against other survey questions to show a further breakdown of responses (e.g., Of those attorneys who thought the time from filing to disposition was too long, were most of those attorneys new to the legal field, or did they have more than twenty years of experience?). The crosstab tables are shown for select questions and accompany the frequency charts in this survey report.

C. Survey Subcommittee Review

The subcommittee members will review the results of the survey and the report and include their conclusions in the District of Minnesota Annual Assessment. Based on their conclusions, the CJRA Advisory Group may recommend changes to The Plan, or they may determine that revisions are unnecessary at this time.

D. Questions and Responses

The remainder of this report shows the results of each question in graph and table form and the applicable related responses from the open-ended question #20. See the attorney comments tab for all of the written comments from question #20. General conclusions drawn from the attorney responses follow the graphs.

QUESTIONS

1. Have you participated as an attorney of record in any civil case filed in the U.S. District Court for the District of Minnesota since the adoption of the Court's CJRA Plan in August 1993?

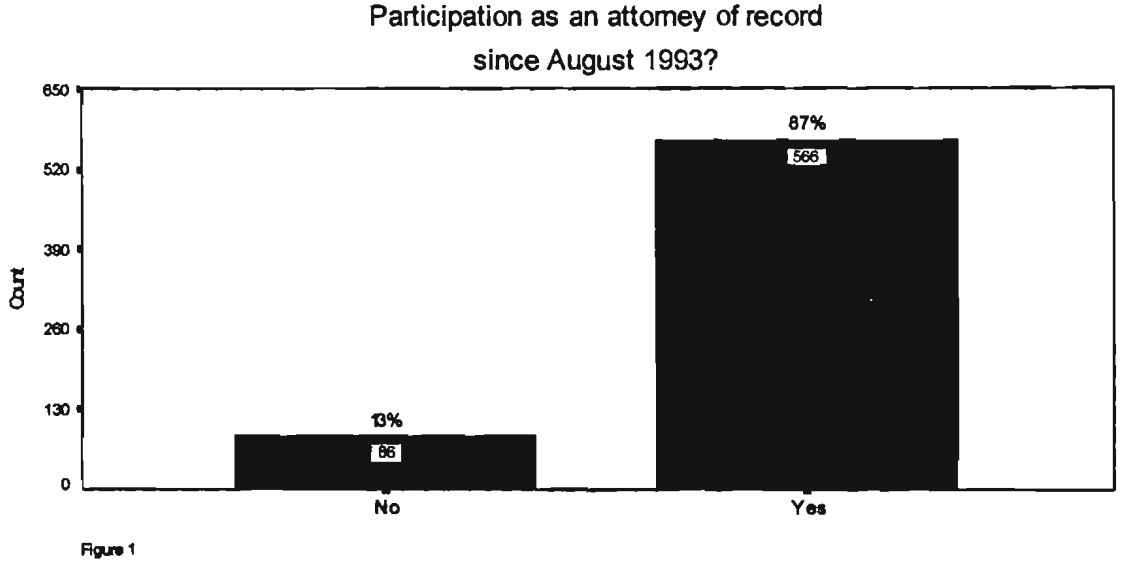


Figure 1

This question lends validity to the survey because only those attorneys who have practiced since the adoption of The Plan are invited to complete the questionnaire. However, several attorneys who have practiced since August 1993 may not have practiced *before* August 1993. These attorneys would be unable to make the pre and post-CJRA comparison, yet may have completed the questionnaire anyway. The automated system that selected the cases from which the attorney names were randomly selected was incapable of selecting only attorneys with pre and post-CJRA experience. Several attorneys did indicate on their questionnaire that they didn't have enough experience in federal court prior to The Plan to make the comparison. Overall, the benefits of this question outweigh the possible rate of error of those attorneys who didn't have adequate knowledge to determine the effect of The Plan on their civil cases.

2A. The mandatory initial Pretrial Conference with a Judge or a Magistrate Judge which must be held within 90 days after the first responsive pleading is filed

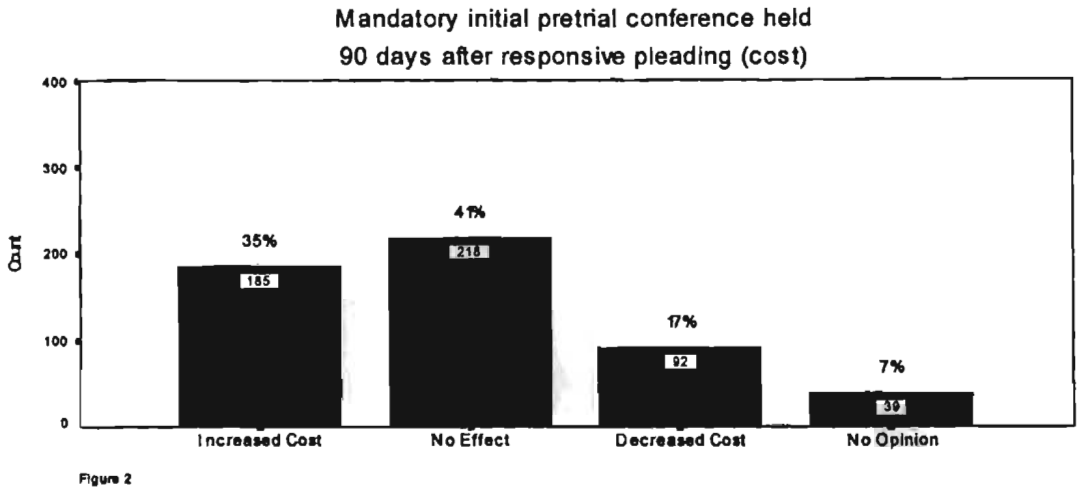


Figure 2

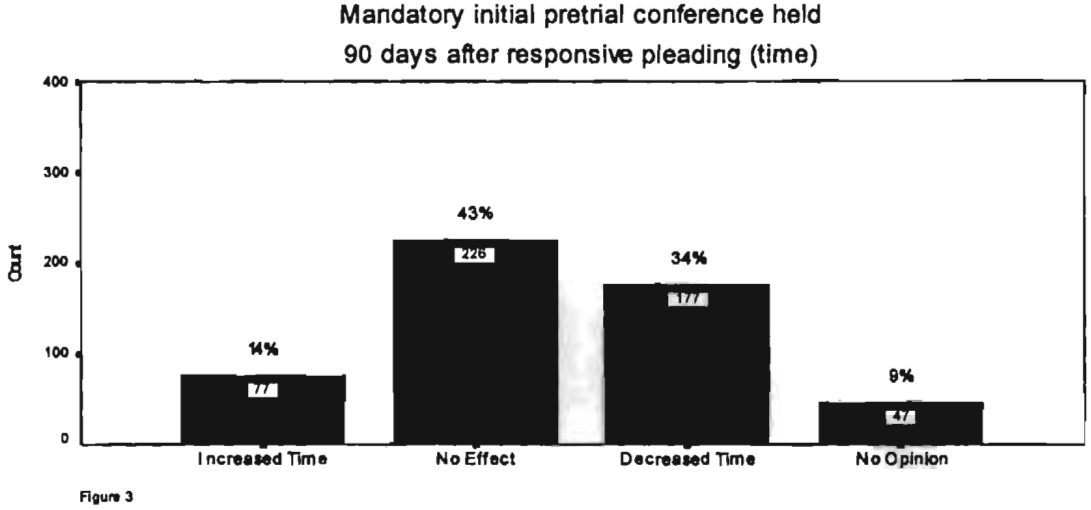


Figure 3

As the charts indicate, the largest percentage of attorneys agree that the initial pretrial conference has *no effect* on both cost (41%) and time (43%). For the 35% of attorneys who responded that costs were *increased* by the conference, an equal amount (34%) replied the conference *decreased* overall time to disposition. It should be noted that five attorneys responded to question #20 by writing that the mandatory initial pretrial conference should not be required when the parties agree on dates.

2B. The mandatory meeting of all attorneys which must be held no later than 14 days before the initial Pretrial Conference

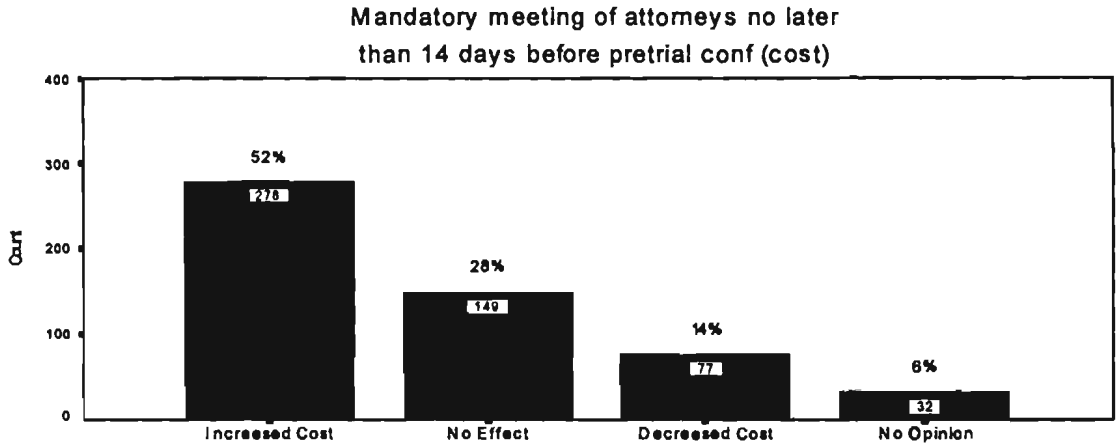


Figure 4

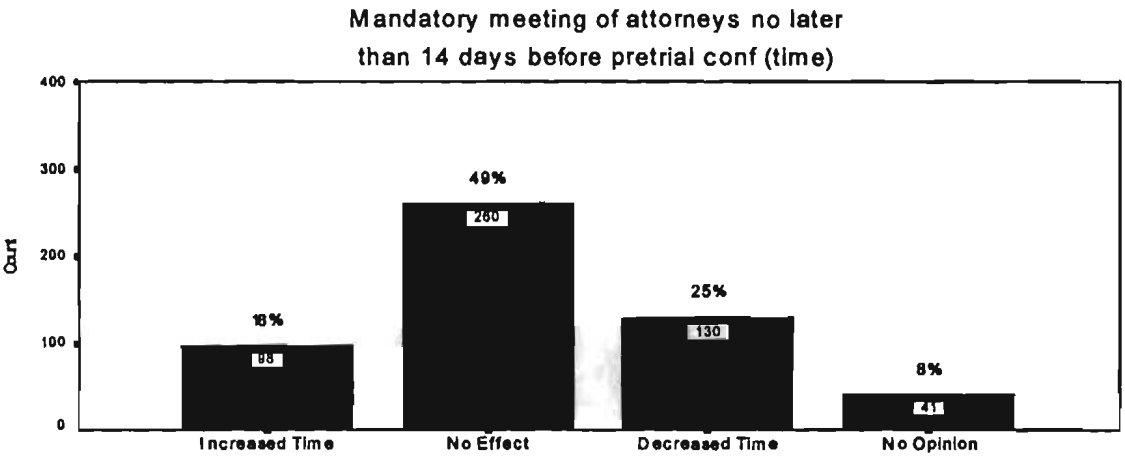


Figure 5

Over half of the attorneys (52%) believe the mandatory meeting of the attorneys prior to the pretrial conference results in *increased* costs. Forty-nine percent of the attorneys maintain the mandatory meeting has *no effect* on the disposition time, and 25% believe the meeting *decreases* disposition time. In question #20, thirteen people responded they suggest using telephone conferences rather than mandatory attorney meetings. Additionally, two attorneys suggested the court eliminate the mandatory Rule 26(f) meeting.

2C. The Rule 26 (f) Report which must be filed with the Court by all attorneys within 10 days of the mandatory meeting of the attorneys

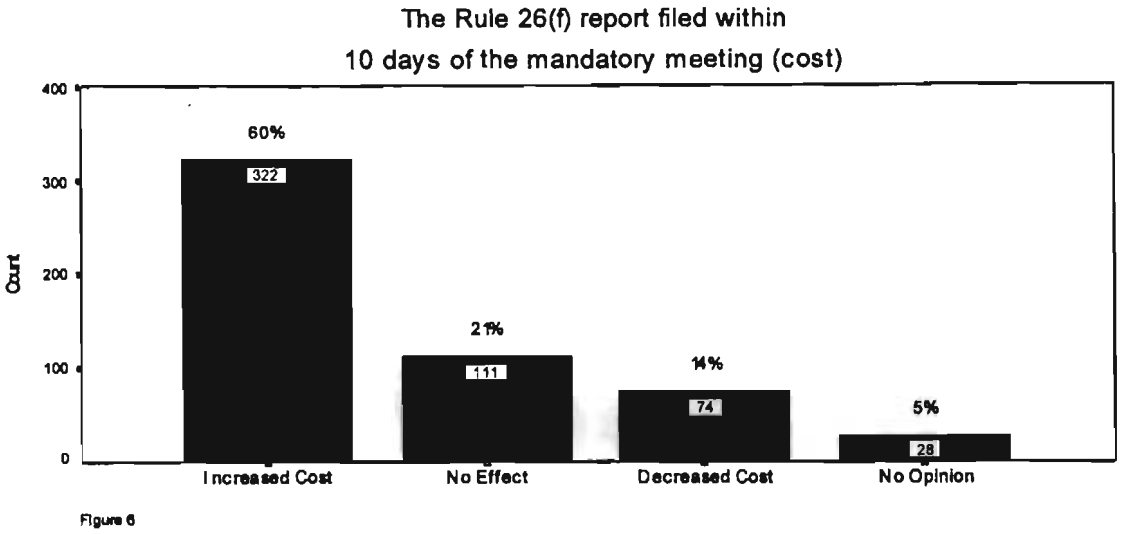


Figure 6

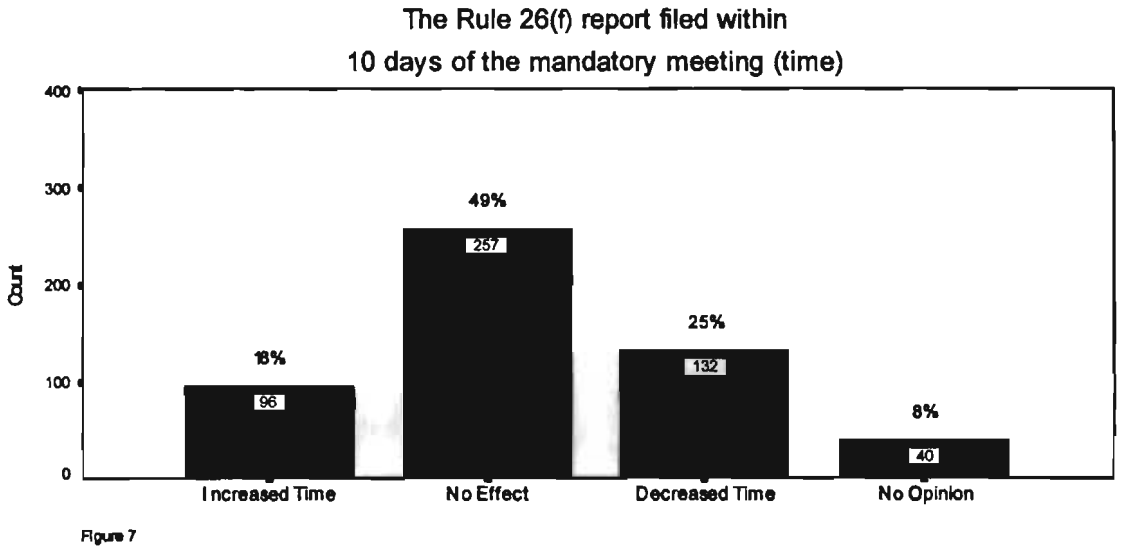


Figure 7

Anecdotally, nearly 100% of the surveys returned in the first week of the project indicated the 26(f) report *increased* cost and time. Often people who have strong feelings about an issue will be anxious to comment. In the end, 60% of the attorneys agreed the Rule 26(f) report *increased costs*, and 49% agreed the 26(f) report had *no effect* on the time to disposition. In the open-ended comments, three people remarked that the 26(f) meeting and report are a waste of time and expense.

2D. The new Pretrial Schedule Order containing deadlines for filing of motions, completion of discovery, and the presumptive trial date

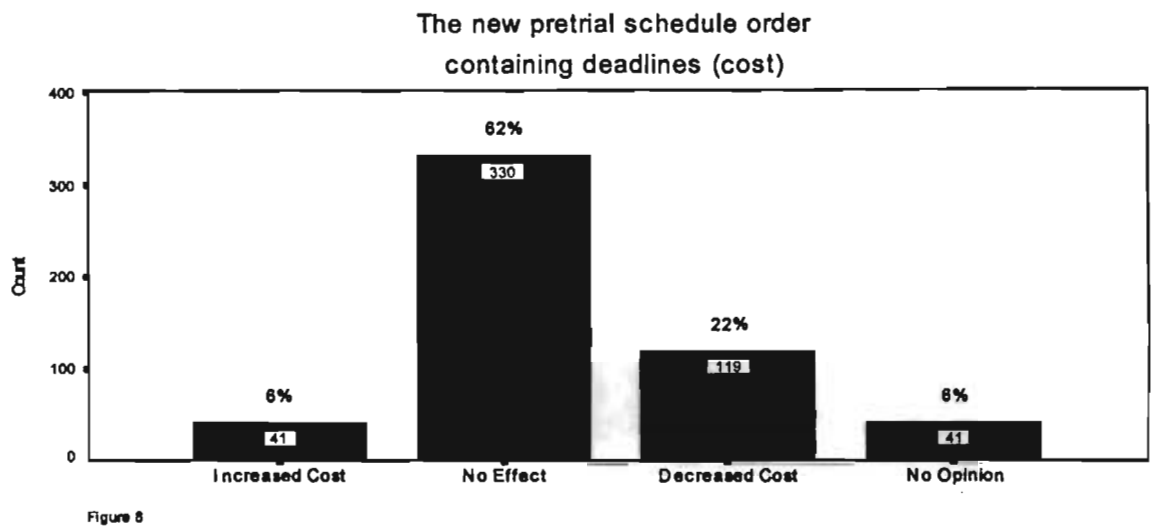


Figure 8

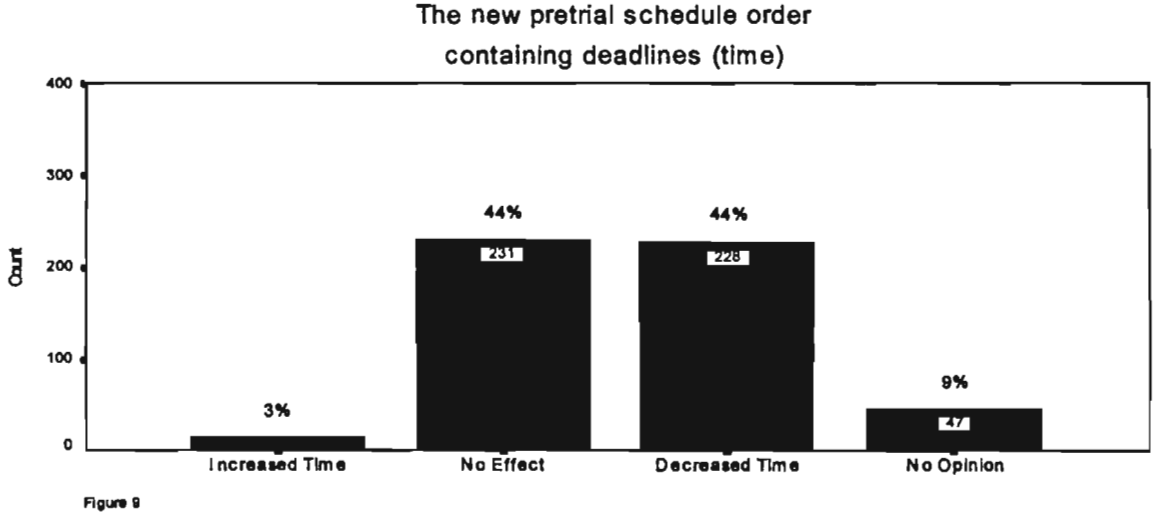


Figure 9

According to Figures 8 and 9, only 8% of the attorneys believe the pretrial schedule order *increases* cost and 3% believe it *increases* time. 62% and 44%, respectively, responded the pretrial schedule order has *no effect* on cost and time. Nearly half of the attorneys believe the new pretrial schedule order results in *decreased* disposition time.

2E. The new limitations on discovery [depositions (10 per party, except with permission of the Court) and interrogatories (25 per party, except with permission of the Court)]

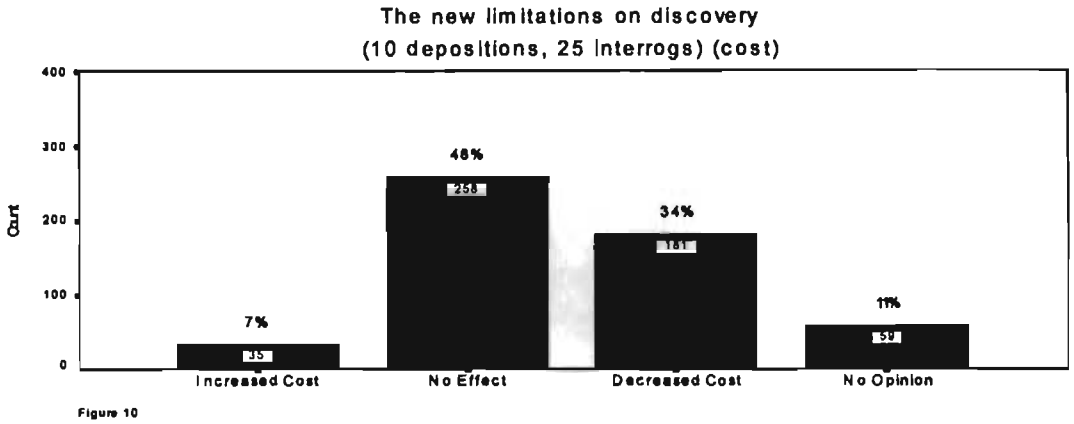


Figure 10

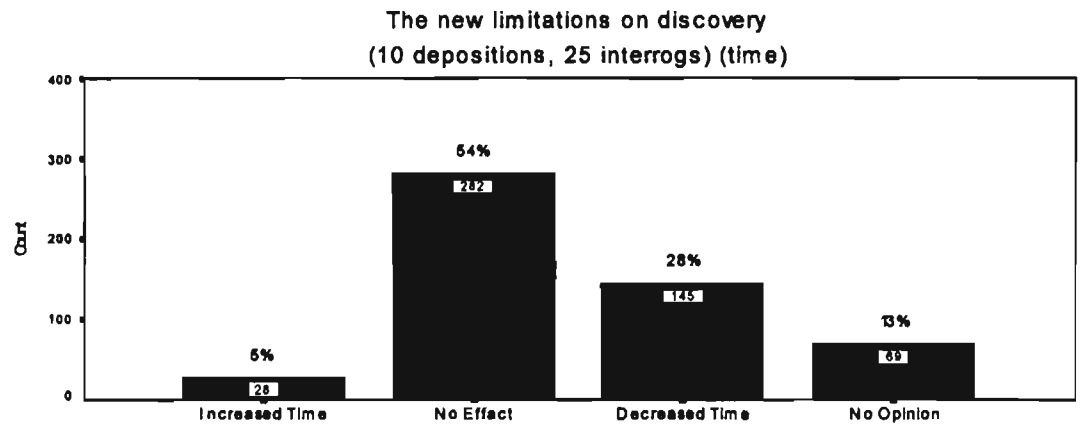


Figure 11

In Figures 10 and 11, 82% percent of the attorneys responded the new limitations on discovery either had *no effect* or *decreased* both costs and disposition time in civil cases. While the above graphs show that limit on discovery appear to decrease costs and delay, it is apparent from the attorney comments in question #20 that discovery abuses still occur. Twelve attorneys suggested more frequent imposition of sanctions for discovery abuse. Seventeen attorneys urge judges to enforce rule limits on pretrial (number of interrogatories, depositions, deadlines, etc.).

It was evident from the favorable open-ended comments regarding this district's magistrate judges they are held in high regard for the work they do. With regard to discovery, five attorneys commented that our excellent magistrate judges should be directed even more clearly to control, manage and expedite discovery. Conversely, eight attorneys responded that case management is the responsibility of the attorneys or as one put it "let attorneys manage their own cases."

2F. The initial pre-discovery disclosures required by FRCP 26 (a)

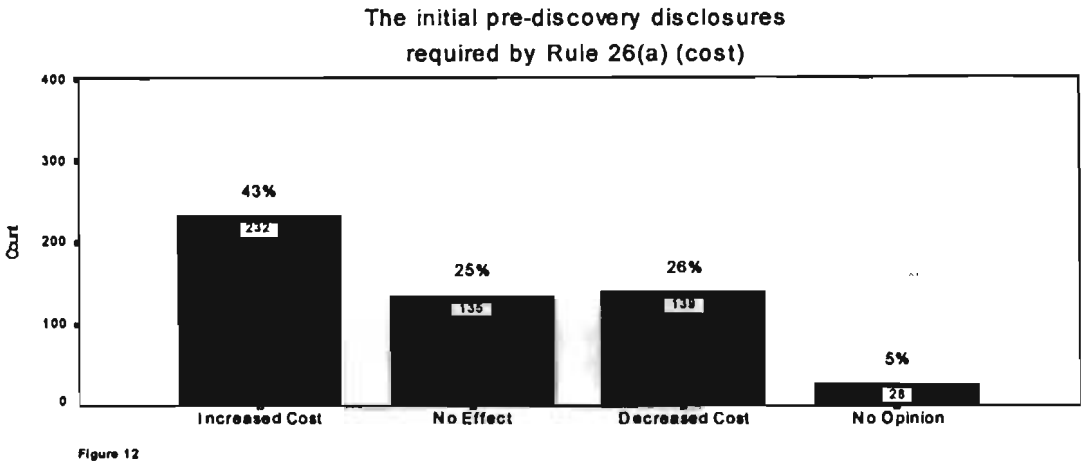


Figure 12

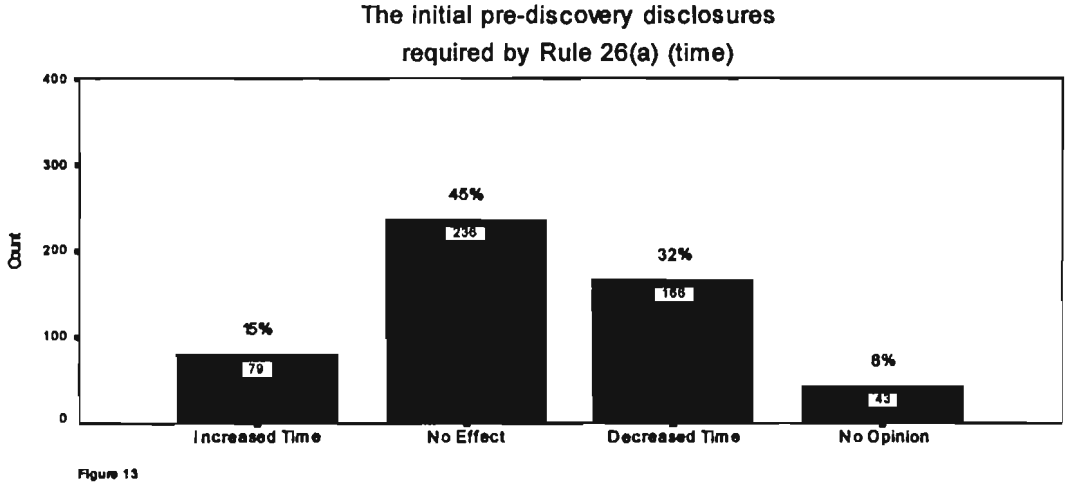


Figure 13

More than any other topic in the questionnaire, the initial pre-discovery disclosures elicited strong feelings from the respondents. This particular question had many comments written in the margin in favor or against the disclosures. The results of the cost question indicate approximately one-half (43%) believe the disclosures *increase* cost, one-quarter (25%) selected *no effect* on cost, and one-quarter (26%) selected *decreased* cost. The results of the time question show 15% believe disclosures result in *increased* time, 45% believe they have *no effect* on time, and 32% believe they result in *decreased* time. It can be inferred from Figures 12 and 13 that although the disclosures increase initial costs, for the majority of cases, disposition time is not increased. In fact, one-third of the attorneys believe the disclosures result in decreased disposition time.

2G. The new rules relating to disclosure and discovery of expert testimony in new Local Rule 26.3 and FRCP 26(a)(2) and (b)(4)

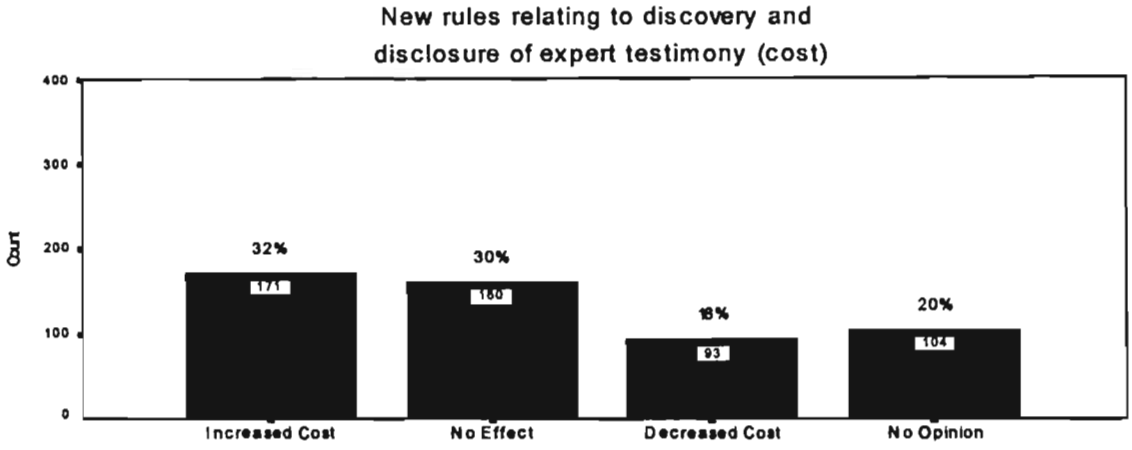


Figure 14

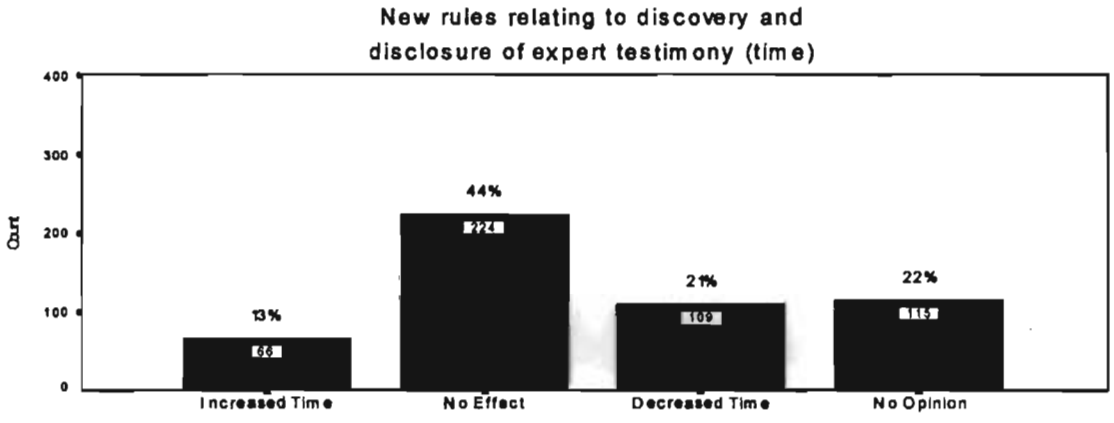


Figure 15

There were 20% and 22%, respectively, of attorneys who had *no opinion* about the effect of discovery and disclosure of expert testimony on cost or disposition time. Of those who had an opinion, the highest numbers were 32% for *increased* costs (with 30% *no effect* a close second) and 44% for *no effect* on disposition time. There were varying opinions on expert disclosure in question #20. Four attorneys believe expert witness reports increase cost and time, two wrote the new rules relating to experts are worth the increased expense and time and one attorney wrote: "I have yet to see anyone comply with the new rules concerning disclosure and discovery of expert testimony."

2H. The Case Management Pretrial Conferences for very complex cases, as set forth in Local Rule 16.4

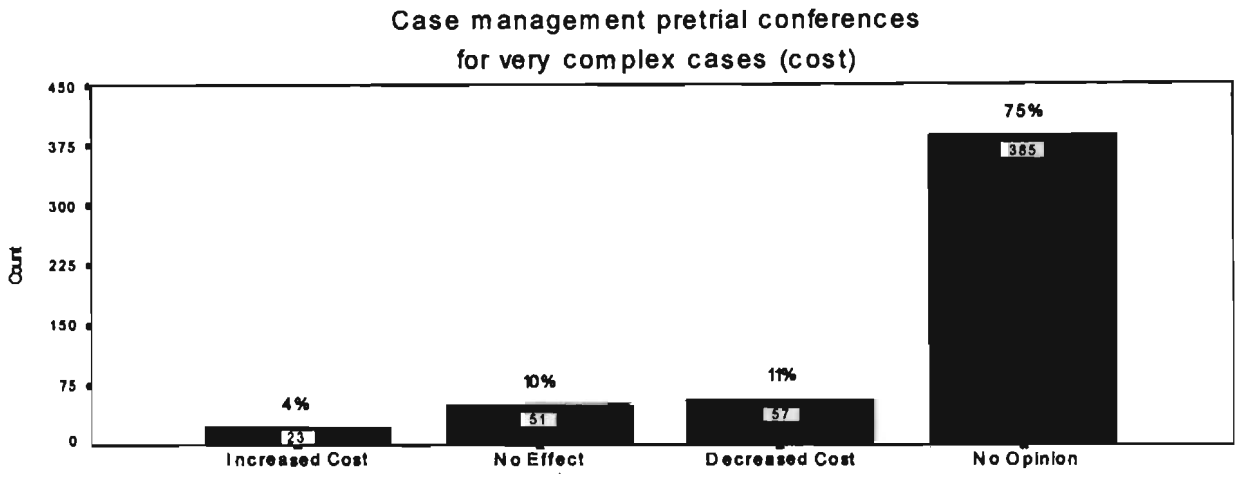


Figure 16

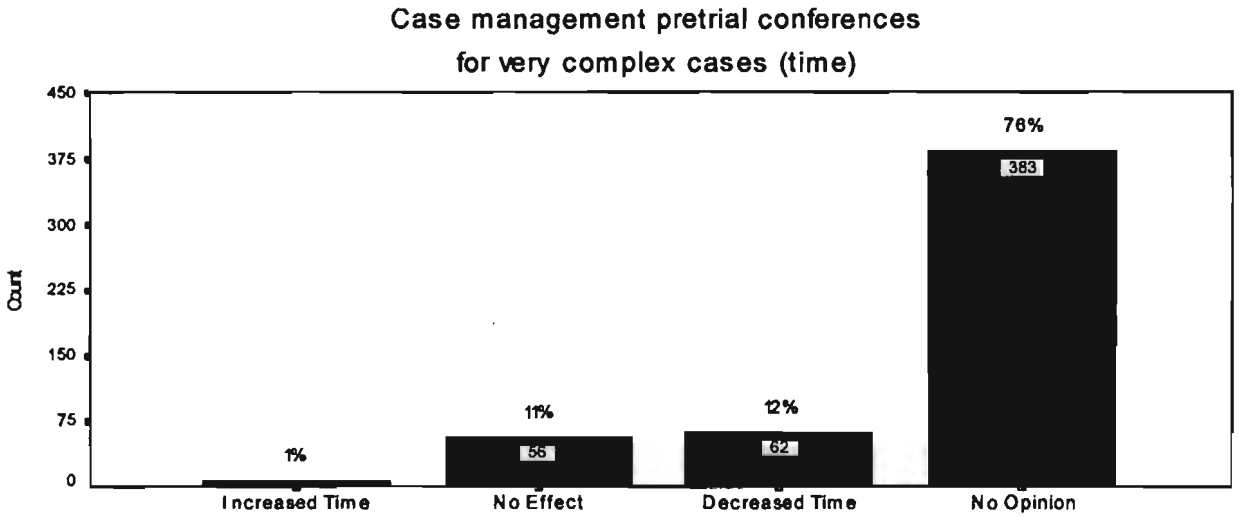


Figure 17

Three-quarters of the survey recipients had *no opinion* on the case management pretrial conferences for very complex cases. Of those who had an opinion, the highest percentage of attorneys, 11%, responded the pretrial conferences result in *decreased cost* and 12% responded they result in *decreased time*.

The high percentage of attorneys responding with *no opinion* for this question was expected since only a small percentage of all cases in federal court would be categorized as complex by attorneys and the bench.

21. The Settlement Conference before a Judge or Magistrate Judge, which must be held within 45 days of the presumptive trial date as required by Local Rules 16.5

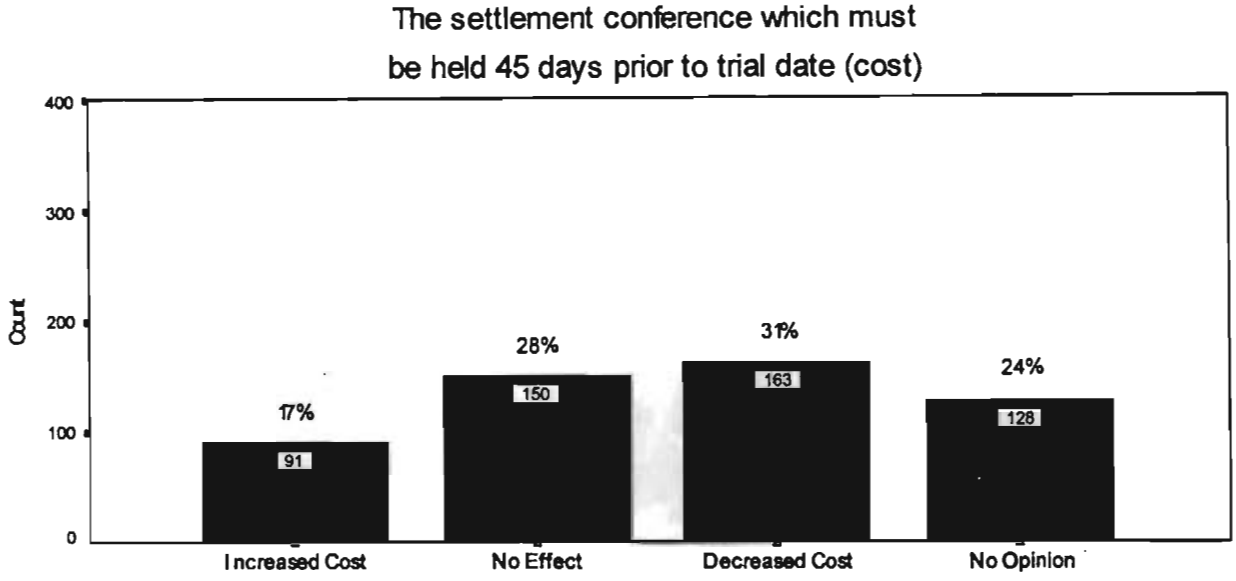


Figure 18

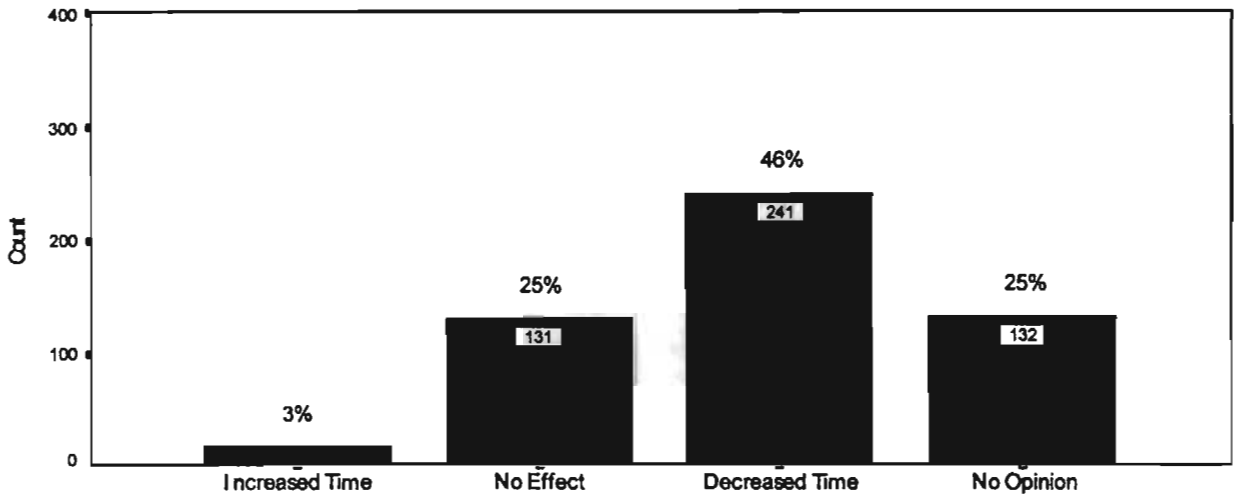


Figure 19

There was an even distribution of responses regarding the cost of a settlement conference. The highest number of responses was 31% for *decreased cost*. The highest number of responses regarding time was 46% for *decreased time*. Only 3% of attorneys believe settlement conferences result in *increased* disposition time. Twenty-five percent of the open-ended responses in question #20 were related specifically to settlement conferences. The most frequent comment was similar to this: "Settlement conferences should be held earlier."

21. The Final Pretrial Conference (which may be combined with the Settlement Conference) which is to be held no earlier than 45 days prior to the presumptive trial date

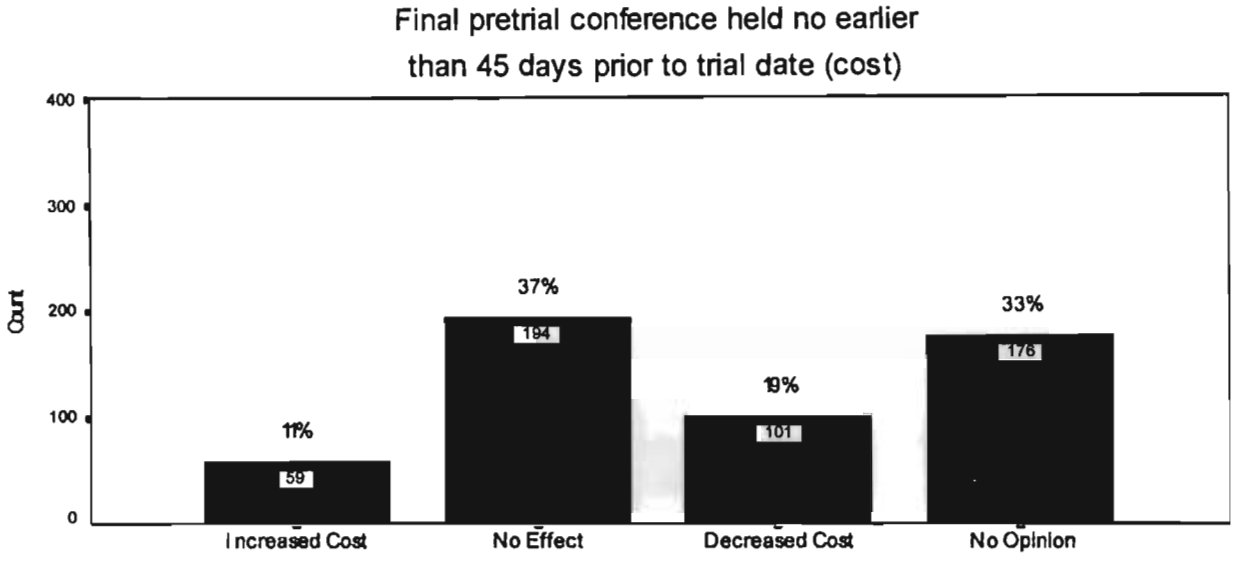


Figure 20

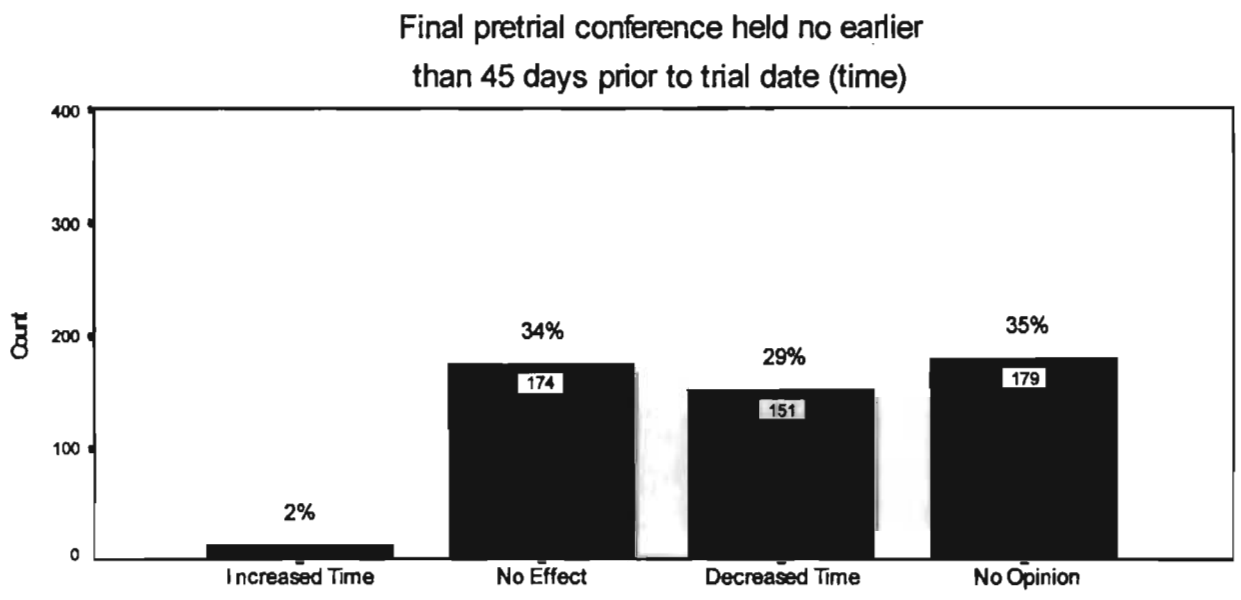


Figure 21

The largest percentage of responses in Figure 20, 37%, found the final pretrial conference had *no effect* on the cost of a case. One-third of the respondents responded *no opinion* on this question. The time results are a balanced distribution between *no effect* (34%), *decreased time* (29%), and *no opinion* (35%). Only 2% of attorneys agree that the final pretrial conference results in *increased time*.

Note: for the remainder of the report, the 1993 CJRA Plan, the 1993 Amendments to the Federal Rules of Civil Procedure, and the revised Local Rules of the District of Minnesota are referred to collectively as "The Rules"

3. How have The Rules affected the following:
a. The likelihood that your cases go to trial?

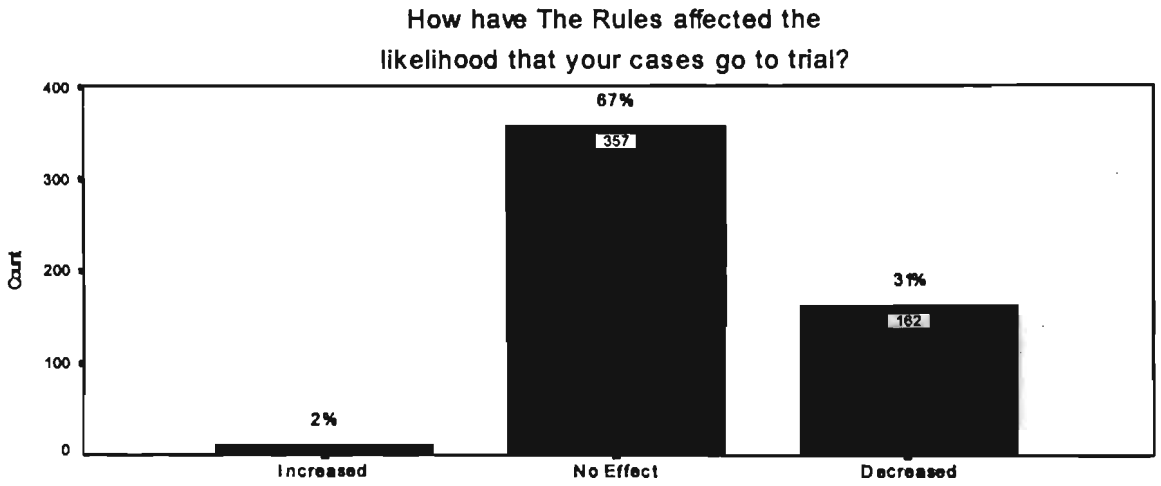


Figure 22

As shown in Figure 22, the majority of attorneys (67%) responded The Rules have had *no effect* on the likelihood that their cases go to trial. It is significant, however, that 31% of the attorneys responded The Rules have *decreased* the likelihood of going to trial.

3. How have The Rules affected the following:
b. The amount of time you are required to spend on cases?

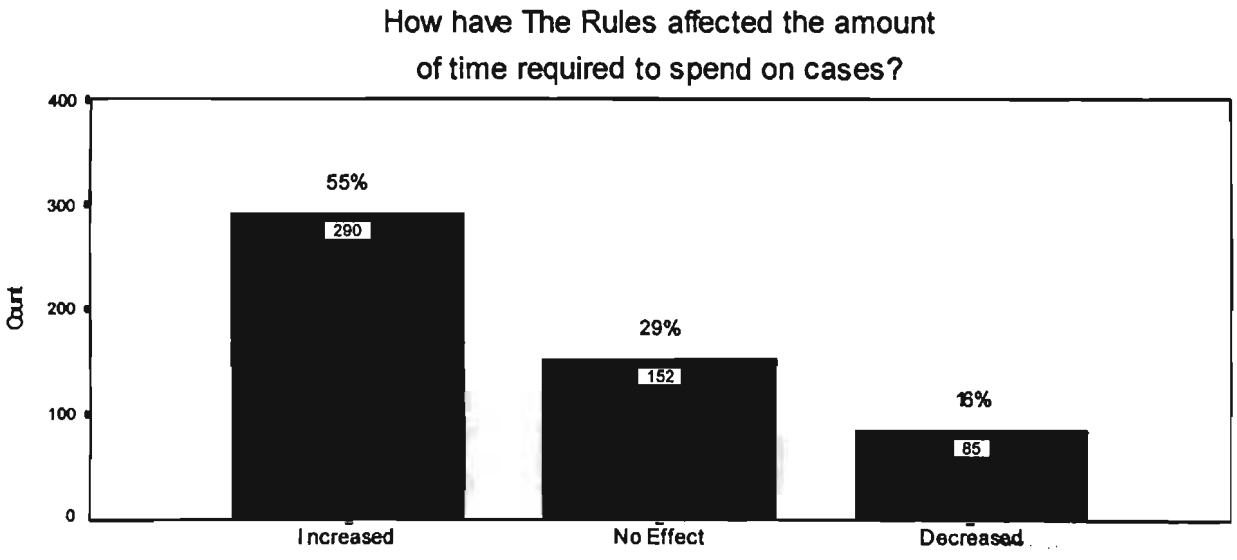


Figure 23

As illustrated in Figure 23, over half (55%) of the attorneys responded that The Rules have *increased* the amount of time they are required to spend on cases. Twenty-nine percent of the attorneys determined The Rules have *no effect* on the amount of time required, and 16% responded The Rules have *decreased* the amount of time required.

3. How have The Rules affected the following:
c. The total cost to your clients?

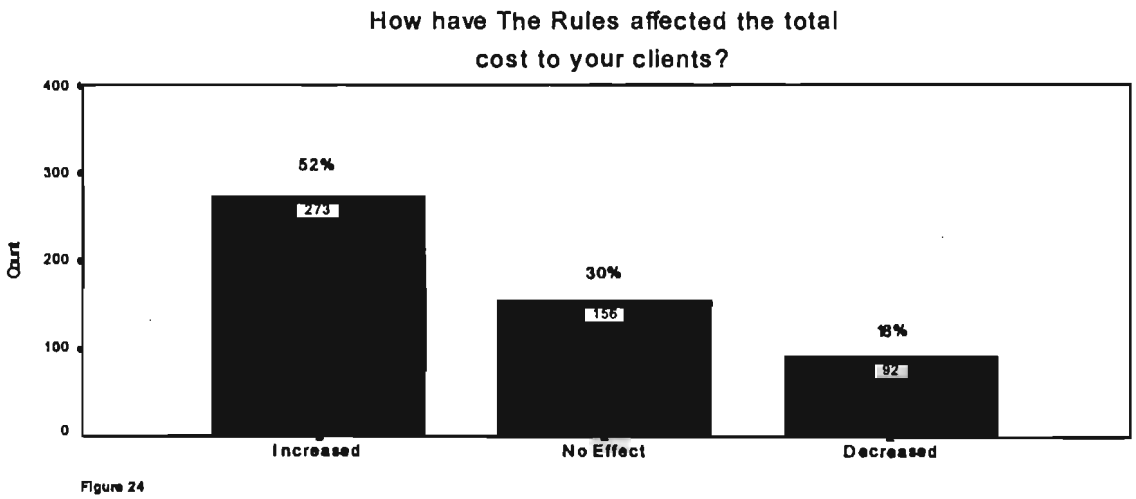


Figure 24

As shown in Figure 24, 52% of attorneys responded The Rules *increased* the total cost to their clients. Of the remaining attorneys, 30% determined The Rules had *no effect* on the total cost to clients, and 18% believe The Rules have *decreased* the total cost to their clients.

3. How have The Rules affected the following:
d. Your ability to represent your clients?

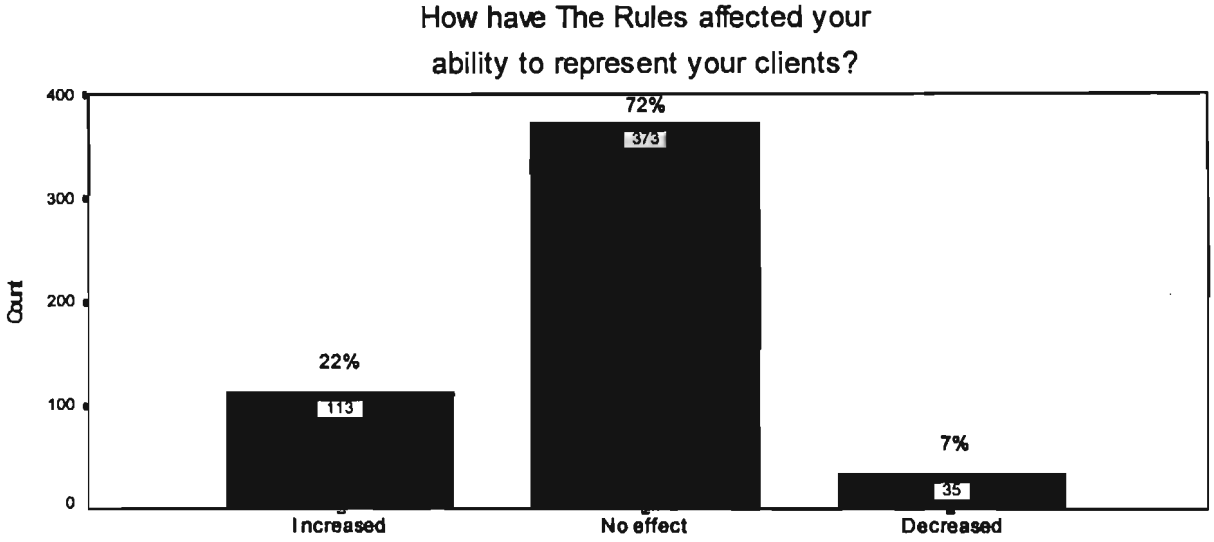


Figure 25

The majority of attorneys, 72%, responded the Rules have had *no effect* on their ability to represent their clients (Figure 25). Twenty-two percent of attorneys believe the new Rules have *increased* their ability to represent their clients. Only 7% of attorneys agree the Rules have *decreased* their ability to represent their clients.

4. Is the time from filing to disposition too long for civil suits?

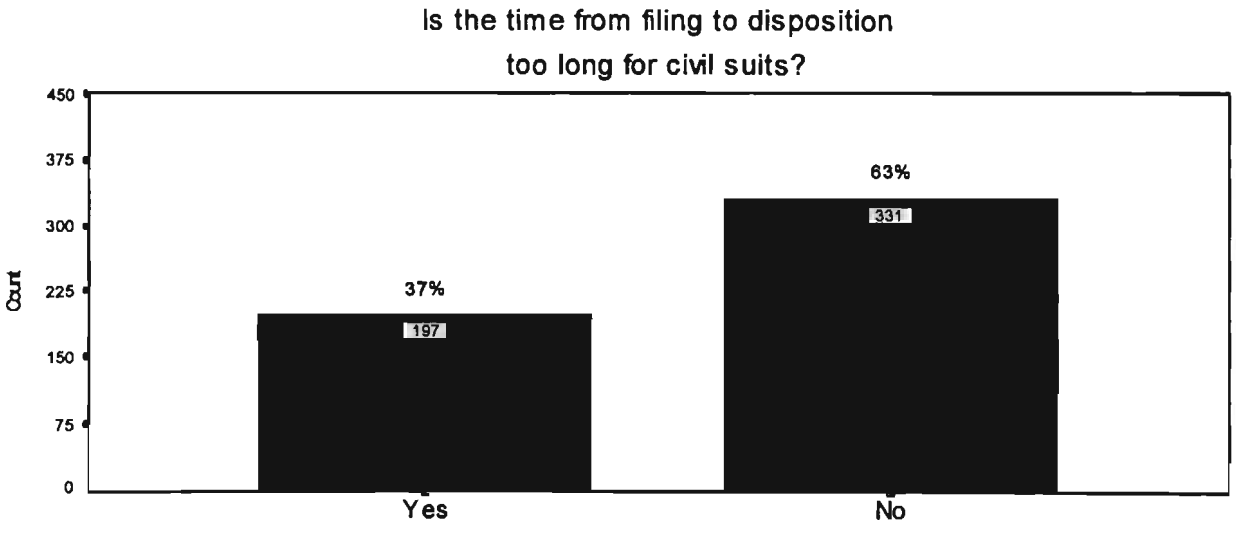


Figure 26

5. Is the total cost to clients, including attorneys' fees, too high for civil suits?

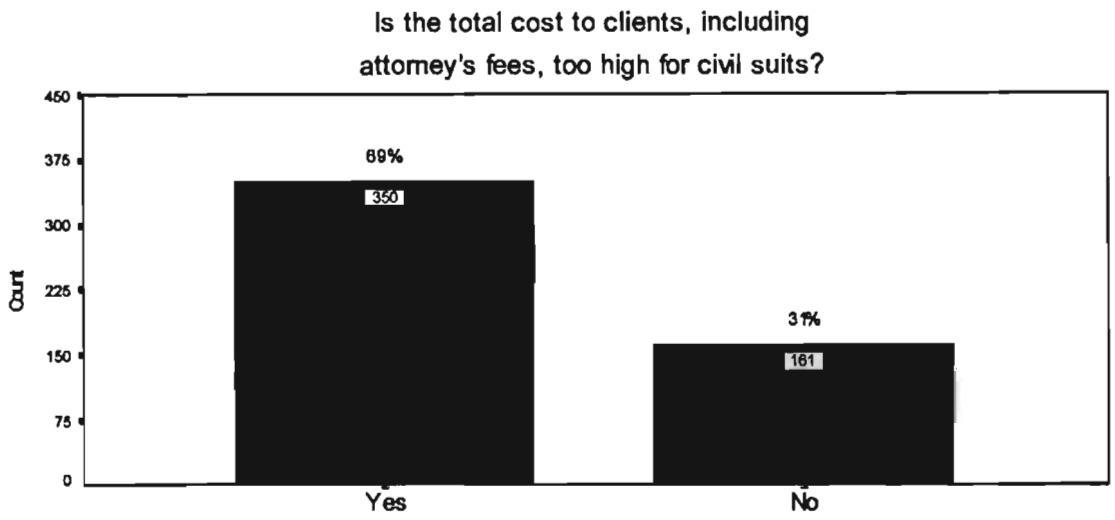


Figure 27

It is important to note that 141 attorneys, or 22%, left this question blank. Some of the comments written next to the question were: "How can you answer this?", " Too general to answer," and "NA."

6. Does the Court adhere to its own deadlines?

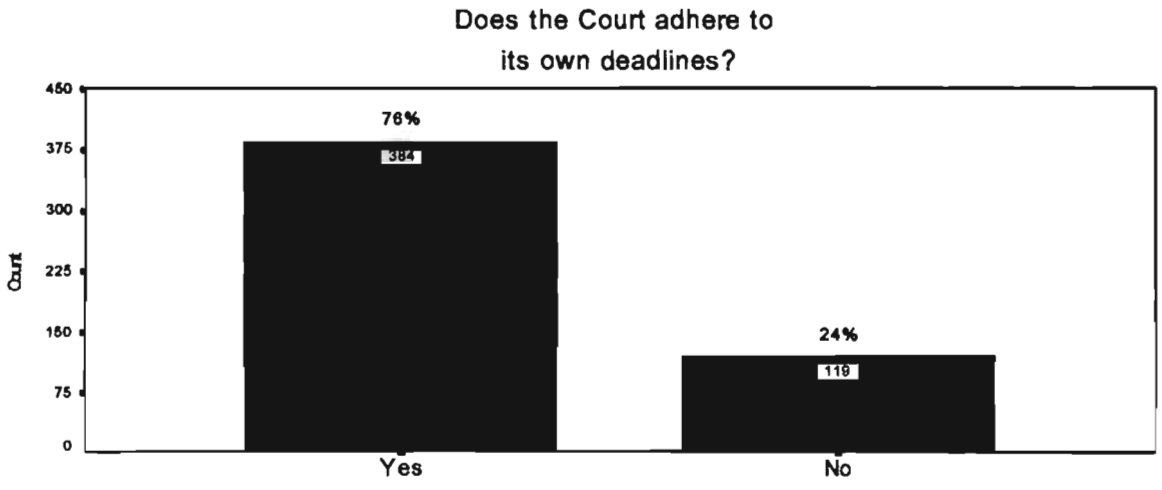


Figure 28

In Figure 28, over three-quarters of the attorneys agreed the Court does adhere to its own deadlines. Twenty-four percent of the attorneys believe the Court does not adhere to its own deadlines.

Many attorneys had a difficult time responding to this question. For those who did respond, some wrote comments such as "usually," "most of the time," or "too vague" next to their answer. Of all questions, this was most often left blank with 149 attorneys (23%) leaving it unanswered.

7. Please indicate your level of agreement with each of the following statements:

A. The failure of opposing counsel to follow the requirements of The Rules significantly increases the disposition time of civil suits filed in Minnesota.

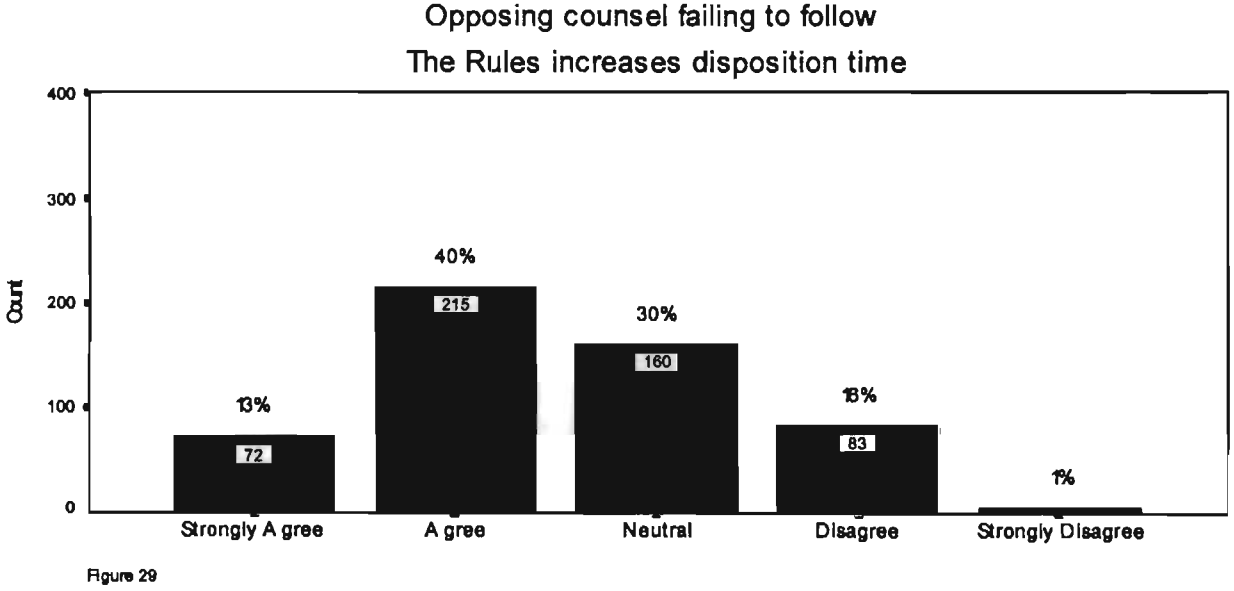


Figure 29

As indicated in Figure 29, the results show heavy agreement that the failure of opposing counsel to follow the requirements of The Rules significantly *increases* the disposition time of civil suits. Fifty-three percent of the attorneys *strongly agree* or *agree* versus 14% who *strongly disagree* or *disagree*. Approximately one-third (30%) of the attorneys, are *neutral* regarding this question as stated.

B. The failure of opposing counsel to follow the requirements of The Rules significantly increases the cost of civil suits filed in Minnesota.

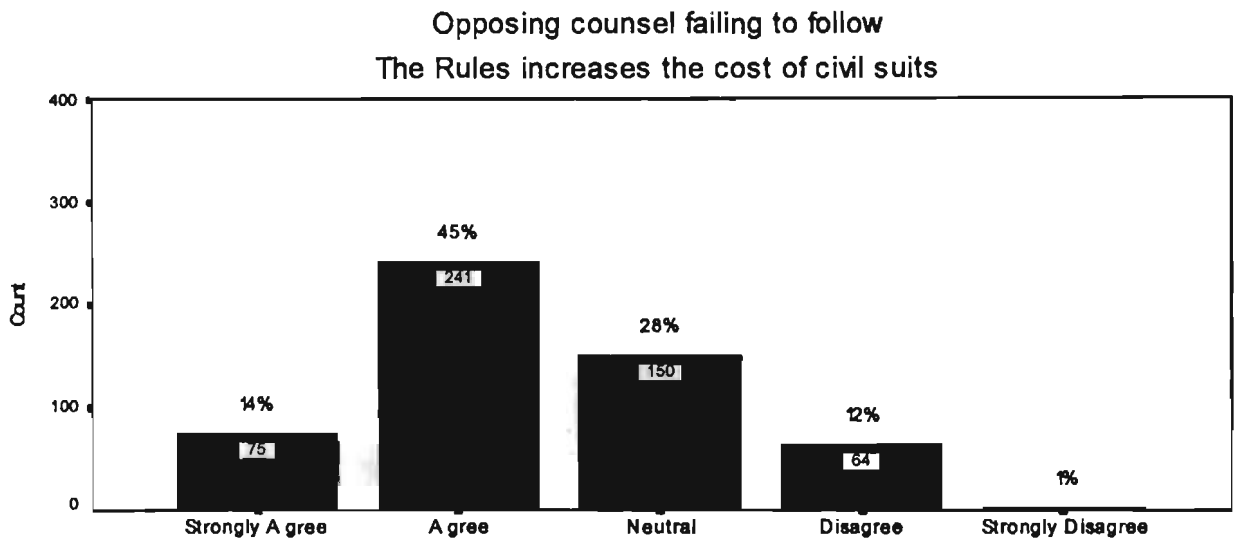


Figure 30

As shown in Figure 30, 59% of attorneys *strongly agree* or *agree* that the failure of opposing counsel to follow the requirements of The Rules significantly increases the cost of civil suits. In contrast, 13% of attorneys *strongly disagree* or *disagree* with this statement. Twenty-eight percent of attorneys are *neutral*.

There were many related comments in the open-ended question #20. Six attorneys requested consistent and rigorous enforcement of the Local Rules and Federal Rules of Civil Procedure. Twelve attorneys would like to see more frequent imposition of sanctions for those who don't follow The Rules. Seventeen attorneys requested that judges enforce rule limits on pretrial (number of interrogatories, depositions, deadlines, etc.).

The litigant survey also had comments related to factors that contribute to increased costs and delay in cases: "opposing counsel's discovery abuse . . . court should sanction such behavior" and "defendant and their attorney did not seem to honor new federal court discovery rules put into place in 1993." Five litigants reported their case was delayed because the opposing party did a lot of stalling--did not give all requested information during the discovery phase, and delayed what limited information they did provide.

C. The Judges and Magistrate Judges are making a good faith effort to follow the requirements of The Rules

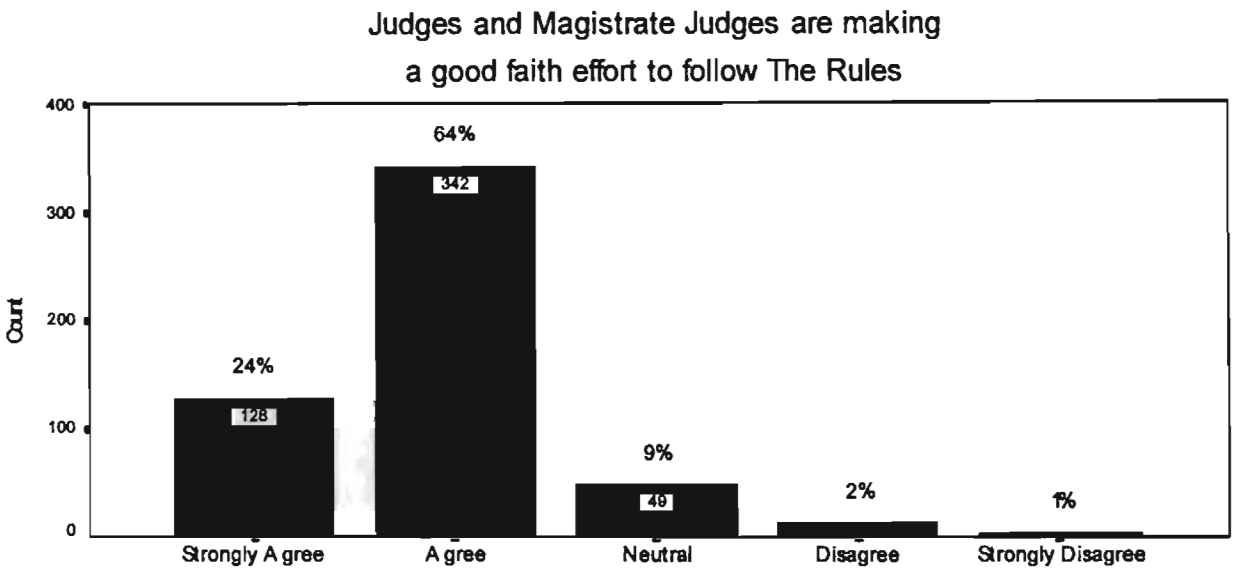


Figure 31

By a large margin, attorneys agree the Judges and Magistrate Judges are making a good faith effort to follow The Rules. An impressive 88% of the attorneys *strongly agree* or *agree* the Judges are making a good faith effort, versus a total of 3% who *strongly disagree* or *disagree*.

D. Orders on non-dispositive motions are being issued on a timely basis

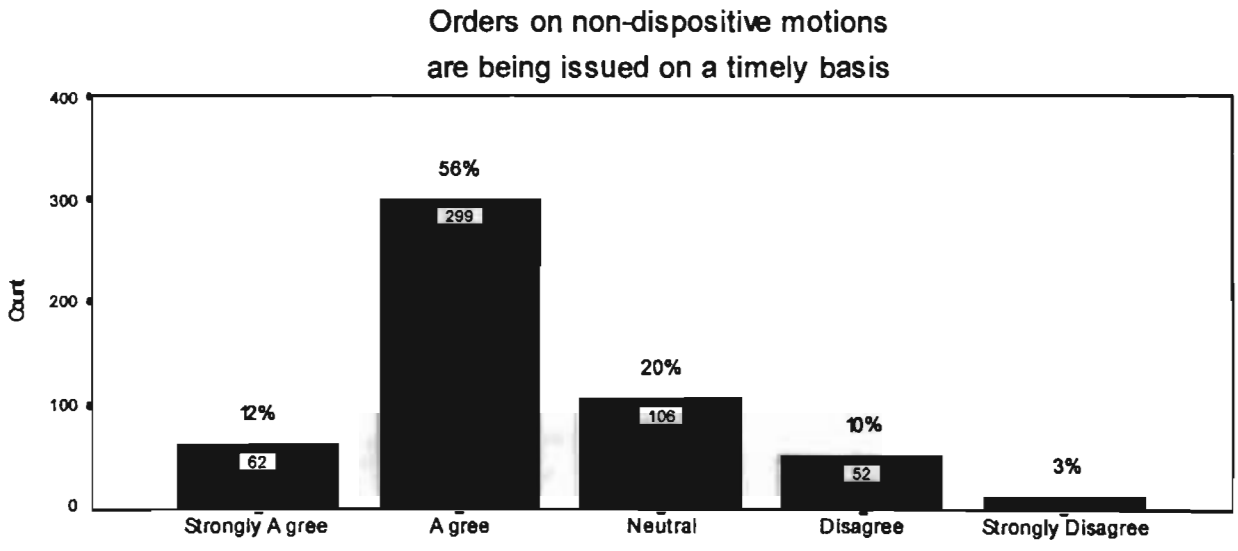


Figure 32

The highest response to this question was 56% who *agree* orders on non-dispositive motions are being issued on a timely basis. The remaining responses following are 20% *neutral*, 12% *strongly agree*, 10% *disagree* and 3% *strongly disagree*. Based upon these results, it can be concluded that overall, most attorneys believe orders on non-dispositive motions are being issued on a timely basis.

E. Orders on dispositive motions are being issued on a timely basis

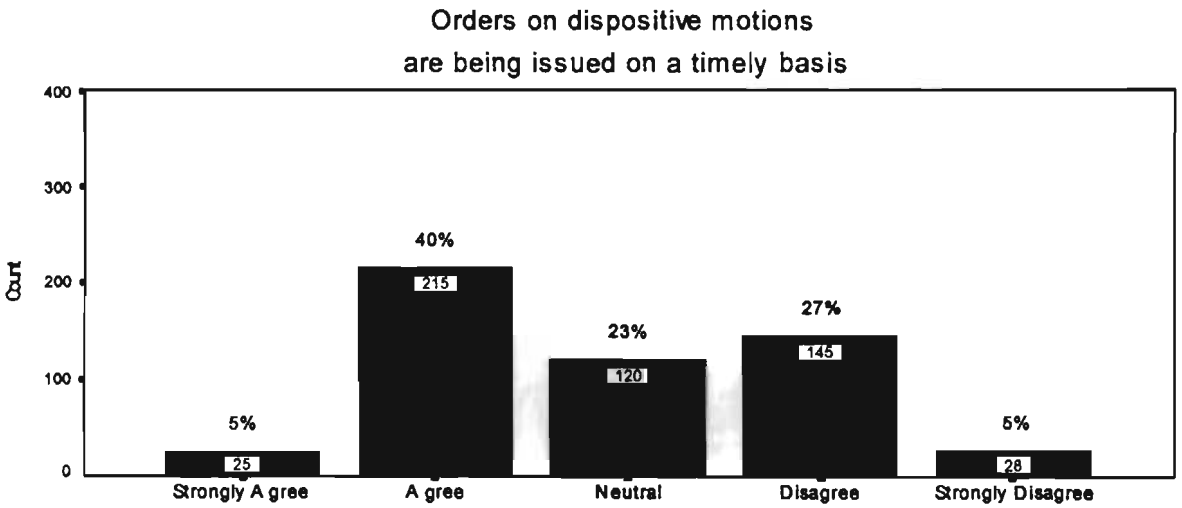


Figure 33

The results shown in Figure 33, while not as positive as Figure 32, are still respectable. Forty-five percent of attorneys *strongly agree or agree* orders on dispositive motions are issued on a timely basis. Twenty-three percent of attorneys are *neutral* and 32% *strongly disagree* or *disagree*. The following tables show more detailed results of the responses.

F. The priority given to criminal trials is a significant factor in delaying the final disposition of civil cases filed in the District of Minnesota

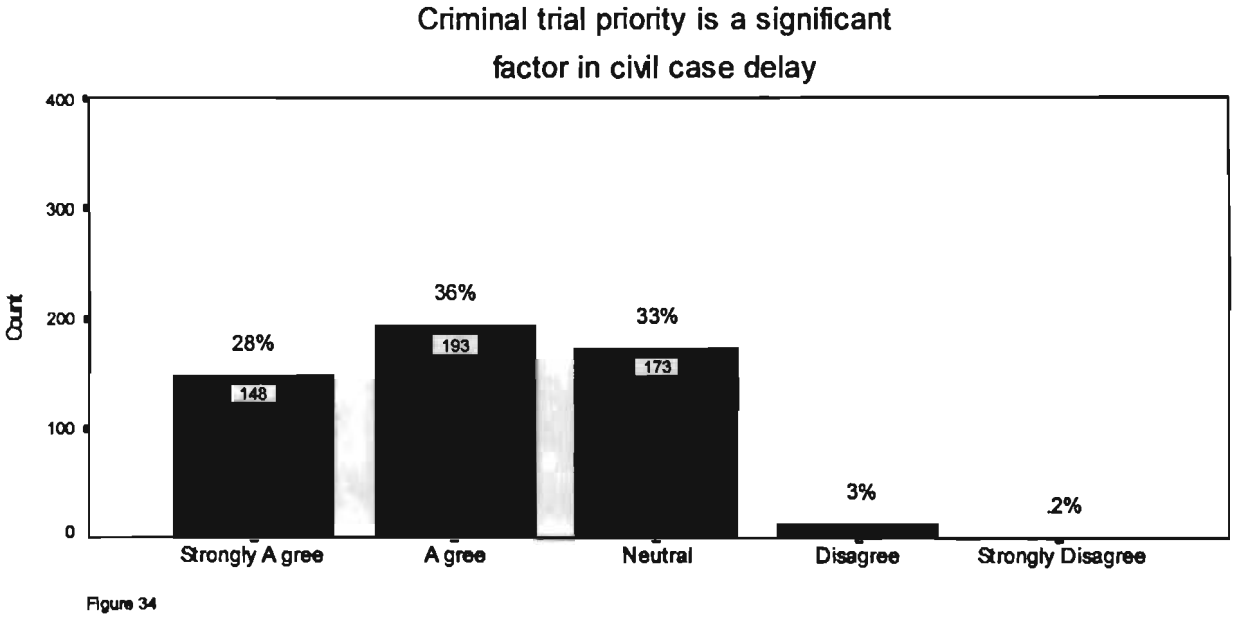


Figure 34

There were very few attorneys who disagree with the above question regarding criminal trial priority. It is quite significant that 28% of the attorneys *strongly agree*. Although there has never been a moratorium issued on civil cases in this district due to the criminal caseload, it is clear there is some concern by attorneys as to the priority of criminal cases over civil cases.

G. The likelihood of settlement is greater if the non-attorney representatives of parties having full settlement authority are present at all Settlement Conferences

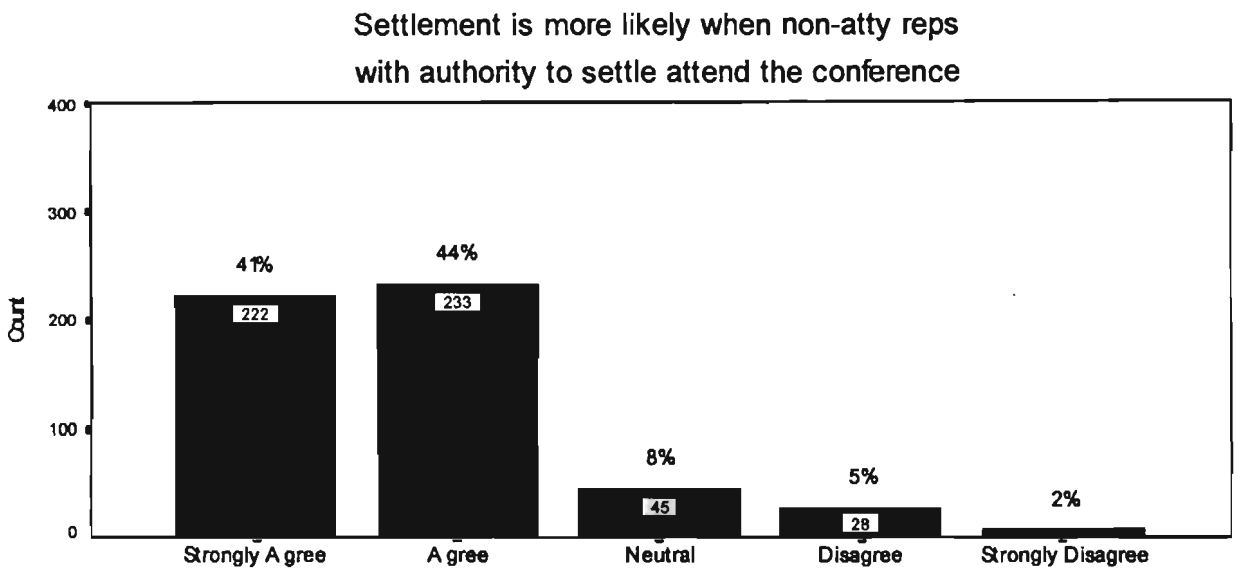


Figure 35

The majority of attorneys responded to this question by selecting *strongly agree* (41%) or *agree* (44%), with only 7% of attorneys selecting *disagree* or *strongly disagree*. The new Local Rule 16.5 (a) Settlement Conference reads: "Trial counsel for each party as well as a party representative having full settlement authority shall attend each Settlement Conference ordered by the court." The outcome of this question illustrates the support for this newly revised Local Rule.

H. The likelihood of settlement is greater if the representatives of insurance companies having full settlement authority are present at all Settlement Conferences

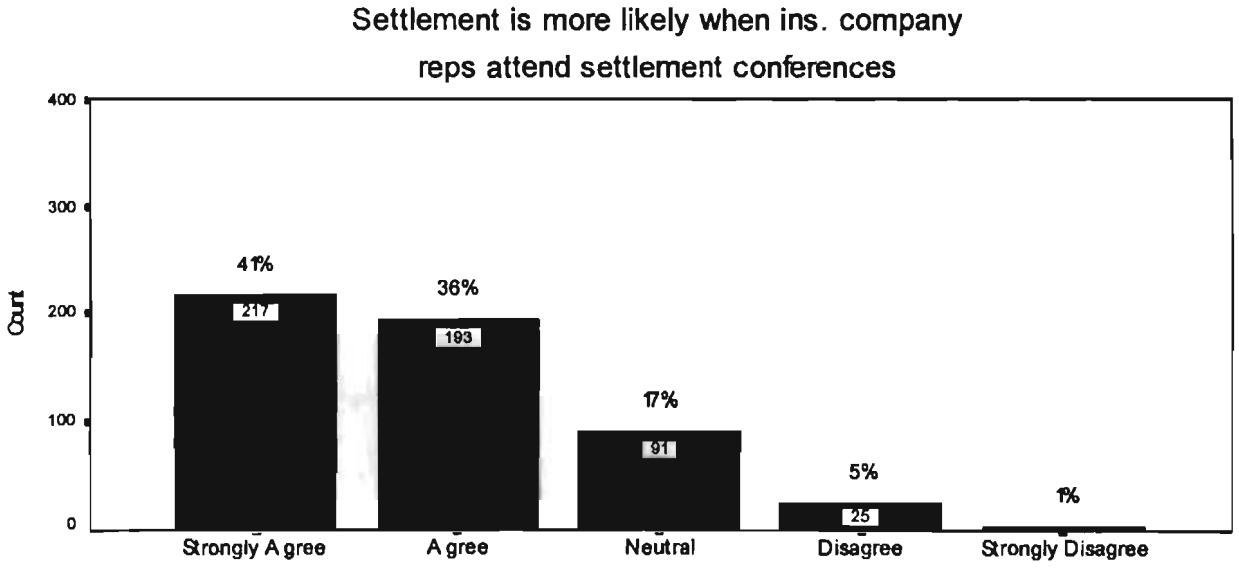


Figure 36

As shown in Figure 36, twice as many attorneys (17%) were *neutral* on the subject of insurance representatives attending settlement conferences versus non-attorney representatives attending. Again, there are a high percentage of attorneys who *strongly agree* (41%) or *agree* (36%) that the presence of insurance representatives make a settlement more likely. The new Local Rule 16.5 (a) Settlement Conference reads: "If insurance coverage may be applicable, a representative of the insurer, having full settlement authority, shall attend."

Four attorneys responded to question #20 by requesting that the court require persons with authority to attend settlement conferences. The litigant survey showed a hint of frustration for those who participated in settlement conferences but the case did not settle. One litigant wrote: "Pretrial court (settlement conference) was a joke. Representative of the opposing party did not have settlement authority."

I. The District Court should opt-out of the FRCP 26(a) initial pre-discovery mandatory disclosure requirements

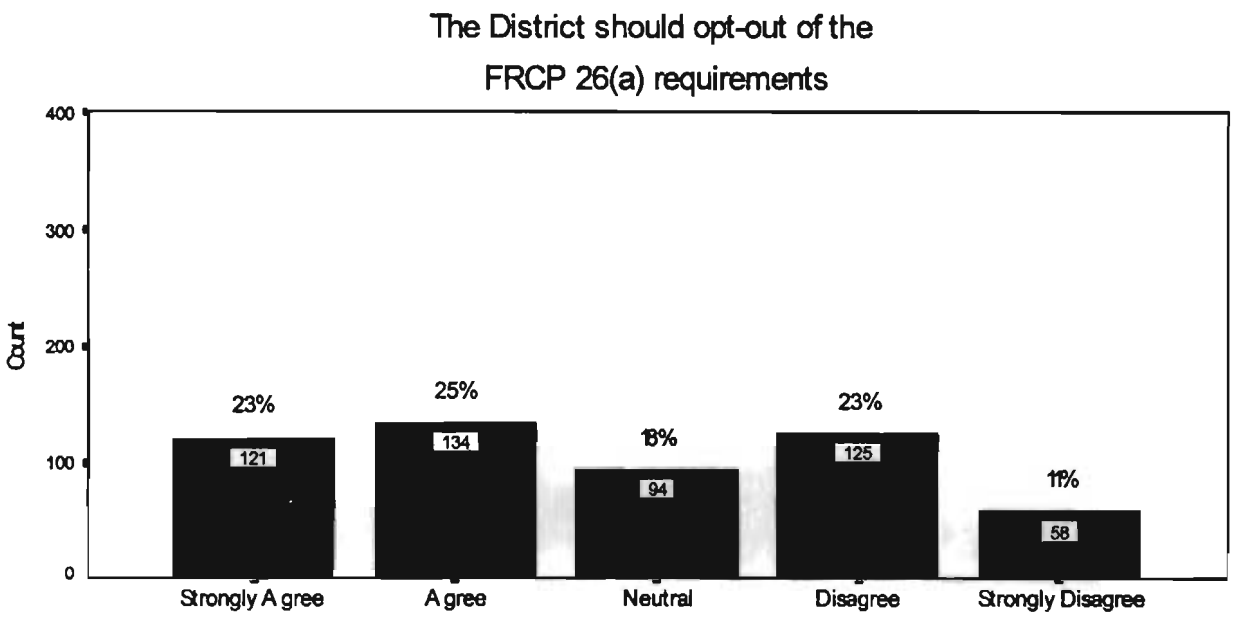


Figure 37

No other question in this survey had such an even distribution of responses across the scale.

In 1994-95, the Local Rules Committee carefully considered the opt-out provision of Rule 26 when revising the Local Rules for the District of Minnesota. Their conclusion was that the court had largely been operating under the amended Federal Rules without reported controversy or complications.

The Committee did, however, make a decision to exempt certain categories of cases, most notably prisoner cases, pro se cases, and social security claims.

An updated review on the effectiveness of the mandatory disclosures may be made by the CJRA Advisory Group based on Figure 37 and the comments in question #20. It is still evident, as it was in 1994-95, that varying opinions remain regarding the necessity or usefulness of this rule.

Some of the related concerns in question #20 were the delay of discovery in the time preceding the Rule 26(f) conference, enforcement of the pre-discovery disclosures and more specific guidelines for the disclosures. See the attorney comments section for additional comments regarding the mandatory disclosure rules.

J. Judges and Magistrate Judge should order non-binding alternative dispute resolution methods such as mediation and arbitration more frequently than they have in the past

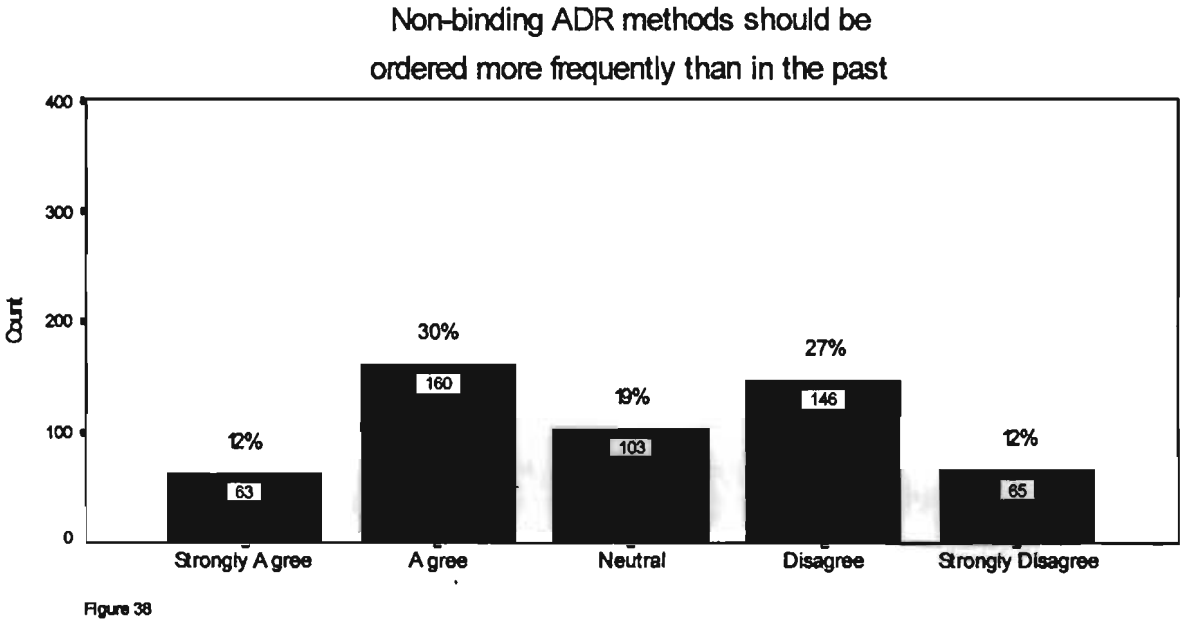


Figure 38

Figure 38 shows opinions regarding non-binding ADR are evenly distributed across the response scale. The highest percentages are 30% who *agree* non-binding ADR should be ordered more frequently, and 27% who *disagree* ADR should be ordered more frequently.

The revised Local Rules contain a provision regarding other dispute resolution methods. Local Rule 16.5 (b) states: "In the discretion of the Court, the parties, trial counsel, and other persons deemed necessary to attend may be ordered to participate in other non-binding dispute resolution methods before a Judge or Magistrate Judge, including but not limited to, summary jury trials, non-binding arbitration and mediation." It also states in Rule 16.5(b)(1) that "In the discretion of any Judge or Magistrate Judge, the parties, trial counsel, and other persons deemed necessary to attend may be ordered to engage in any one or a combination of non-binding alternative dispute resolution methods to be conducted by someone other than a Judge or Magistrate Judge."

For the attorneys who don't want more ADR ordered, do they think it should remain at the present level, or be decreased? Unfortunately, the survey does not answer that question. The only conclusion that can be drawn from Figure 38 is that 42% of the attorneys would like to see more non-binding ADR ordered, and 39% of attorneys would *not* like to see more non-binding ADR ordered.

K. The CJRA Plan and the Local Rules should be amended to make various non-binding alternative dispute resolution methods, such as mediation and arbitration, mandatory in some categories of cases.

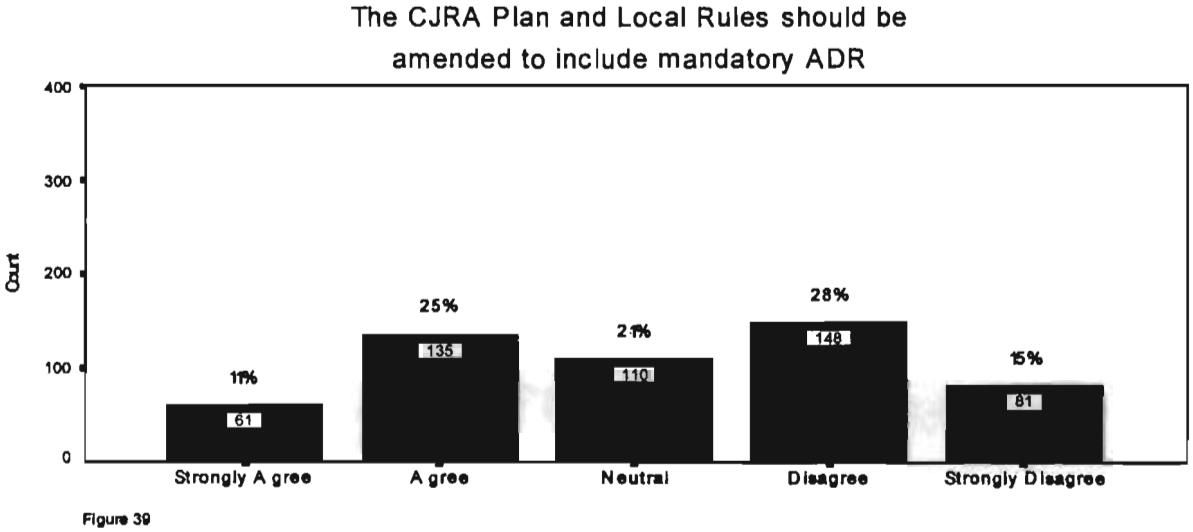


Figure 39

The results of this question are similar to those in Figure 38 except the percentages for each label in Figure 39 are more evenly distributed. Eleven percent of attorneys chose *strongly agree*, 25% *agree,* 21% *neutral*, 28% *disagree*, and 15% *strongly disagree* the CJRA Plan and the Local Rules should be amended to make ADR mandatory in some cases.

With so many different types and applications of ADR, it is no surprise attorneys disagree about whether ADR is appropriate for this district. Groups such as the Federal Practice Committee and the former CJRA Advisory Group have recommended the Court not adopt a formal mandatory ADR program. They did suggest and continue to support the use of selective ADR mechanisms on a case by case basis as determined by the individual Judge or Magistrate Judge.

The comments in question #20 indicate the varying views on ADR. Ten attorneys would like the court to encourage ADR, six attorneys would like mandatory ADR in this court, six other attorneys would like to be offered voluntary mediation with a magistrate judge earlier in the case, and four would like the court to consider mandatory summary jury trials or mini trials with magistrate judges or special masters appointed who are recognized, respected experts in their field.

The graphs in Figures 38 and 39 show a significant level of support for the increased use of ADR, but they also show there are equally as many attorneys against the increased use of ADR.

8. In your experience, does the U.S. District Court in Minnesota undermanage or overmanage civil cases?

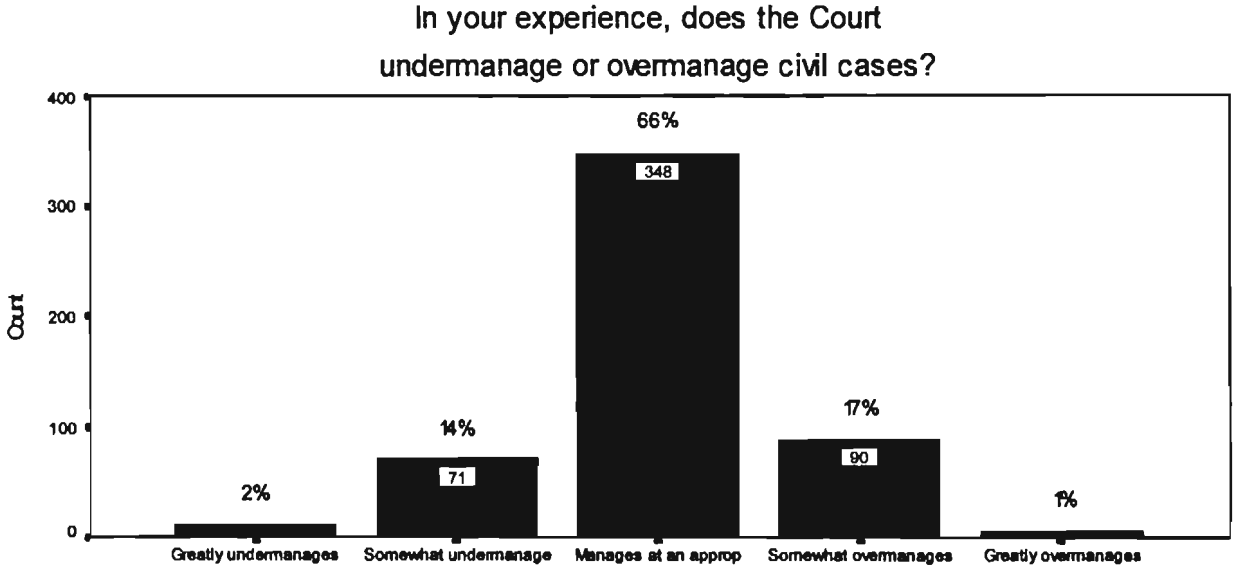


Figure 40

As shown in Figure 40, the majority of the attorneys (66%) are in agreement that the Court manages civil cases at an appropriate level.

9. How effective is the U.S. District Court in Minnesota in helping parties to reach settlement?

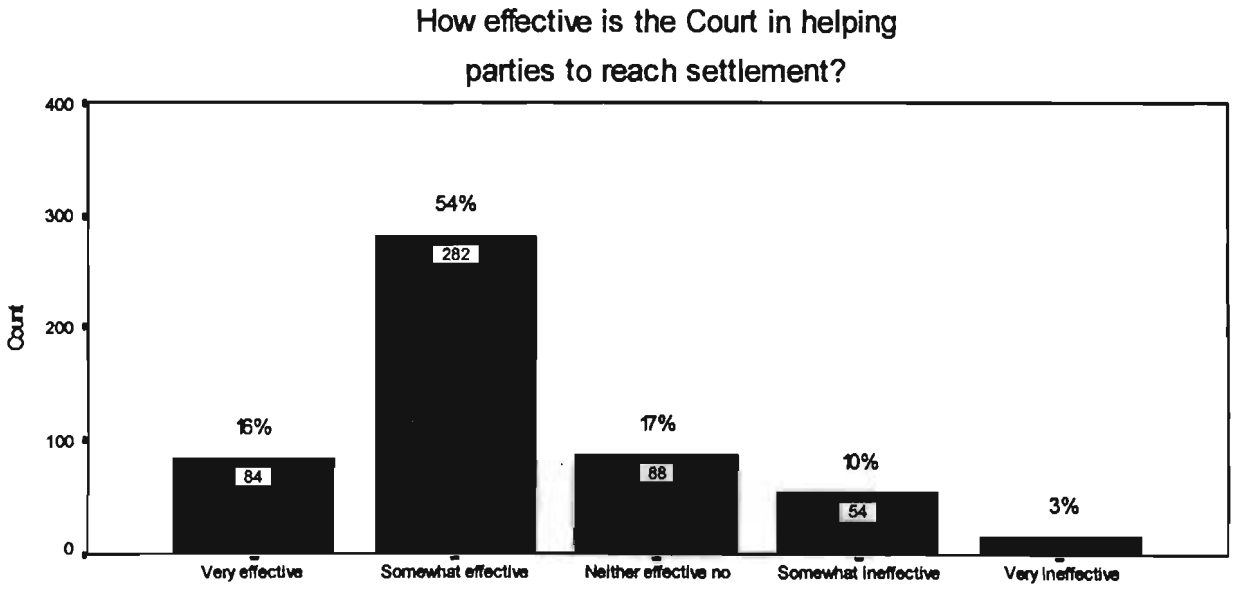


Figure 41

Over half of the attorneys (54%) consider the Court to be *somewhat effective* in helping parties to reach settlement. Sixteen percent consider the Court *very effective* in helping parties to reach settlement. Of the remaining attorneys, 17% consider the Court *neither effective nor ineffective*, 10% consider them *somewhat ineffective*, and a marginal 3% consider them *very ineffective*.

There were 127 attorneys who did not respond to this question and indicated the question needed to be more specific. Two common responses were: "depends on the judge" or "varies with the magistrate judge."

In question #20, seven attorneys indicated a need for more settlement conferences, and six attorneys were concerned because as one attorney wrote: "Some judges make no effort at settlement or don't know how to do it. Some are great."

10. Does the U.S. District Court in Minnesota press too hard or not hard enough for settlement?

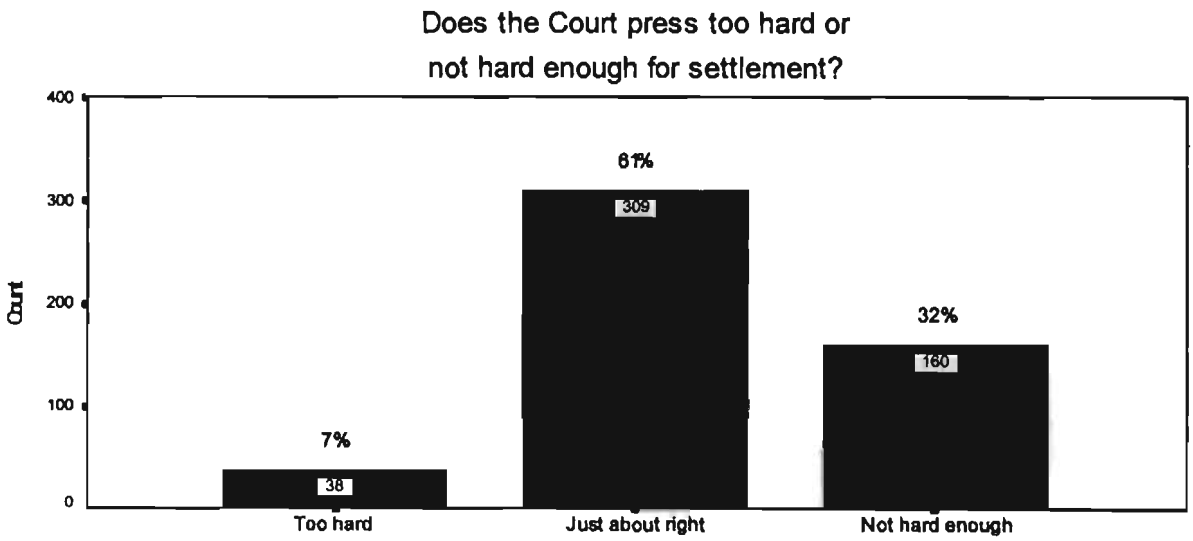


Figure 42

Nearly two-thirds of the attorneys (61%) indicate the Court is pressing for settlement at an appropriate level. However, 32% of the attorneys would like to see the Court press the parties a bit harder for settlement. A minimal number of attorneys (7%) consider the Court to be pressing *too hard* for settlement.

Of those attorneys who considered the Court to be ineffective in helping parties settle (Figure 41), do they think the Court presses too hard? Do they wish the Court would press harder? The following table will compare the responses of Figures 41 and 42.

How effective is the U.S. District Court in helping parties to reach settlement?	Number of attorneys	Does the U.S. District Court in Minnesota press too hard or not hard enough for settlement?		
		Too hard	Just about right	Not hard enough
Very effective	83	7%	87%	6%
Somewhat effective	271	6%	71%	23%
Neither effective nor ineffective	81	12%	43%	44%
Somewhat ineffective	52	4%	14%	83%
Very ineffective	17	12%	6%	82%

As the chart indicates, more than 80% of the attorneys who consider the Court *somewhat ineffective* or *very ineffective* in helping parties to reach settlement, responded the Court does not press hard enough for settlement.

11. What effect have The Rules had on the *disposition time* of civil cases?

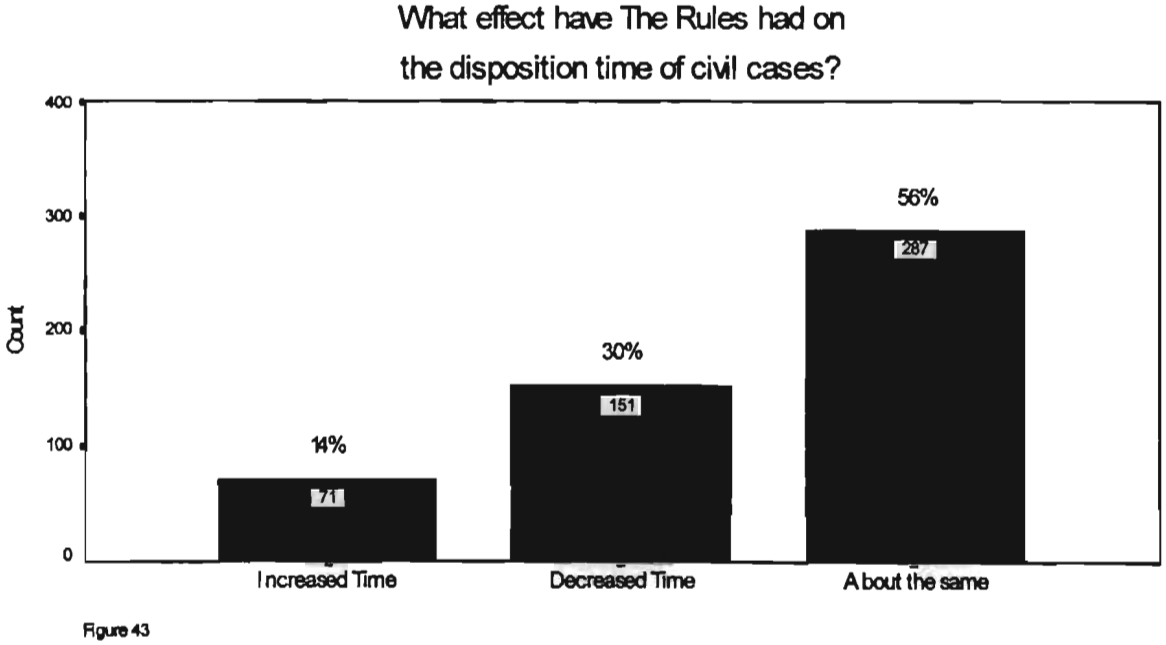


Figure 43

Fourteen percent of attorneys believe The Rules have *increased* the disposition time of civil cases versus 30% who believe The Rules have *decreased* the disposition time. Fifty-six percent of attorneys consider the disposition time to be *about the same* under the new Rules.

12. What effect have The Rules had on the *total cost to clients*, including attorneys' fees, in civil cases?

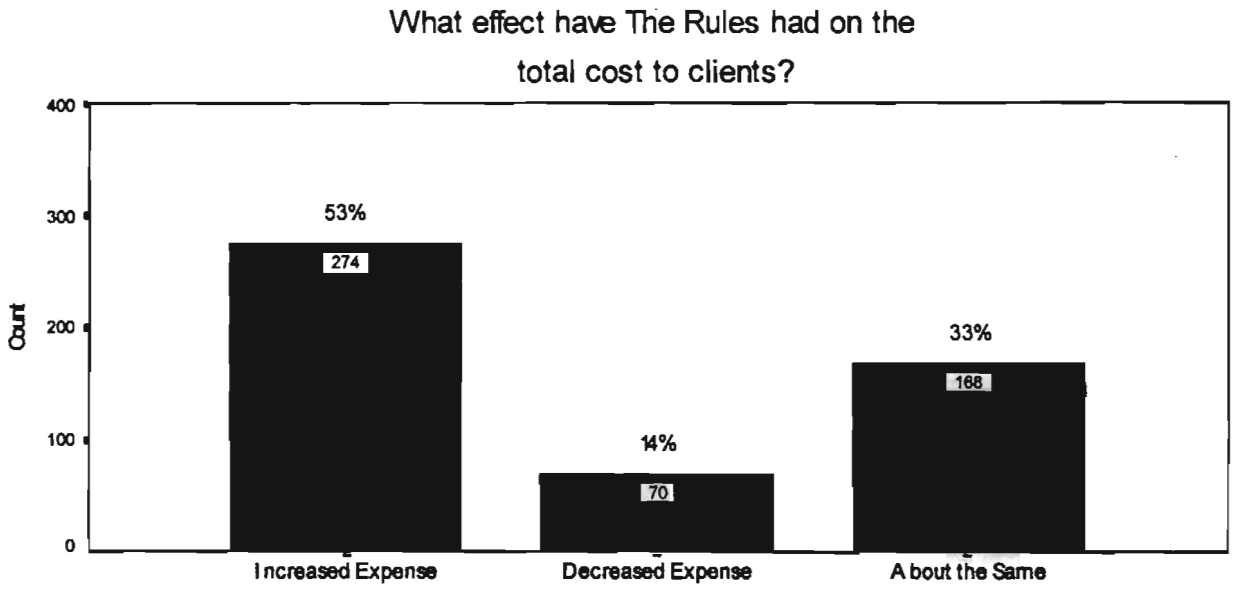


Figure 44

Over half of the attorneys concluded The Rules have *increased* costs to clients while only 14% responded The Rules have *decreased* costs to clients. Thirty-three percent of attorneys believe the cost to clients is *about the same* under the new Rules.

13. Overall, how helpful or detrimental have The Rules been in moving your cases toward resolution?

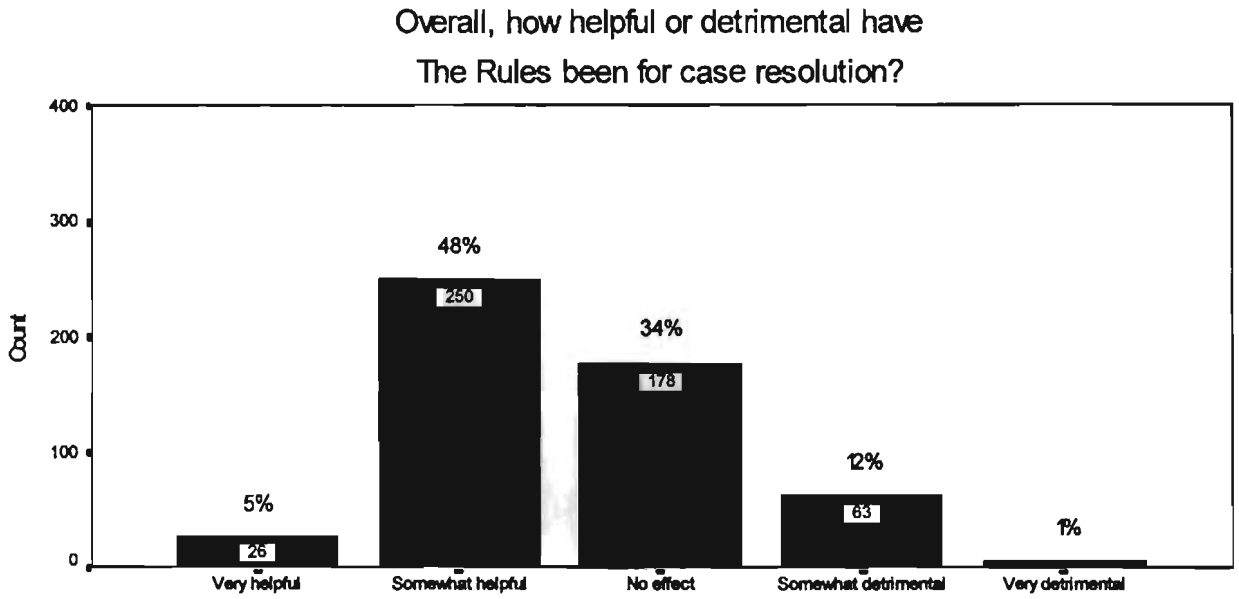


Figure 45

Question number 13 is included in the questionnaire as a summary question for the entire survey. In other words, regardless of your thoughts on the increase or decrease of costs or time, or your disagreement with some of the new Rules, how helpful or detrimental have The Rules been in moving your cases toward resolution?

Fifty-three percent of the attorneys believe The Rules were *very helpful* or *somewhat helpful* in moving cases toward resolution whereas 13% of the attorneys believe The Rules have been *somewhat detrimental* or *very detrimental* in moving their cases toward resolution. Finally, 34% believe The Rules have had *no effect* on case resolution.

14. Please indicate the approximate number of civil cases you have personally filed or defended in the U.S. District Court of Minnesota since August 1993

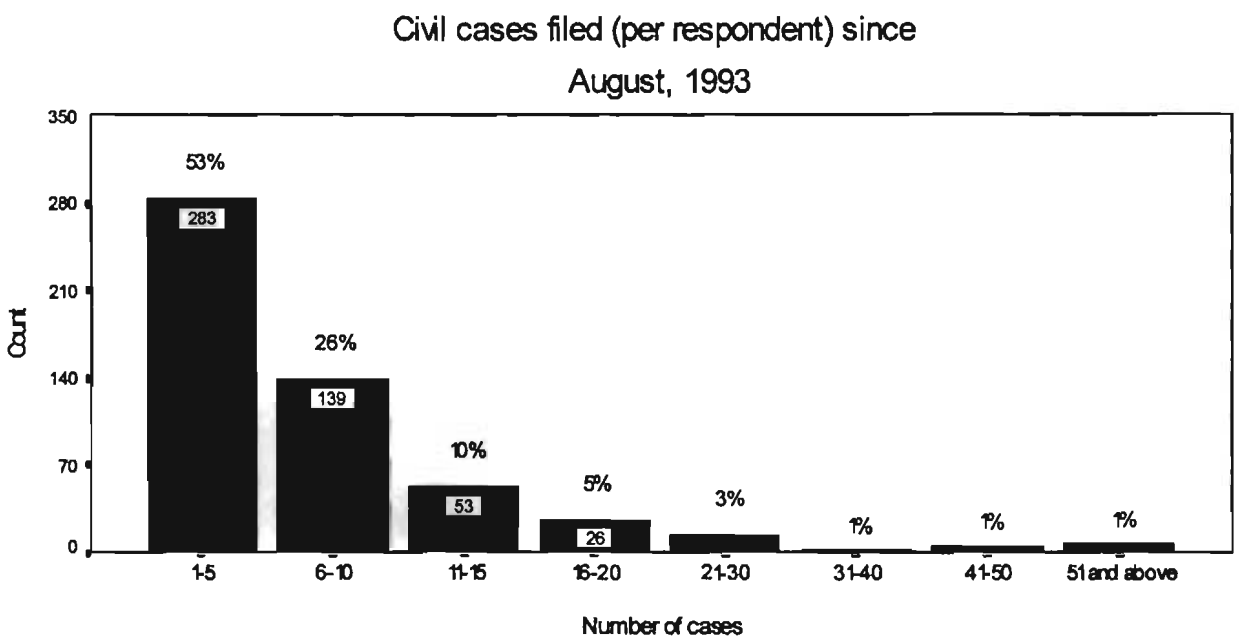


Figure 48

Over half of the attorneys (53%) have personally filed or defended *1-5* civil cases in U.S. District Court since August 1993. Of that 53%, the breakdown of one to five cases is as follows:

One case - 32 attorneys (11%)
Two cases - 59 attorneys (21%)
Three cases - 63 attorneys (22%)
Four cases - 68 attorneys (24%)
Five cases - 61 attorneys (22%)

Of the remaining attorneys, 26% have filed *6-10* cases, 10% have filed *11-15* cases, 5% have filed *16-20* cases, and 6% have filed *21 or more cases* since August 1993.

15. How many years have you been practicing as an attorney?

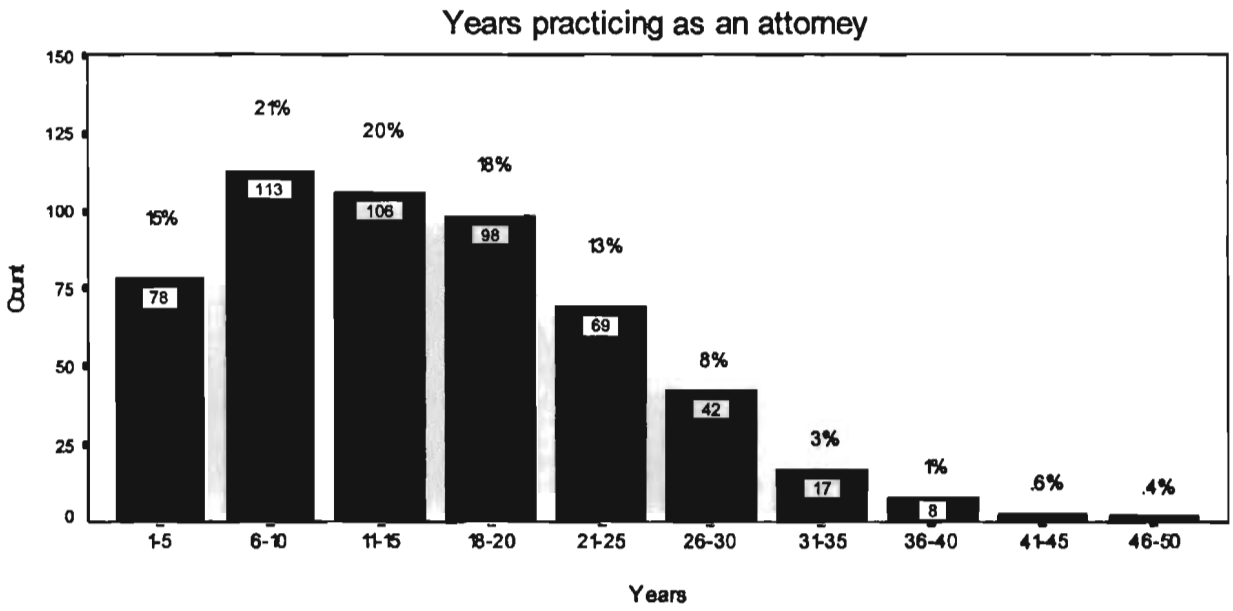


Figure 47

16. Approximately what percentage of your practice since August 1993 involves *civil litigation* in the U.S. District Court of Minnesota?

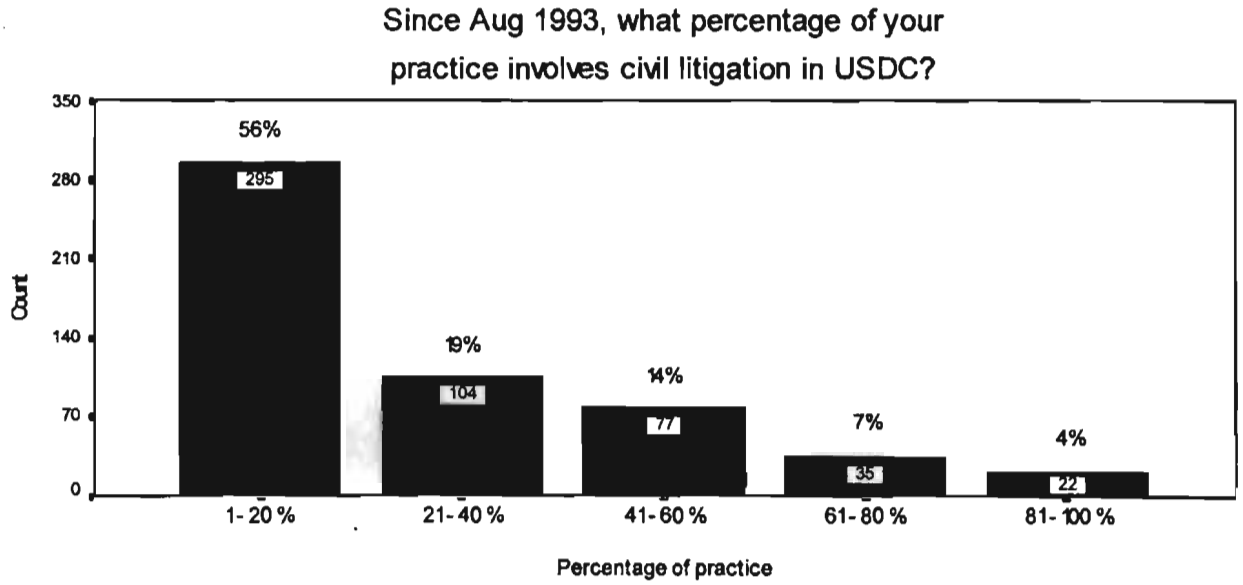


Figure 48

17. Approximately what percentage of your practice in the U.S. District Court of Minnesota is *plaintiff* oriented?

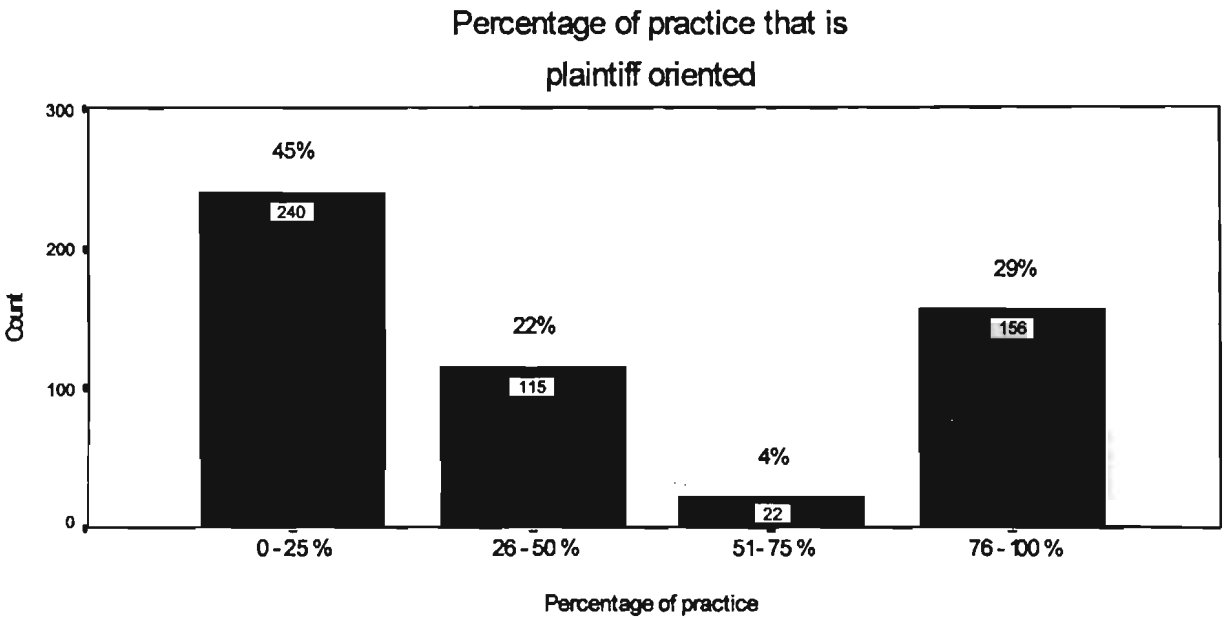


Figure 49

18. Approximately what percentage of your practice in the U.S. District Court of Minnesota is *defendant* oriented?

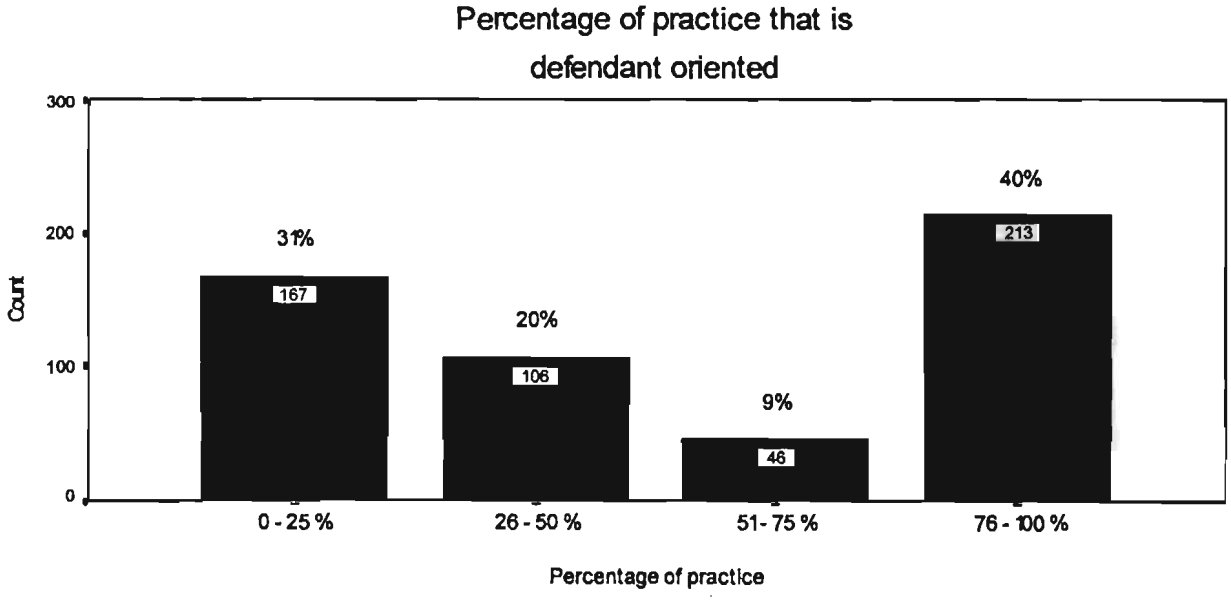


Figure 50

19. To what extent have your opinions of the CJRA Plan, the FRCP amendments, and the revised Local Rules been influenced by discussions with other lawyers regarding *specific cases*?

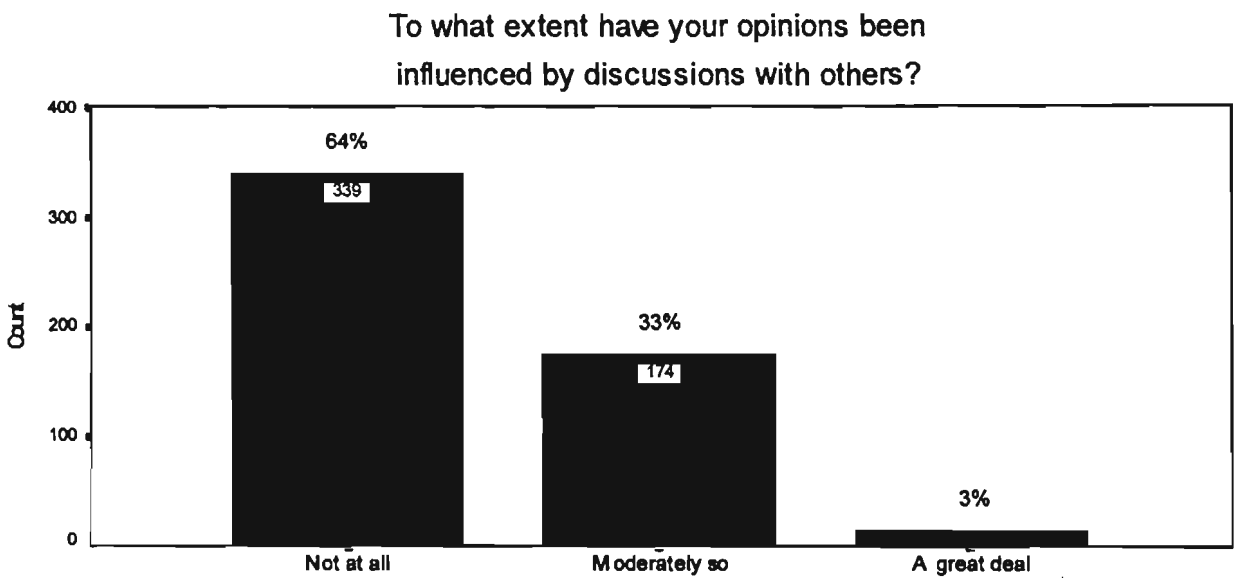


Figure 51

For 64% of the attorneys, their questionnaire responses were based solely upon their own experiences in U.S. District Court. Thirty-three percent of the attorneys responded that their opinions on The Rules were *moderately* influenced by discussions with other attorneys regarding specific cases. Only 3% of the attorneys responded that their opinions were influenced *a great deal* by discussions with other attorneys.

Pro Se respondents (not on questionnaire)

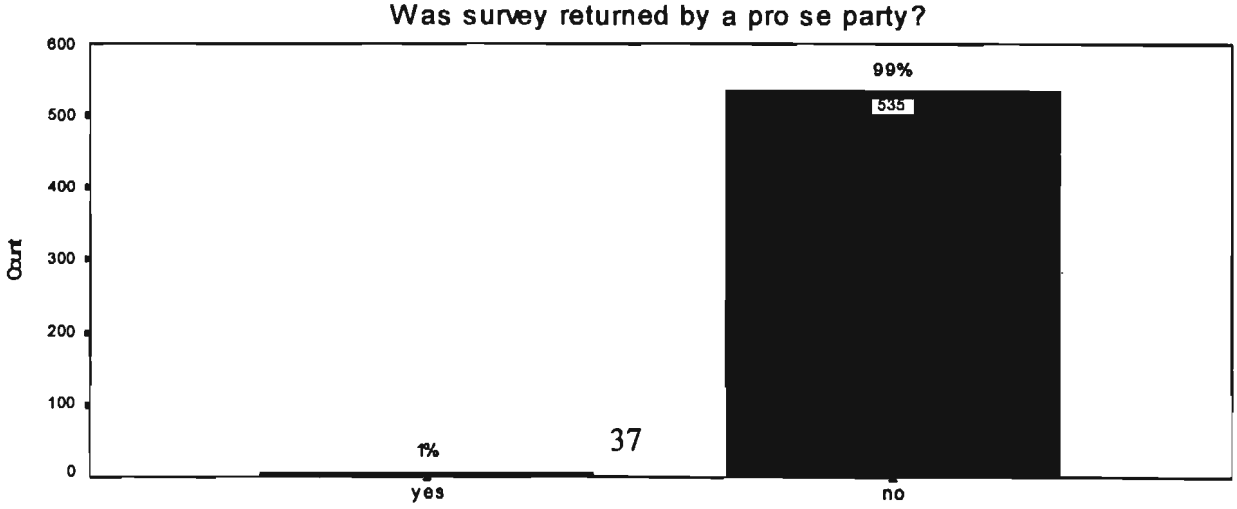


Figure 52

OPEN ENDED ATTORNEY SURVEY QUESTION

At the end of the questionnaire, recipients were asked the following question:

What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific.)

39% of the survey respondents (253 people) wrote at least one response to this question. Of those attorneys, the following is a breakdown of the responses by major subject:

- Pretrial 16%
- Rule 26 ..... 24%
- Rules 7%
- Discovery 30%
- Motions 15%
- Settlement 25%
- ADR 17%
- Trial 7%
- Miscellaneous 24%

TOTAL 165%

(The total percentage is well above 100% because many respondents commented more than once on two or more topics.)

The open-ended responses that follow are not statistically significant, but are to illustrate the personal thoughts and perceptions of the attorneys who practice in the District of Minnesota.

ATTORNEY SURVEY

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
Pretrial	1.	Telephone conferences rather than mandatory attorney meetings.	13
	2.	It would be helpful if magistrate judges increased their involvement in the substantive issues of the case at an early stage of litigation.	6
	3.	Do not require mandatory initial pretrial conference when parties agree on dates.	5
	4.	An early conference with a magistrate judge and judge are very helpful.	5
	5.	Too much paperwork in early stages.	3
	6.	Stop requiring personal appearances for scheduling conferences.	3
	7.	Direct involvement between actual parties to the case at an earlier time--do not let attorneys take the lead until later in the case.	2
	8.	Judges and magistrate judges who understand civil litigation and are willing to fashion a pretrial schedule that makes sense for each case are far superior to any set of rigid rules.	1
	9.	I am relatively content with the pace typically dictated by pretrial orders.	1
	10.	Periodic status conferences.	1
	11.	Travel to Duluth for initial conference adds greatly to expense.	1
Rule 26	1.	The District of Minnesota should opt-out of the mandatory disclosure rules.	13

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
Rule 26 cont.	2.	Enable parties to commence discovery before Rule 26(f) conference. Time is wasted when we are unable to send out interrogatories and document requests right away.	8
	3.	Strict enforcement of Rule 26 pre-discovery disclosures.	5
	4.	Simplify or eliminate pre-discovery disclosures.	5
	5.	Requiring expert witnesses to provide reports increase cost and time.	4
	6.	More specific guidelines for mandatory pre-discovery disclosures under Rule 26.	4
	7.	Move up the mandatory Rule 26 disclosures to 30 days after the answer or reply is filed.	4
	8.	26(f) meeting and report a waste of time and expense.	3
	9.	New rules relating to experts worth the increased expense and time.	2
	10.	Fewer procedures that mandate joint reports and agreement of counsel (this gives an advantage to "disagreeable" counsel at expense of clients).	2
	11.	Eliminate mandatory rule 26(f) meeting.	2
	12.	Remove the 26(f) meeting and request an informational statement to base a scheduling order as in state court.	1
	13.	The early discovery rules are absolutely unworkable in class actions.	1
	14.	Automatic disclosure only gives advantage to lazy plaintiffs' attorneys and burdens defendants.	1
	15.	Make 26(a)(1) disclosures have effect of an interrogatory answer which, if not amended in writing before trial, is final and binding.	1
	16.	Require a privilege log from all parties and consents for release of records as part of Rule 26.	1

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	17.	The Rule 26(a) mandatory disclosure requirements, while requiring extra work, do not produce productive information and result in increased cost because of increased numbers of motions to compel and early discovery disputes. I do not find the disclosures helpful.	1
	18.	Defendants are not disclosing adequately.	1
	19.	As an intellectual property lawyer I practice all over the country in the federal courts and I have sought to convince opposing counsel to follow new 26 even if the court has opted out.	1
	20.	I have yet to see anyone comply with the new rules concerning disclosure and discovery of expert testimony.	1
Rules	1.	Stick with the new Rules - helpful and positive.	8
	2.	Consistent and rigorous enforcement of the Local Rules and Federal Rules of Civil Procedure.	6
	3.	Make the rules conform to local state rules.	2
	4.	Compliance with the new rules should be voluntary.	1
	5.	The Rules seem to work, reducing disposition time, but increasing initial costs.	1
Discovery	1.	Enforce rule limits on pretrial (number of interrogatories, depositions, deadlines).	17
	2.	More frequent imposition of sanctions. (Discovery abuse, and less tolerance of "games" in the name of the adversarial process).	12
	3.	Provide more informal means to resolve discovery disputes, i.e., telephone conferences with a magistrate judge.	10
	4.	Prompt hearing and resolution of discovery disputes.	8
	5.	Our excellent magistrate judges should be directed even more clearly to control, manage and expedite discovery.	5

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	6.	Require lawyers to delay damages discovery (especially expert witness testimony on damages) after initial stage of dispositive motions related to liability issues.	4
	7.	Find a way to communicate decisions on discovery motions so attorneys know what to expect.	2
	8.	Think discovery costs and motions used by large firms to stifle small business claimants.	2
	9.	I suggest allowing the discovery process to work per the Rules and using Rule 56 as the appropriate mechanism for disposing of factually unsubstantial cases.	2
	10.	Preclude use of contention interrogatories.	1
	11.	Discovery should be served in ASCII form to save redundant expenses and save paper.	1
	12.	Require oral disclosure of witnesses and exhibits at scheduling meeting.	1
	13.	Develop specific rules for pro se litigants re: discovery and exceptions.	1
	14.	Forget the limitations on depositions and do away with interrogatories.	1
	15.	Limit discovery by the Tax Division of the Department of Justice.	1
	16.	Defendants are serving too many interrogatories.	1
	17.	Interrogatories should be increased to 50.	1
	18.	It seems that some magistrate judges think discovery is beneath them.	1
	19.	Award fees to the winner of discovery motions to discourage stonewalling.	1
	20.	Tell all attorneys to "fish or cut bait" - the discovery procedures are used to get billable hours!	1
	21.	Allow more interrogatories. This decreases need for depositions.	1

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	22.	Eliminate the discovery cutoffs, etc. I do not feel these have resulted in better management of cases and they seem to add a new playing field for tactical games.	1
Motions	1.	Dispositive motions should be decided promptly.	12
	2.	All judges need to have same dispositive motion rules. (Concern with Local Rule experimentation).	6
	3.	Set a deadline by which the Court must issue an order for dispositive motions (i.e., 90 days after hearing or submission).	6
	4.	Judges should be more willing to enter summary judgment.	3
	5.	Difficult to prepare for trial when the court schedules summary judgment hearing three months or less before ready for trial dates--increases costs!	3
	6.	Make hearings on motions optional.	2
	7.	I am concerned about the interplay between recent standing orders by certain judges, which prohibit placing a dispositive motion on the calendar before filing all briefs etc. with the Court, and the deadlines established through Rule 26(f) reports for filing dispositive motions. It creates confusion as to when notice needs to be served, briefs filed, etc. (Some standing orders state the motions should be placed on the Court calendar 6-8 weeks in advance - a more definite deadline is required).	2
	8.	Summary judgment is used by defense counsel routinely as opposed to in appropriate cases. This should be discouraged.	1
	9.	The new summary judgment procedure is screwing everything up. It is not serving the purpose for which it was adopted. Each judge is construing the procedure differently and it is very confusing. Get rid of it.	1
	10.	The facts of both sides must be addressed in any dispositive opinion. Most judge-lawyer disagreements (appeals) revolve around facts not the law or its application.	1
	11.	Perhaps additional law clerks could expedite decisions on dispositive motions.	1

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	12.	Judge X's standing order works well for Rule 56 motions but not for Rule 12 motions.	1
Settlement	1.	Settlement conferences (and other ADR) should be held earlier.	10
	2.	More settlement conferences.	7
	3.	Some judges make no effort at settlement or don't know how to do it. Some are great.	6
	4.	Magistrate judges should make a better effort to facilitate settlement and hear out both sides informally more.	4
	5.	Train/encourage judges to mediate settlement.	4
	6.	Require persons with authority to attend settlement conferences.	4
	7.	Earlier intervention for settlement, especially on attorney fees-type cases (Title VII, etc.).	4
	8.	Settlement conferences--although improving, "threats" are inappropriate as is yelling and abuse.	3
	9.	Settlement should be discussed forcefully with a judge before expensive discovery process.	3
	10.	The U.S. Magistrate Judges in the U.S. District Court of Minnesota are doing a good job especially with settlement conferences.	3
	11.	The settlement conference or "mini-trial" is by far the best idea to come out of the rules.	2
	12.	When parties are working toward settlement and request a continuance of a scheduled hearing, the request should be granted rather than requiring parties to appear prematurely.	2
	13.	Demand that plaintiff's attorneys settle frivolous or nominal-value cases when defendants appear to have made good-faith offers of settlement.	1

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	14.	Issue decisions instead of pushing settlement, the former will move a case toward settlement.	1
	15.	Judges should be more proactive and favor reasonable settlement of consumer remedy cases where no actual damages, but plaintiffs' attorney is simply generating attorney fees.	1
	16.	Remove ineffective magistrate judges from settlement processes.	1
	17.	We have adopted a society wherein settlement is to be achieved at the cost of a truly fair civil justice system! Settle--or pay the price at trial!	1
	18.	I question magistrate judge involvement in settlement sessions when a magistrate judge will be ruling on subsequent non-dispositive motions.	1
	19.	Bring in more visiting judges to settle and try cases.	1
	20.	In my experience the "settlement brief" that a party is required to submit before a settlement conference is not read by the judge.	1
	21.	Some judges and magistrate judges have been extremely strict in requiring insurance company representative to attend in person. At times this practice, as described by judges and magistrate judges themselves has become vexatious. I have heard court personnel boast about making people come to our courts from the other side of the world.	1
	22.	Schedule the final settlement conference prior to the deadline for jury instructions, witness lists, etc.	1
	23.	All day settlement conferences with retired judges as used in Denver, CO state courts.	1
	24.	Do not schedule settlement conferences in cases where a party is entitled to summary judgment or where the case should be dismissed for lack of jurisdiction.	1
ADR	1.	Encourage ADR.	10
	2.	Mandatory ADR.	6

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	3.	Offer voluntary mediation with a magistrate judge earlier in the case.	6
	4.	Consider mandatory summary jury trials or mini trials with magistrate judges or special masters appointed who are recognized, respected experts in their field.	4
	5.	Judges and magistrate judges should use more discretion, be more flexible with ADR. Decide whether mandatory ADR is appropriate after looking at each case.	3
	6.	Thirty days after the answer is filed have court supervised "Early Neutral Evaluation" to decide what the case is worth.	3
	7.	Automatic appointment of special masters to informally resolve disputes before motions need to be filed.	2
	8.	ADR should not always be mandatory.	2
	8.	Use Center for Dispute Resolution for mediation/arbitration.	1
	9.	Too much emphasis is placed on ADR and "forcing" settlement down the parties' throats.	1
	10.	Regular (monthly) status conferences with special masters.	1
	11.	Use outside mediators such as former Magistrate Short.	1
	12.	Adopt ADR plan similar to Rule 114 in Minnesota state court. Allow parties to select the forum and neutral. If not done, judge/magistrate judge can order non-binding unless cause shown by parties (e.g., many medical malpractice cases with experienced lawyers).	1
	13.	Use mediation in almost every case.	1
	14.	Mediation has been helpful, arbitration has not been.	1
Trial	1.	More use of day or week certain trial dates.	4
	2.	Firm trial dates.	4

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	3.	Set trial dates as soon as possible, preferably after the scheduling order is issued.	3
	4.	After the discovery period closes, and the case is "ready for trial," it can still be many months before the case is put on a trial calendar.	3
	5.	The single most effective case management tool is the setting of a credible trial date. I suggest that judges early on in a case set a trial date on which the parties can count (i.e., will not be postponed absent extraordinary showing).	1
	6.	Consider limiting trial time.	1
	7.	If you could start out with a presumption of a trial six months after filing and require parties to demonstrate why they should be excepted from this schedule.	1
	8.	I fail to see the value of pushing parties to trial where both parties are agreeable to continuances, etc. It's the parties' dispute--not the courts'.	1
Misc.	1.	Let attorneys manage their own cases.	5
	2.	Set shorter schedules (less than one year).	5
	3.	Judges should know the cases/case law better.	4
	4.	Have magistrate judges review and dismiss obviously frivolous cases.	4
	5.	The responsibility lies with the attorneys.	3
	6.	Separate civil and criminal calendars.	3
	7.	All judges must be more pragmatic regarding schedules. Those dates cannot be arbitrary.	3
	8.	Make faxes available.	2
	9.	Do not see delay as a problem.	2

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	10.	Measures designed to encourage civility between lawyers.	2
	11.	The court should be more willing to impose Rule 11 sanctions.	2
	12.	Issue contested R&R's within 30 days.	1
	13.	Deal with contested R&R's expeditiously and issue orders including prisoner cases.	1
	14	Reassign cases to judges who are less backlogged.	1
	15.	Bring in senior judges to handle caseload.	1
	16.	Place a time limit on each side's presentation of their case.	1
	17.	Consider using the "rocket docket" as used in other districts.	1
	18.	Market, to the extent allowed under the enabling legislation, the magistrate judges' ability and competence to try civil cases.	1
	19.	Loser pays.	1
	20.	Outstanding survey. Very important to do this.	1
	21.	U.S. District Court better than state district court which does a lot of counterproductive case management.	1
	22.	The new theory of judging seems to be get yourself in a position where you never have to make a decision.	1
	23.	Defendants are entitled to trial and there is too much pressure to pay nuisance value, or not take the court's time.	1
	24.	Where there are parallel statutes, remand cases to state courts.	1
	25.	Prevail on Congress to liberalize greatly sentencing guidelines to facilitate plea bargaining and hopefully clear calendar of white collar crime and petty drug cases.	1

Topic	What suggestions do you have to help reduce the delay and/or cost to clients of civil litigation in this district? (Please do not be judge-specific)		Times Answered
	26.	Mandatory attempts to stipulate facts.	1
	27.	Litigation in both state and federal court is a procedural mess.	1
	28.	Make special provisions for pro se parties. Minnesota seems particularly bad on the needs of pro se parties.	1
	29.	Issue preliminary rulings prior to hearings as done in California federal courts.	1
	30.	This is a good court. Don't fix it.	1
	31.	Send copies of the law clerk bench memos to counsel for the parties in advance so we don't waste hours preparing for a 20 minute argument. Why not just argue the points which interest the Court.	1
	32.	The form complaints provided by the EEOC to charging parties which the EEOC dismisses, generates lawsuits. I suggest dissuading the EEOC from this practice.	1
	33.	Appreciate the court's efforts at improving efficiency.	1
	34.	More judges!	1
	35.	Do away with all extensive paperwork unless requested specifically by the court (two page briefs).	1
	36.	I practice in federal courts in at least 15 states, you're right in the middle. [Referring to overmanaging or undermanaging civil cases].	1

The responses from the 566 attorneys who participated in this survey are a strong indication of the thoughts and opinions of the practicing federal bar. By providing the Court with an honest evaluation of the current practices in the District of Minnesota, the respondents have enabled the CJRA Advisory Group to accurately evaluate the effects of the CJRA Plan on cost and delay. The Advisory Group will review this report, draw conclusions, and include their final recommendations in the Annual Assessment to the CJRA Plan for the District of Minnesota.

Civil Justice Reform Act
Advisory Group for the U.S. District Court for the District of Minnesota

1996
Questionnaire for Litigants

1. Please indicate your level of agreement with each of the following statements regarding your most recent civil litigation experience in U.S. District Court since **December 1, 1993** :

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know/NA
a. My case was brought to resolution in an acceptable period of time.	SA	A	N	D	SD	DK
b. My total costs to bring my case to resolution was acceptable to me.	SA	A	N	D	SD	DK
c. The judges were helpful in managing the case to keep it moving in a timely manner.	SA	A	N	D	SD	DK
d. I am satisfied with the final outcome of my case.	SA	A	N	D	SD	DK
e. I participated as much as I desired in the processing of my case.	SA	A	N	D	SD	DK
f. The Court's management of my case was fair to both parties.	SA	A	N	D	SD	DK
g. My attorney's explanation to me of the federal court process was sufficient.	SA	A	N	D	SD	DK
h. A handbook explaining federal court procedures would have been helpful to me.	SA	A	N	D	SD	DK

ABOUT YOU...

2. Please indicate your role in the proceedings: *(Check one)*
   a. _____ Plaintiff
   b. _____ Defendant or Third Party Defendant
   c. _____ Other - *Please specify*_____

3. Are you a practicing attorney?
   a. _____ Yes⇩ b. _____ No

   If yes, please indicate the capacity in which you are answering this survey (e.g. in-house counsel)

   _____

4. Did an attorney represent you in this case?
   a. _____ Yes b. _____ No (I represented myself)

(OVER)

YOUR COMMENTS:

	Very Satisfied	Satisfied	Neutral	Dis-satisfied	Very Dissatisfied	Don't Know
5. Overall, how satisfied were you with the process by which your case was managed in U.S. District Court?	VS	S	N	D	VD	DK

6. What barriers, if any, prohibited you from resolving your case in a timely manner?

7. In your opinion, what factors in your case, if any, resulted in unnecessary costs?

Please return the survey in the postage-paid envelope by **May 20, 1996.**

THANK YOU FOR YOUR PARTICIPATION!

Control number

(This is a confidential survey. The number above will by used only to monitor the return of surveys and not to link specific surveys with specific respondents)

LITIGANT SURVEY REPORT

I. CJRA Litigant Survey

The survey was initiated by the 1995-96 CJRA Advisory Group to solicit litigant views on cost and delay in civil cases in the District of Minnesota. The overall objective of the Civil Justice Reform Act of 1990 is to cut costs and delay for litigants in civil cases, so the Survey Subcommittee thought it essential to obtain litigant opinions. The CJRA Advisory Group will combine the results of the litigant survey with the attorney survey to determine the effectiveness of the CJRA Plan.

The litigant survey instrument was also designed by Anderson, Niebuhr and Associates and approved by the Survey Subcommittee. The preparation and project time for the litigant survey was much greater than the attorney survey because the litigant names and addresses were not readily available on the court's database. The files of 282 cases were searched in St. Paul, Minneapolis, and Duluth for a total of 350 names and addresses of plaintiffs and defendants. The questionnaire mailing contained a separate insert which listed the filing date and case name for which the questionnaire was applicable.

The extra effort taken to administer this survey was well worth it, as 60% of the surveys were returned. A special thank you to the litigants who took the time to complete and return the surveys.

II. Survey Characteristics

A. Type of Survey

The survey instrument used for this project was a mailed, self-administered questionnaire. The Survey Subcommittee determined that the low litigant response rate in the 1993 survey was due to its excessive length. As a result, the subcommittee significantly shortened the length of the 1996 survey to one page. A mailed questionnaire was chosen because of its ability to capture opinions from a larger population than telephone interviews or focus groups.

B. Contents

1. Questions

There is a total of fourteen questions and the breakdown is as follows:

a. Eight questions: statements regarding civil litigation experience in U.S. District Court
b. Three questions: describing the litigant
c. One question: overall satisfaction question
d. Two questions: open-ended litigant comments

2. Scales

The nine questions pertaining to civil litigation experience were written with an ordinal satisfaction scale to determine the level of agreement by the plaintiffs and defendants.

C. Validity and Reliability

1. Validity

The survey was designed to obtain case specific information from litigants, as opposed to the attorney survey which asked about civil case processing requirements and overall perceptions. Most litigants are unable to make pre and post-CJRA Plan comparisons, therefore, the questions related only to their case.

The validity was tested through a pretest to ten litigants with a cover letter from the Clerk of Court requesting comments on its content. The questionnaire was also given to a random selection of clerk's office employees asking for their suggestions. A total of seventeen changes were made to the questionnaire based on the pretest results.

2. Reliability

The reliability of the litigant questionnaire was measured in the test-retest indicator as in the attorney questionnaire. The pretest results of the litigant questionnaire were comparable with the results of the actual mailed questionnaire. Therefore, the results of the survey project may be applied generally to all federal litigants who participated in a case between August of 1993 and March of 1996.

D. Administration

1. Survey Administrators

The survey was designed by Anderson, Niebuhr and Associates, and was administered by Wendy Schreiber.

2. Quality Assurance

The surveys were coded and entered into the statistical software SPSS. The data set was coded with an appropriate cleaning range for the data which located input error.

E. Design

1. Descriptive Survey

The questionnaire was designed to obtain views on costs and delay and litigant perceptions on participating in a case in U.S. District Court. The litigants were asked to comment on the barriers encountered in their case that contributed to added costs and delay, if any.

2. Layout and Content

The questionnaire layout included a limited number of questions designed to get to the core of litigant concerns and thoughts on the federal court experience.

The confidentiality of the survey was assured several times to obtain honest and

candid responses from the litigants. Each questionnaire contained a control number as in the attorney survey, but the litigant questionnaire included an explanation of the control number to reaffirm the confidentiality as promised.

F. Sample

1. Population
   a. Source population - 1677 cases filed after August 1993 and closed between June 1, 1994 and March 18, 1996.
2. Selection
   a. 282 cases were randomly selected (every eighth case) and case files were searched for the plaintiff and defendant names and addresses.
   b. 195 cases were needed for a total number of 350 litigants. Fifty-two cases had only one party's information available, while the other 143 cases included the names and address of both parties.
   c. A survey pretest was given to 10 litigants and 10 clerk's office employees requesting suggestions on the survey instrument.
3. Time Line
   a. The first questionnaire mailing to 350 litigants was on April 29, 1996 and the due date was May 20, 1996. The response rate by May 20 was 39%.
   b. A postcard reminder was mailed to 240 non-respondents on May 10.
   c. The second questionnaire was mailed to 220 non-respondents was mailed on May 30, 1996 and the due date was June 13, 1996.
4. Response Rate
   a. The total survey response rate was 60%
   b. 37 surveys were returned to the sender, address unknown.
5. Confidence
   a. This survey has a 93% confidence rate, which is slightly lower than the attorney survey because the number of returns is lower. All responses are accurate +/- 7% in either direction.

III. Analysis

A. Frequencies

A bar chart of frequencies was created for each question with the total number of responses shown on each bar and the overall percentage per value shown above the bar.

B. Crosstab tables

The crosstab tables show responses to survey questions against other questions to show a breakdown of responses (e.g., who were more satisfied with the Court's management: plaintiffs or defendants?) The crosstab tables are shown for particular questions and follow the frequency charts in this report.

C. Survey Subcommittee Review

The subcommittee members will review the results of this survey with the attorney survey

and include their conclusions in this district's CJRA Annual Assessment. Based on the conclusions, the Advisory Group may recommend changes to The Plan or decide revisions are unnecessary at this time.

D. Questions and Responses

The remainder of this report shows the results of each question in graph and table form and discusses the conclusions that may be drawn from the litigant responses.

QUESTIONS

For questions 1a - 1h, the litigants were asked to indicate their level of agreement with each of the following statements regarding their most recent civil litigation experience in U.S. District Court since **December 1, 1993**:

a. My case was brought to resolution in an acceptable period of time: (Figure 1)

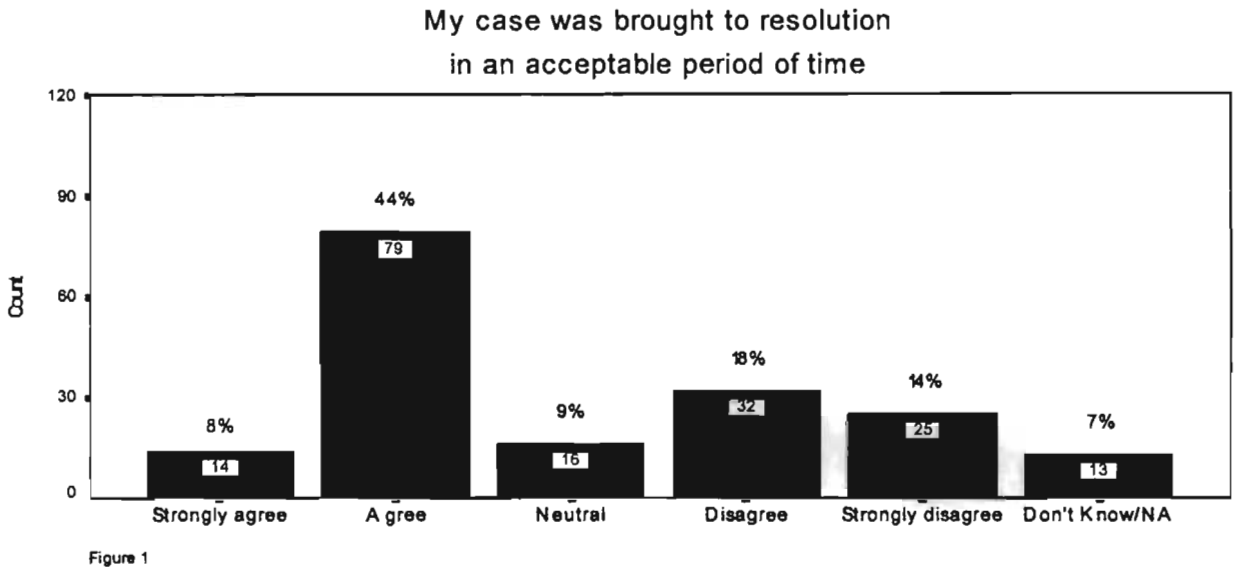


Figure 1

Of the 179 litigants who responded to this question, 52% *strongly agreed* or *agreed* their case was brought to resolution in an acceptable period of time and 32% *strongly disagreed* or *disagreed* their case was brought to resolution in an acceptable period of time.

In question number six, many litigants commented about barriers that prohibited them from resolving their case in a timely manner. Five litigants thought attorneys were the biggest problem; three litigants believed settlement should have happened much earlier in the case; and six litigants blamed delays on an unrealistic defendant or plaintiff.

The following table shows the breakdown of responses in Figure 1 by plaintiffs and defendants.

Role	Number of Litigants	My case was brought to resolution in an acceptable period of time					
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know
Plaintiff	83	11%	36%	10%	19%	16%	8%
Defendant	96	5%	51%	8%	17%	12%	6%

b. My total costs to bring my case to resolution was acceptable to me: (Figure 2)

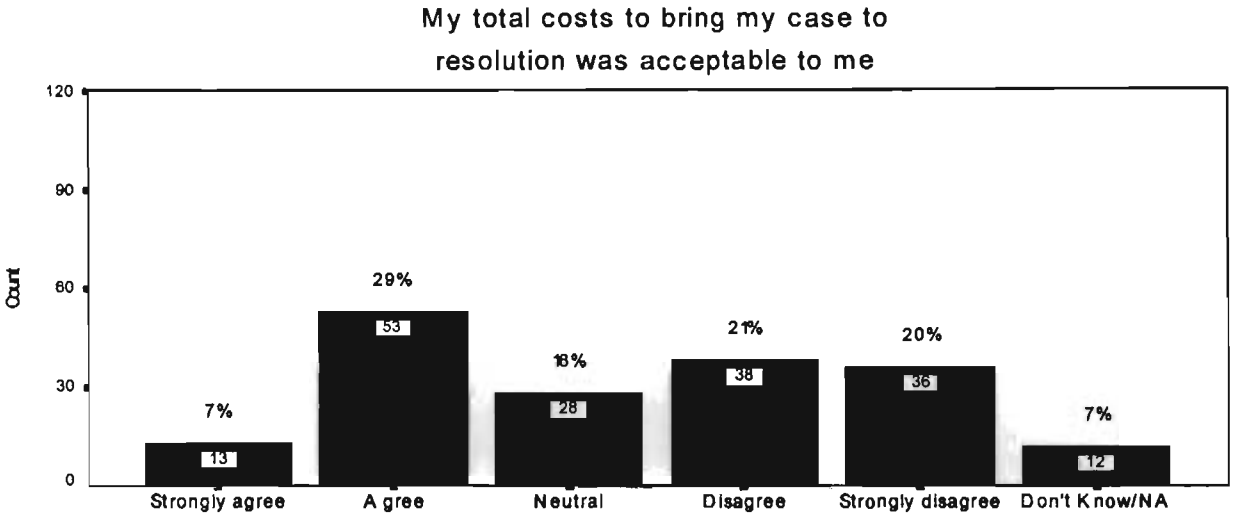


Figure 2

Of the 180 litigants who answered this question, 36% *strongly agreed* or *agreed* the total costs to bring their case to resolution was acceptable. Forty-one percent *strongly disagreed* or *disagreed* the costs were acceptable.

The open-ended question #7 contained several comments regarding cost. Five litigants considered the case frivolous; and further comment that plaintiffs should be required to reimburse defendants' costs in unsuccessful suits. Additional litigant comments on factors contributing to costs are shown in the litigant comment section on page 24.

The following table shows the breakdown of responses in Figure 2 for plaintiffs and defendants.

Role	Number of Litigants	My total costs to bring my case to resolution was acceptable to me					
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know
Plaintiff	84	11%	29%	18%	14%	21%	7%
Defendant	96	4%	30%	14%	27%	19%	6%

c. The judges were helpful in managing the case to keep it moving in a timely manner: (Figure 3)

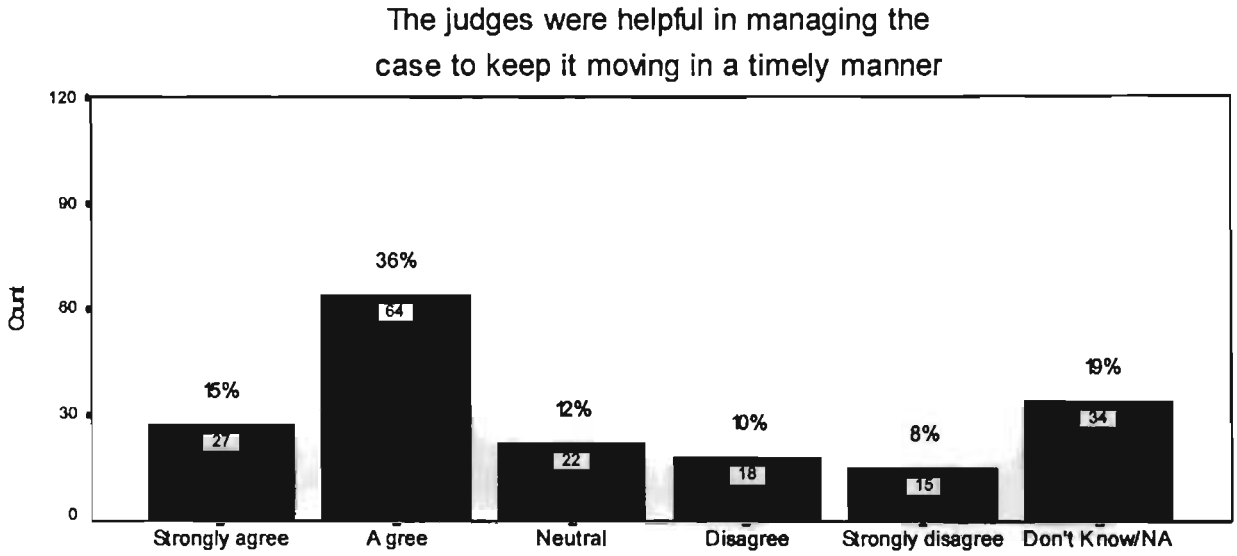


Figure 3

Generally, the litigants agreed the judges were helpful in managing their cases. Fifty-one percent *agreed* or *strongly agreed* versus 18% who *disagreed* or *strongly disagreed.* Though the 19% responding "*Don't know/NA*" is significant, those litigants may be unaware the judges are active participants in case management or their case may have settled prior to court involvement.

d. I am satisfied with the final outcome of my case: (Figure 4)

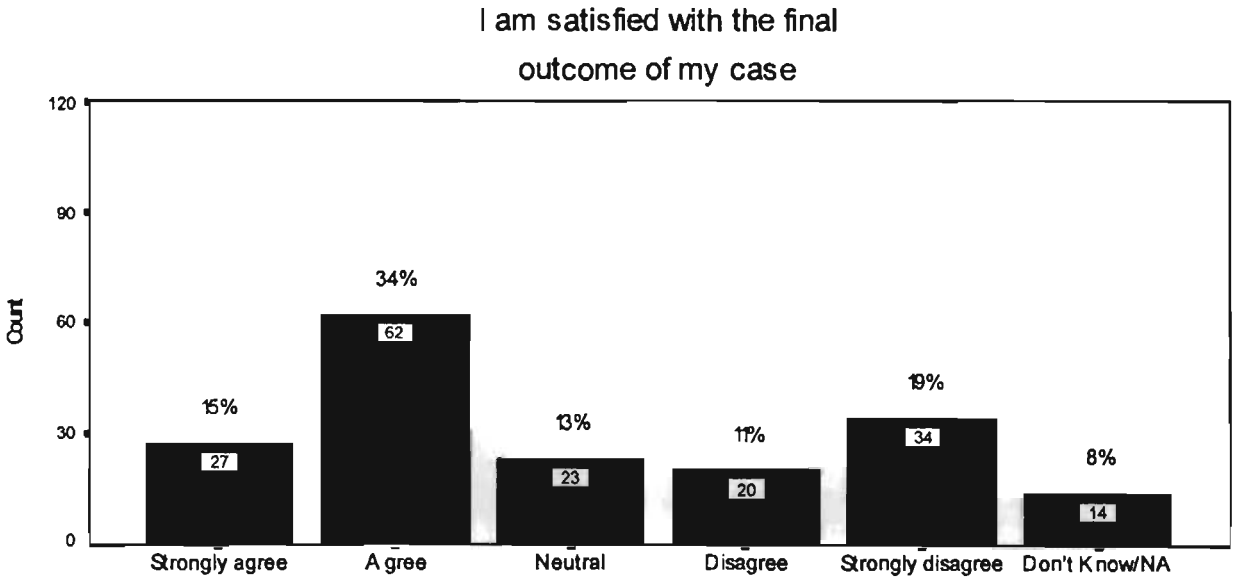


Figure 4

Forty-nine percent of the respondents *strongly agreed* or *agreed* they were satisfied with final outcome of their case compared with 30% who *strongly disagreed* or *disagreed*. The remaining 21% responded *neutral* or *don't know/NA*.

The following table shows the breakdown of responses in Figure 3 by plaintiffs and defendants.

Role	Number of litigants	I am satisfied with the final outcome of my case					
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know
Plaintiff	84	8%	35%	7%	12%	29%	9%
Defendant	96	21%	34%	18%	10%	10%	6%

As shown above, defendants were more satisfied than plaintiffs with the outcome of their case.

The table below is presented to answer the following question: For those who were dissatisfied with the outcome of their case, do they still agree the judges managed their case to keep in moving in a timely manner?

Satisfaction with outcome of case	Number of litigants	The Judges were helpful in managing the case to keep it moving in a timely manner					
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know/ NA
Strongly Agree	27	48%	41%	0	4%	0	7%
Agree	62	15%	47%	11%	5%	8%	15%
Neutral	23	4%	44%	26%	13%	5%	9%
Disagree	20	15%	25%	20%	20%	5%	15%
Strongly Disagree	34	0	18%	15%	18%	18%	32%
Don't Know/ NA	14	7	21%	0	7%	14%	50%

As the table illustrates, even those litigants who were dissatisfied with the outcome of their case

consider the judges helpful in managing their case to keep it moving in a timely manner.

e. I participated as much as I desired in the processing of my case: (Figure 5)

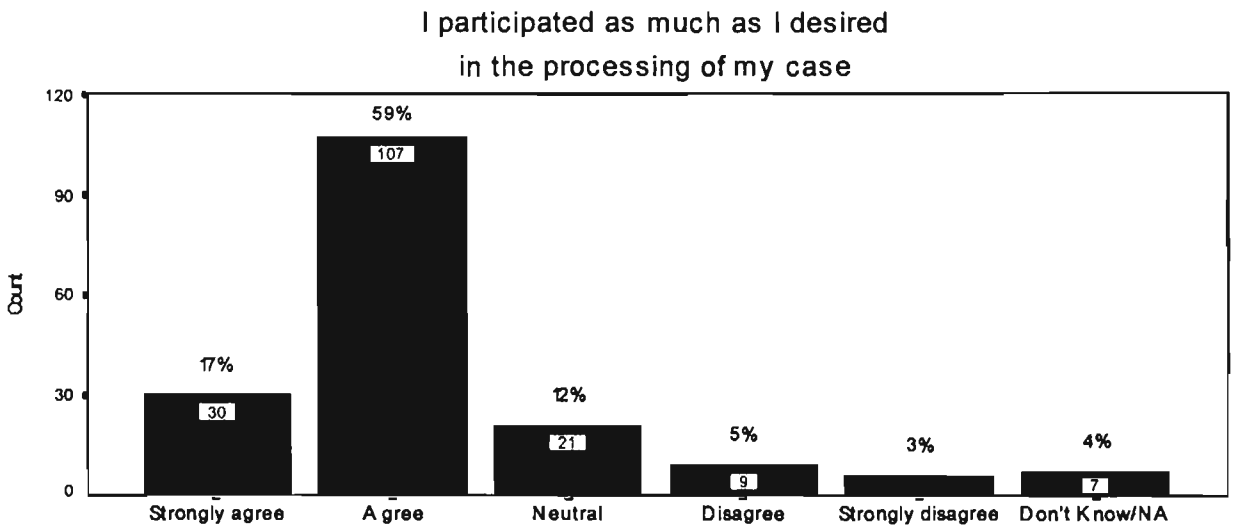


Figure 5

By far, the majority of litigants *agreed* or *strongly agreed* they participated as much as they desired in the processing of their case. Only 8% of litigants responded they *disagreed* or *strongly disagreed* to this question. The responses to this question are complimentary to both the federal bench and the federal bar for involving the litigants to an appropriate degree.

f. The Court's management of my case was fair to both parties: (Figure 6)

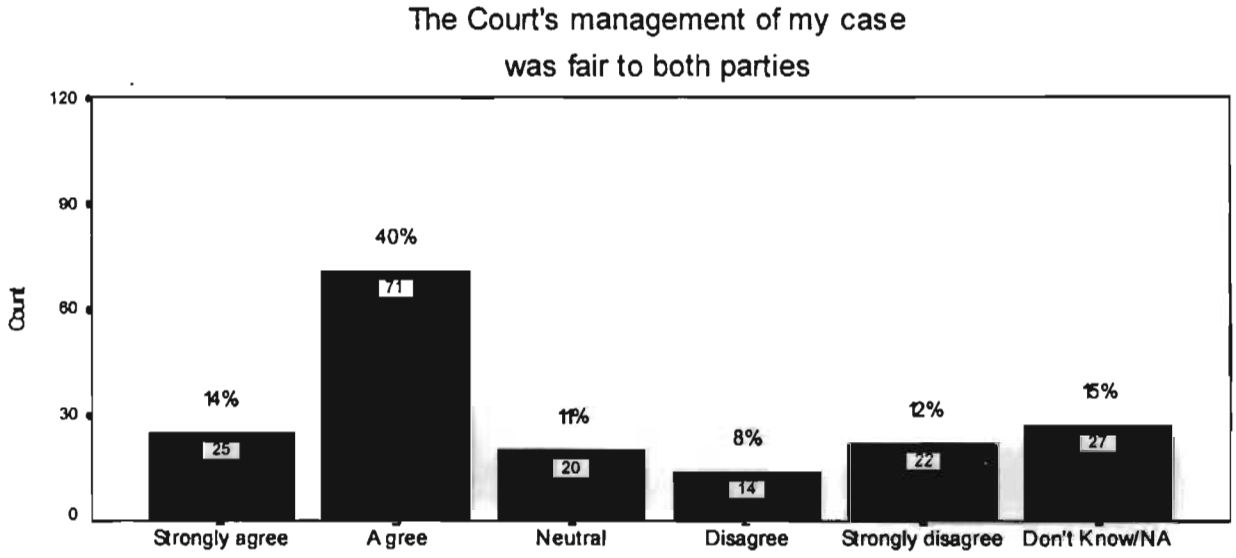


Figure 6

Of the 179 litigants responding to this question, 54% *strongly agree* or *agree* the Court's management of their case was fair to both parties whereas 20% *strongly disagreed* or *disagreed.* Generally, the litigants have determined the Court was fair to both parties. These results should be viewed with caution since "fair" has different meanings for different people.

g. My attorney's explanation to me of the federal court process was sufficient: (Figure 7)

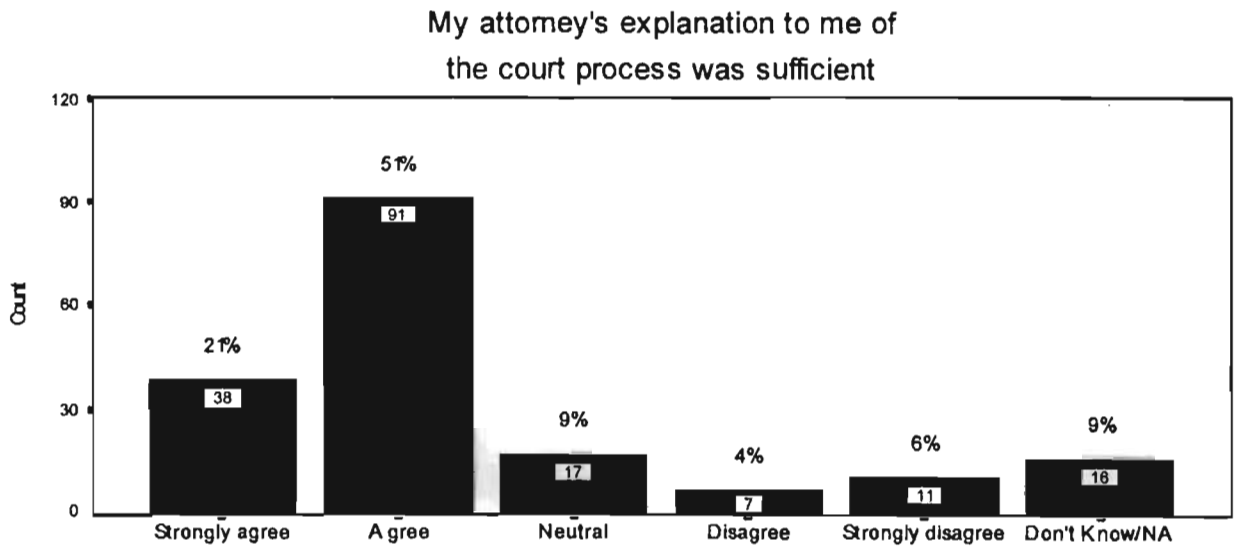


Figure 7

The question in Figure 7 was included to determine if there is a correlation between negative responses in Figures 1-6 and an attorney's lack of explanation of the federal court process to their clients. Seventy-two percent of the litigants were comfortable with their attorney's explanation of the process. Only 10% of the litigants responded *disagree* or *strongly disagree* to this question.

h. A handbook explaining federal court procedures would have been helpful to me. (Figure 8)

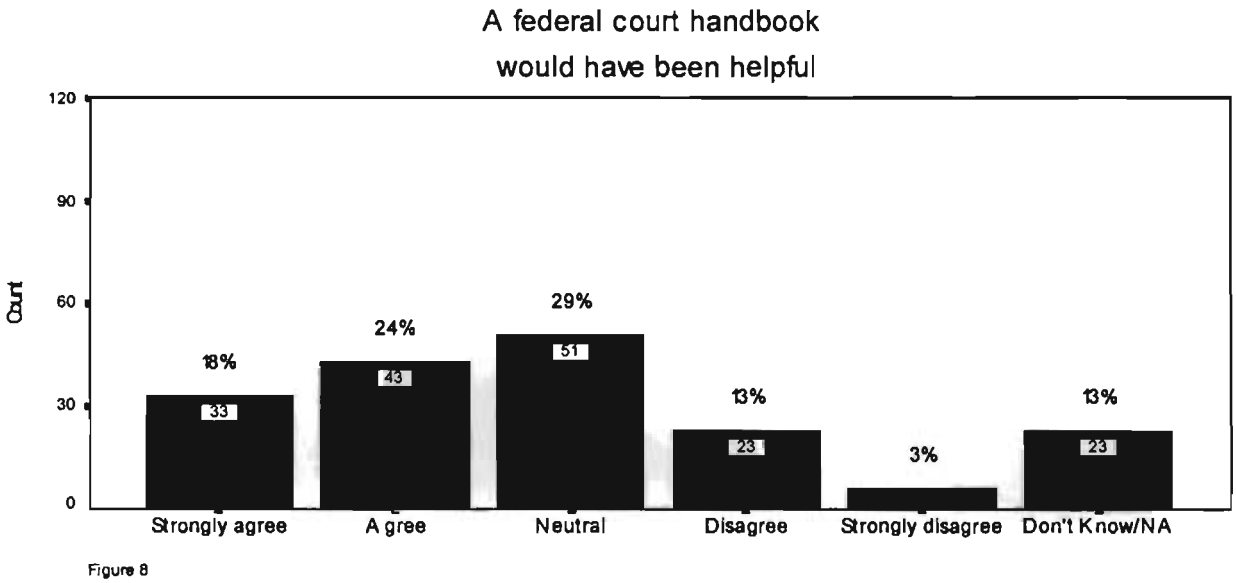


Figure 8

The question in Figure 8 was asked to determine if litigants are receptive to the district court handbook currently being created by the CJRA Handbook Subcommittee. As shown above, the greatest percentage of people responding to one category was 29% and they were *neutral* toward the handbook. A total of 42% of the litigants *agreed* or *strongly agreed* a handbook would be helpful, and a total of 16% *disagreed* or *strongly disagreed* a handbook would be helpful. Based upon these results, the CJRA Handbook Subcommittee will determine whether it is appropriate to inform the federal bar that the handbook will be available for their clients.

The following table shows the responses of the litigants in Figure 8 who are practicing attorneys versus those who are not attorneys.

	Number of litigants	A handbook explaining federal court procedures would have been helpful to me					
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know/ NA
Attorneys	38	5%	16%	40%	26%	5%	8%
Non-attorneys	141	22%	26%	26%	9%	3%	14%

Most who *agreed* the handbook would be helpful were non-attorneys, and most who *disagreed* were attorneys.

2. Please indicate your role in the proceedings:

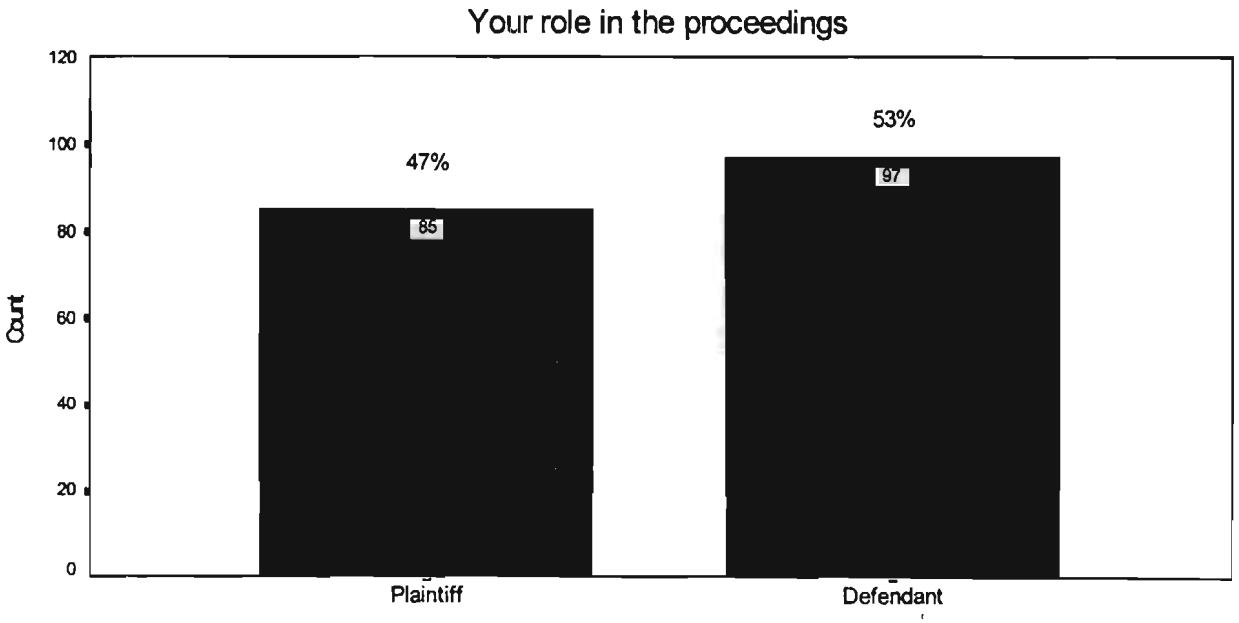


Figure 9

Of the 350 questionnaires mailed, 45% went to plaintiffs and 55% went to defendants based upon the availability of the names and addresses in the particular case files. The total returns of the questionnaires came from 47% plaintiffs and 53% defendants.

3. Are you a practicing attorney?

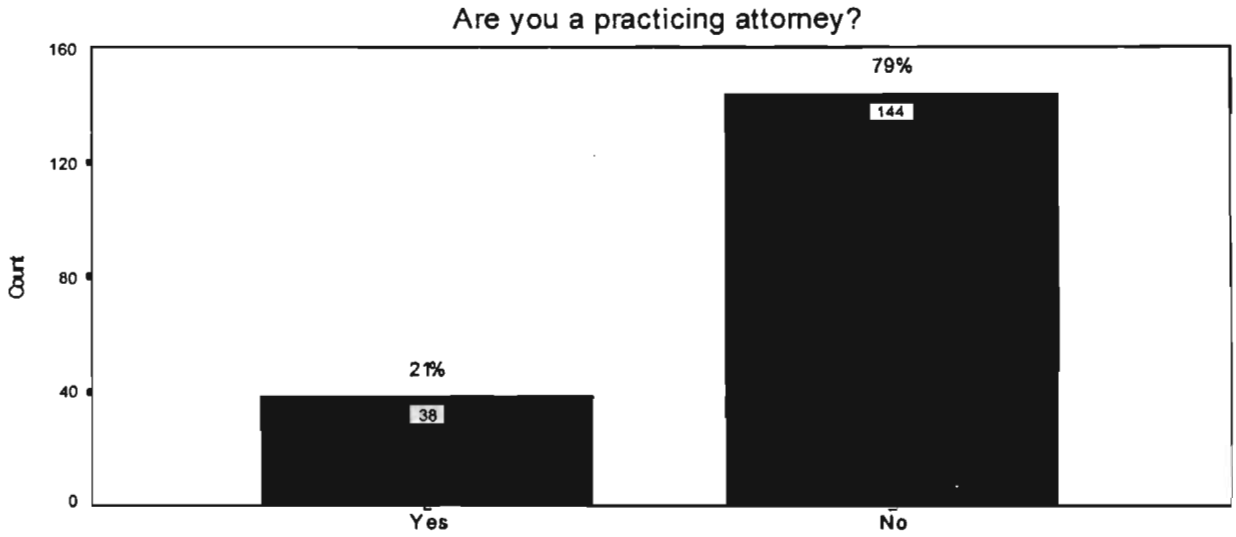


Figure 10

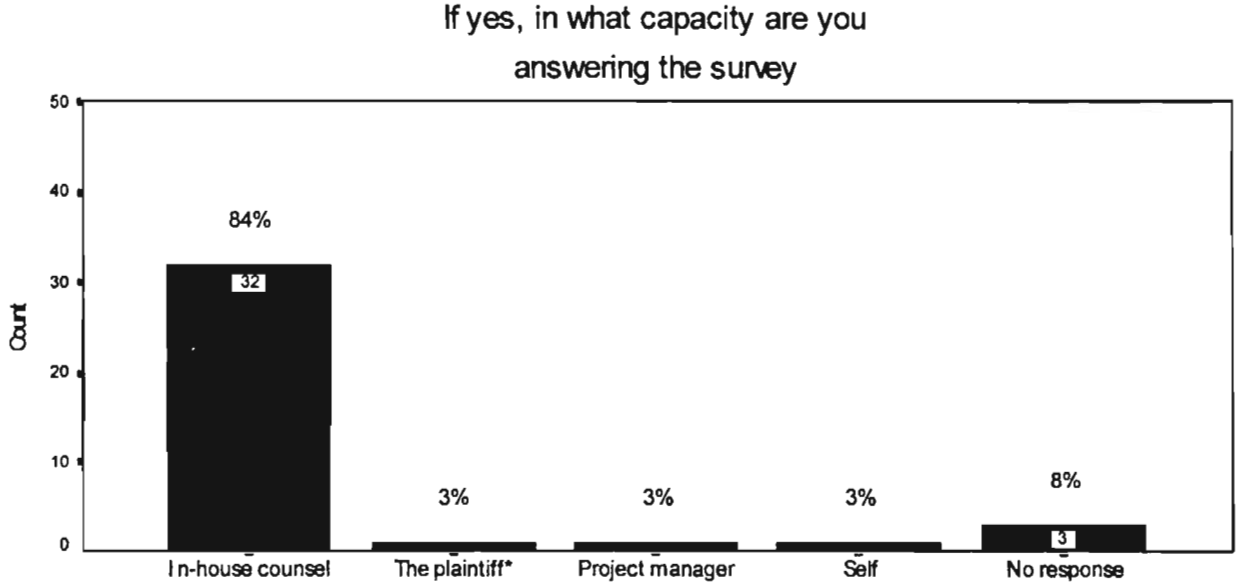


Figure 11

Twenty-one percent of the questionnaires returned came from practicing attorneys (Figure 10). Of those 38 people, thirty-two are corporate or in-house counsel attorneys, one was the plaintiff represented by another attorney, one is a project manager, one responded as self, and three did not indicate the capacity in which they answered the survey (Figure 11).

4. Did an attorney represent you in this case?

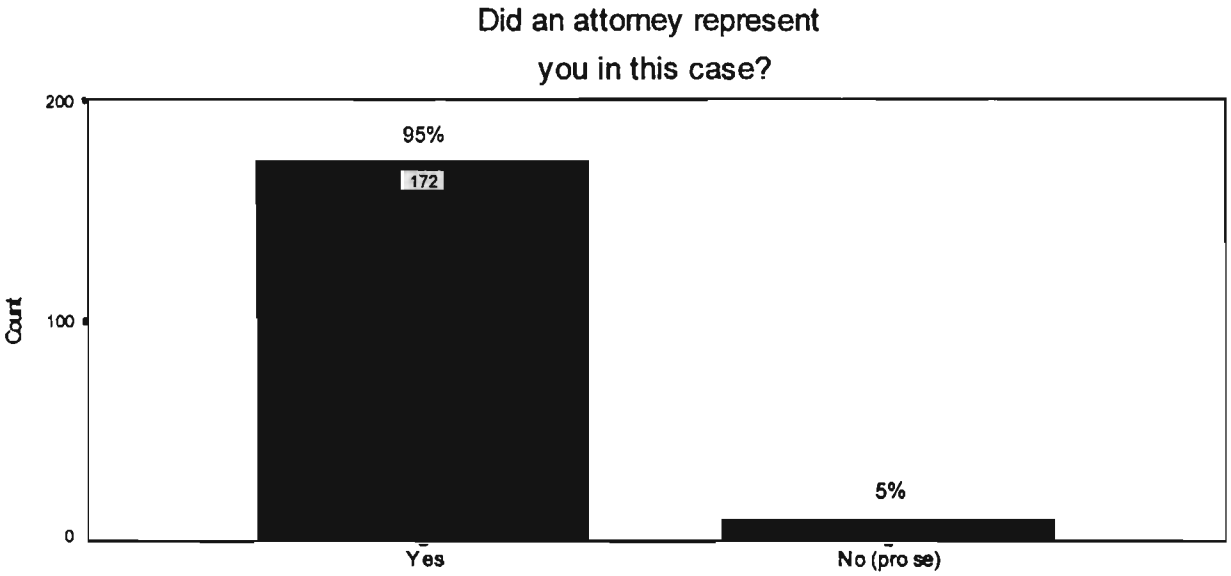


Figure 12

Ninety-five percent of the respondents were represented by an attorney in their case. Five percent reported themselves as pro se litigants.

The following table will illustrate the difference in satisfaction with the outcome for those who were represented by counsel versus pro se litigants.

Did an attorney represent you?	Number of litigants	I am satisfied with the final outcome of my case					
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know/ NA
Yes	170	15%	35%	13%	12%	17%	8%
No - I represented myself	10	20%	20%	10%	0	50%	0

5. Overall, how satisfied were you with the process by which your case was managed in U.S. District Court?

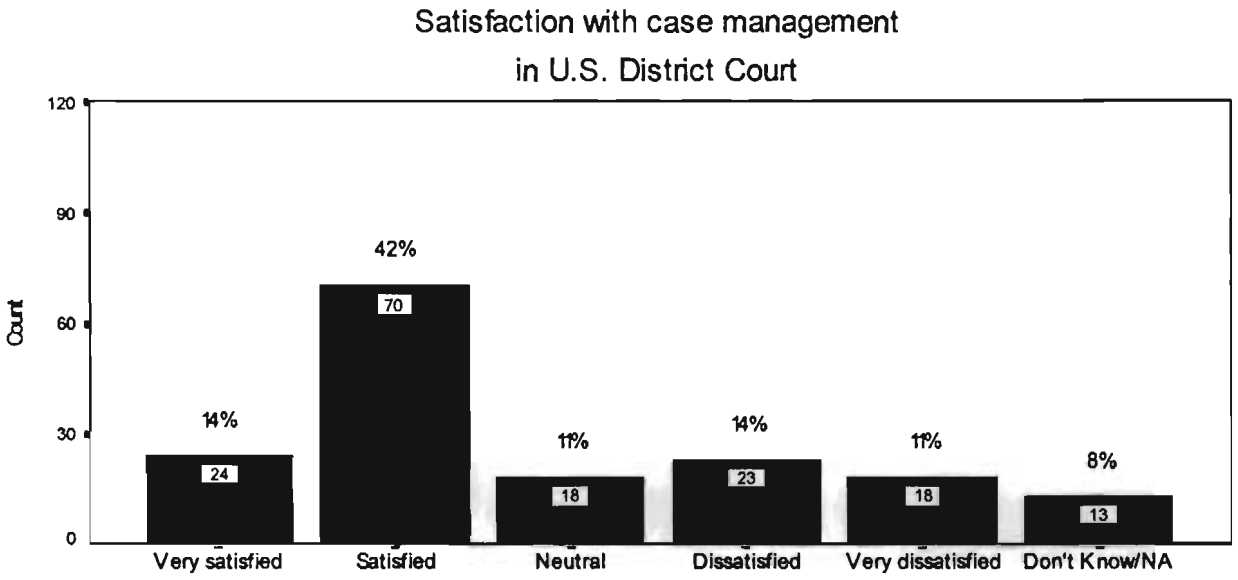


Figure 13

This question was written to assess overall litigant satisfaction in U.S. District Court. Over half of the litigants, 56%, were *satisfied* or *very satisfied* with the process. One-quarter of the litigants, 25%, were *dissatisfied* or very *dissatisfied* with the process. In order to determine the reason litigants were dissatisfied, an examination of comments from questions six and seven is necessary.

To compare the opinions of plaintiffs versus defendants in specific cases, the table on pages 16-19 compares the responses for cases in which both parties returned the questionnaire.

OPEN-ENDED LITIGANT SURVEY QUESTIONS

At the end of the questionnaire, recipients were asked the following questions:

What barriers, if any, prohibited you from resolving your case in a timely manner?

53% of the survey respondents (95 people) wrote at least one response to this question.

71 litigants commented on the barriers they encountered in their case
24 litigants responded there were no barriers prohibiting them from resolving their case in a timely manner

In your opinion, what factors in your case, if any, resulted in unnecessary costs?

49% of the survey respondents (88 people) wrote at least one response to this question.

69 litigants commented on the factors contributing to unnecessary costs
19 litigants responded there were no factors contributing to unnecessary costs

The open-ended responses that follow are not statistically significant, but are to illustrate the personal thoughts and perceptions of the litigants who have civil case experience in the District of Minnesota.

LITIGANT SURVEY

What barriers, if any, prohibited you from resolving your case in a timely manner?	
None (no barriers).	24
Unrealistic defendant/plaintiff.	6
Attorney's seemed to be the biggest problem--demands made unreasonable in my opinion.	5
The defendant did a lot of stalling--did not give all requested information during the discovery phase, and delayed what limited information it did provide. Lack of cooperation.	5
Judges with insufficient time or effort to familiarize themselves (or even read) the voluminous pleadings.	3
Settlement should have happened much earlier in the case.	3
It takes months to get a case scheduled for hearing.	2
This case progressed in a timely manner with no barriers.	2
Court's docket is very heavy. Civil litigation has little priority.	2
A timely decision on the matter.	2
Delay in jurisdiction ruling.	2
With settlement frequently reached on the courthouse steps, more expeditious court dates should result in timelier resolutions.	1
Why did the judge keep coming out of the back room telling me what the two sides were doing?	1
Getting a hearing or a motion for preliminary injunction.	1
The judge had the case under advisement for 14 months.	1

What barriers, if any, prohibited you from resolving your case in a timely manner?	
In my opinion, the "small guy" lost to a company who's labor tactics are very unfair.	1
Took too long--case was bounced to numerous lawyers on the plaintiff's side.	1
Very slow decision on various motions. Months went by.	1
Judges who don't make timely decisions, clerk's who don't have any desire to assist. A system that rewards delays.	1
All the different agencies and courts that plaintiff could file in dragged this case out over 5 ½ years.	1
Much of my case was not even allowed to be heard.	1
The mediation/settlement conference was a complete waste of time. After spending thousands of dollars to bring three managers and one attorney to Minneapolis--the judge played no role.	1
The reluctance of the judiciary to grant judgment early in a case gives value to the most frivolous claims.	1
Battle of experts.	1
The judge took a long time to reach decision. However, I believe he did reach the correct decision.	1
The court appeared to be extremely lenient with the plaintiff's pleadings and factual presentation. I understand that pro se cases tend to be this way, however, his presentation of the facts did not support his pleadings.	1
After seeing depositions work, I find them a waste of time and money. People lie or distort their testimony to favor their position.	1
I don't know. I was never told why it took so long. In fact, not one word was spoken concerning what happened in this case.	1
There must be a way of speeding up the process. I feel that I won the battle but lost the war. My wife and I will never be the same from this incident and these huge corporations don't even blink. I feel our court system in my case was a terrific joke.	1
Defendant and their attorney did not seem to honor new federal court discovery rules put into place in 1993.	1

What barriers, if any, prohibited you from resolving your case in a timely manner?	
Continued rescheduling of the case for a variety of reasons involving the courts' needs.	1
Pretrial Court was a joke. Representative of the opposing party did not have settlement authority.	1
The EEOC had already ruled against the plaintiff. His attorney should have advised him that he had no case. Instead, it cost me $5000 to have this case dismissed.	1
The Judicial System. Attorneys delay, delay, delay to get clients discouraged and out of money!	1
Aggressive mediation is a plus.	1

LITIGANT SURVEY

In your opinion, what factors in your case, if any resulted in unnecessary costs?	
None (no factors that resulted in unnecessary costs).	19
I consider this case to be frivolous.	6
I believe the case was frivolous. Plaintiffs should be required to reimburse defendants costs in unsuccessful suits.	5
The process and demands during pretrial are very expensive.	3
Attorneys.	3
Opposing counsel's discovery abuse. Court should sanction such behavior.	3
Travel and living expenses for defendant and attorney to Minnesota from Pennsylvania.	2
Allowing pro se to continually file motions and pleadings as a stall tactic to increase the defendants cases!	2
DELAY	2
This was a totally frivolous suit, brought by an individual with a history of such claims. The plaintiff incurred no costs and our co-pay incurred large costs.	1
All this cost and never got to court!	1
Length of proceeding.	1
The defendant should be required to pay a filing fee the same as plaintiff.	1
Delay of defendant to pay their portion of the settlement resulted in additional costs to plaintiffs.	1
Magistrate Judge X did an excellent job at the settlement conference and we would like to commend him for his efforts at getting the case settled. He worked into the early evening hours and went above and beyond the call of duty.	1

In your opinion, what factors in your case, if any resulted in unnecessary costs?	
The judge allowed a reversal of our default judgment even though the defendant missed deadlines. As a result, we incurred additional legal fees and this allowed the defendant to continue operating without paying their obligation.	1
Halfhearted attempts at "mandatory settlement" conference were both time consuming and costly.	1
The legal system in this country is out of control. Too many attorneys! Too many stupid suits!	1
The matter was unexpectedly accelerated for trial, forcing large overtime expenditures in trial preparation and forcing a hasty settlement. While some say justice delayed is justice denied, it is difficult to manage a litigation to the most cost-effective resolution when the court system and timing can be so unpredictable.	1
Last minute scheduling of oral arguments during a holiday season.	1
Lawyers on both sides not scheduling (staffing) properly for their caseload.	1
Judicial propensity to reschedule dates when requested by litigants.	1
Unnecessary continuances.	1
My most recent experience was in CA District Court. Minnesota is much better.	1
Excessive court procedural filings drive up the cost of defense on frivolous charges.	1
Mediation/settlement conference was costly, frustrating and reinforced the public's perception of the judicial system being out of touch with reality.	1
Expensive expert fees.	1
The waves of unnecessary paper, when my whole case was proven and sold to my lawyer with a one-page drawing.	1
Many judges are afraid to make any decision, which causes more expensive lawyering and delays the whole process.	1
The plaintiff bounced us in and out of court at will with no risk to themselves, even though they lost the case and only brought the case in order to drain our dollars and weaken us in the marketplace. The courts were simply used as a competitive tool.	1

In your opinion, what factors in your case, if any resulted in unnecessary costs?	
Very slow response by the court caused parties to anticipate decisions either way thus greatly increasing costs.	1
Lawyers. The cost of justice is too much for a layman to get justice. We have to simplify the system. Let the laymen represent himself by simpler procedures.	1
The lack of time spent by the court in reading and understanding the material presented at our motion hearing. This is still an ongoing case and has cost our business substantial legal fees due to the court's inability to deal with the evidence. I now understand why so many people are upset with the court process.	1
The defendants were not allowed to attend the first scheduled settlement hearing because the judge had not ruled on motions. A year and a half later, we settled for basically the same originally proposed figure. This delay resulted in substantially more legal fees and mental duress.	1
The biggest contributing factor to unnecessary costs is the abundance of hungry attorneys willing to take on ridiculous cases in the hopes of wearing down the defendant into settling for economic reasons. This custom has destroyed the legal system.	1
This case should have taken no more than one week to hear--it took almost five weeks which is ridiculous.	1
This case should not have been allowed, initial judge should have known the plaintiff had no legitimate court action against me as an individual and summarily dismissed my involvement. Fortunately for me, my homeowner's insurance paid attorney's fees, but ultimately, all policy holders experience a rate increase for a frivolous suit.	1
Anytime an individual goes up against a unit of government with seemingly unlimited resources the potential exists for the defendants to drag and delay the process. The consequences for them are minimal while they are great for most plaintiffs. And yet, the magistrate judge instructed the jury not to consider this, that it was an even playing field.	1
We should have litigated based on facts. But, cost of litigation propelled us to settle. Essentially, we were "held-up" by the legal system.	1
I should be happy that we won in summary judgment, but it was a frivolous case to begin with and spending $30,000 in legal fees, plus hundreds of hours of my time just does not make the victory very sweet. I do appreciate the survey, perhaps there can be a way to speed up the process.	1

In your opinion, what factors in your case, if any resulted in unnecessary costs?	
A motion and hearing for the entry of judgment by default.	1
We settled because it was less expensive than going to court. That's not right.	1
Frivolous appeals that had no chance of success.	1
Unfamiliarity of judge with trademark issue resulted in our having to go to appeals court. (Obviously this is my opinion, not shared by the defendant)!	1
Difference in law between two jurisdictions.	1
The action should have been remanded to the ICC immediately.	1
The ability of plaintiffs to bring unwarranted lawsuits through the EEOC with no factual basis. It cost $10,000 in attorney fees to get to the point of the case being thrown out.	1
Loser should pay.	1

The survey responses from 182 litigants who recently had a case in federal court will be a helpful guide to the Advisory Group as they assess The Plan. This report will be reviewed and the final recommendations will be in the Annual Assessment to the CJRA Plan for the District of Minnesota.