
**REPORT OF THE
CIVIL JUSTICE REFORM ACT ADVISORY GROUP
OF THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA**

**Submitted to the Court
Pursuant to Title 28, Section 472 (b)
of the United States Code**

I. THE CIVIL JUSTICE REFORM ACT AND THE ACTIVITIES OF THE ADVISORY GROUP

The Civil Justice Reform Act of 1990, 28 U.S.C. §§ 471-82, requires each of the ninety-four federal district courts to develop a "civil justice expense and delay reduction plan" appropriate for that district. See id. § 471. The plan is:

to facilitate deliberate adjudications of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

Id.

The Act requires that the plan be developed in consultation with an advisory group appointed by the chief judge of the district court. The advisory group is to submit a report to the district court in which the group recommends a plan and sets forth its findings concerning expense and delay.

The Act establishes ten pilot districts whose plans must include the six principles and guidelines set forth at 28 U.S.C. § 473(a). See 28 U.S.C. § 471 note. It also provides for various demonstration districts that are required to implement specific programs, such as alternative dispute resolution. Id.

Districts implementing their plans no later than December 31, 1991, become "early implementation districts" that are eligible to apply for additional resources to implement their plans. Other districts are required to implement a plan by December 1, 1993. Id.

The District of Minnesota elected not to become a pilot, demonstration, or early implementation district. Unlike the pilot or demonstration districts, it is not obliged to adopt any particular technique of litigation management, although the

Act does require that the Court and Advisory Group consider a variety of techniques. See 28 U.S.C. § 473.

In February and March 1991, then-Chief Judge Donald D. Alsop appointed the Advisory Group for the District of Minnesota. The Group had its organizational meeting on May 3, 1991. Jeffrey Keyes, Chair of the Advisory Group, appointed subcommittees on controlling costs, alternative dispute resolution, and case management and delay.

The Advisory Group members and the Reporter are:

ATTORNEY MEMBERS¹

Jeffrey J. Keyes, Chair

Magistrate Judge Raymond L. Erickson²

Donald M. Lewis

Deborah J. Palmer

John R. Tunheim, Chair of the Subcommittee
on Case Management and Delay

Theodore J. Collins

Margaret H. Chutich

Lawrence C. Brown

Craig D. Dviney, Chair of the Subcommittee
on Controlling Costs

¹Appendix A contains the addresses and telephone numbers of the members of the Advisory Group and the Reporter.

²At the time of his appointment, Magistrate Judge Erickson was in private practice.

LITIGANT REPRESENTATIVE MEMBER

Emily Anne Staples

Charlton Dietz

Michael J. O'Rourke, Chair of the Subcommittee
on Alternative Dispute Resolution

UNITED STATES ATTORNEY OR DESIGNEE

Designee: Mary E. Carlson

EX OFFICIO MEMBERS

The Honorable Donald D. Alsop

The Honorable Harry H. MacLaughlin

The Honorable J. Earl Cudd

Francis E. Dosal

REPORTER

Professor Roger C. Park

CONSULTANTS

Professor Steve Penrod

Barbara P. Berens

The Advisory Group is particularly grateful for the outstanding contribution to its efforts made by its Reporter, Professor Roger Park of the University of Minnesota Law School, and its Consultants, Professor Steven Penrod, a member of the faculty of the University of Minnesota Law School, and Barbara Berens, law clerk to United States District Judge David S. Doty. Professor Park, the Fredrikson & Byron Professor of Law at the University of Minnesota, contributed expert analytical and research skills to the development of this report. Professor Penrod, a social psychologist and leading expert in the utilization of social science techniques and the study of legal systems, developed and executed surveys which were of great benefit to the Group's work, and which should make a significant contribution to the study of litigation cost, delay, and reform. Ms. Berens provided the skilled editorial and drafting efforts that were necessary to produce this report.

One of the Advisory Group's principal activities was designing and administering the surveys of attorneys and litigants. The survey questions originated in the subcommittees and were approved by the Advisory Group as a whole. The attorney survey, attached as Appendix B, was administered to attorneys who represented clients in 534 civil cases that most recently closed on or before June 9, 1992.³ Questionnaires were sent to 954 attorneys, and the total response rate was 65.12%

The litigant survey, attached as Appendix C, was administered to 176 litigants whose cases were chosen at random from a subset of the 534 cases used for the attorney questionnaire. The subset was comprised of labor, real

³Twenty cases were excluded because they were brought by prisoners seeking to vacate their sentences.

property, civil rights, contract, and tort cases. The Advisory Group did not ask attorneys to locate or to transmit surveys to their clients. The litigant survey had a return rate of 30.26%

Early in its history, the Advisory Group decided to interview the judges and magistrate judges of the District of Minnesota. It conducted a series of interviews, averaging about two hours in length, with all the magistrate judges and all but one of the judges. The interviews were attended by the Chair or Reporter, and two or three other Group members. The Reporter or a Group member prepared a report on each interview and circulated it to Group members who were not present. In addition, members of the Advisory Group spent a day at the Minneapolis courthouse interviewing deputy clerks.

On December 3-4, 1992, the Advisory Group held discussions with groups of six to ten practitioners who were chosen based on the Group's personal knowledge of the practitioners' substantial activity in federal court. The Group also sought to ensure that the practitioners included lawyers from the plaintiffs' and defense bars, from the metropolitan area and the "outstate" area, and from large and small firms. In addition, the group included lawyers who represent both governmental and private, corporate and individual, and poor and affluent clients. See Appendix I (listing practitioners interviewed).

The Federal Judicial Center ("FJC") has provided guidance and information to the Advisory Group. Jeffrey Keyes attended the FJC Seminar for Civil Justice Reform Act Advisory Group Chairs in Naples, Florida on May 15-16, 1991. On April 6-7, 1992, Mr. Keyes, Reporter Roger Park, and Magistrate Judge Erickson

attended a second FJC Seminar in St. Louis, Missouri. In addition, the Group has received periodic statistical reports and other information from the FJC.

In formulating its recommendations, the Group has also had the benefit of plans developed by other districts, as well the Judicial Conference's Model Plan for the reduction of expense and delay in civil cases, dated October 30, 1992.⁴

II. PROFILE OF THE DISTRICT OF MINNESOTA AND THE DISTRICT COURT

A. Demographics of the District of Minnesota

The District of Minnesota encompasses the entire State of Minnesota. According to the 1990 census, Minnesota had a population of 4,375,099, of which seventy-two percent is urban and twenty-eight percent rural.⁵ Over fifty-five percent of the population, 2,264,124 people, reside in the Minneapolis-St. Paul metropolitan area, which constitutes the sixteenth largest metropolitan area in the United States.

⁴The Model Plan was prepared in accordance with the Act's requirements. See 28 U.S.C. § 477. It contains a variety of provisions developed in response to the Act, and thus provides numerous alternatives so that plans may be tailored to the needs of individual districts.

⁵The statistics in this section are taken from Minnesota Guidebook to State Agency Services 1992-1995, at 597-635 (Robin PanLener ed., 7th ed. 1992), and Business Dev. & Analysis Div., Minnesota Dep't of Trade & Economic Dev., Compare Minnesota: An Economic & Statistical Fact Book (1992-93).

The Twin Cities' metropolitan area is 147 miles from Duluth (which has a population of 85,493); 64 miles from St. Cloud (with a population of 48,812); 83 miles from Rochester (with a population of 70,745); and 237 miles from Fargo-Moorhead (Fargo has a population of 74,111; Moorhead's population is 32,295).

Minnesota's economy is comprised of a diverse industrial sector and a plentiful base of natural resources, including timber and iron ore. Agriculture occupies over half of the state's total area and plays an important role in Minnesota's economy: in 1989, Minnesota ranked sixth nationally in farm cash receipts, sixth in crops, and seventh in livestock. In the 1992 fiscal year, Minnesota ranked seventh among all states in the foreign export of farm products.

Mining is a \$950 million dollar business. Minnesota supplies about three-quarters of the iron ore mined in the United States. Minnesota mines also produce manganiferous ore, sand, gravel, and building stones.

Manufacturing is the state's major economic sector, the largest component of which is the industrial machinery industry. Minnesota has more than four times the national share of employment in the computer industry. It is also a leader in the design and manufacture of scientific instruments, and medical technology. Reflecting its leadership in such areas, Minnesota ranks fifth nationally in the number of patents issued per capita.

Food products processing is the second largest manufacturing industry, and printing and publishing is the third largest manufacturing industry. Finance, insurance, and real estate also comprise a large portion of Minnesota's gross state product.

Eighteen Fortune 500 industrial firms are headquartered in Minnesota, all but one of which are based in the Minneapolis-St. Paul metropolitan area. In addition, fifteen Fortune 500 service companies are headquartered in the state. Minnesota ranks fifth in the number of Fortune 500 firms headquartered in the state per capita, and tenth in the total number of such firms.

Minnesota has four Great Lakes ports: Duluth-Superior, Two Harbors, Silver Bay, and Taconite Harbor. In terms of tonnage, Duluth-Superior is the world's largest deep-draft freshwater port, the nation's thirteenth largest port, and the largest United States' port on the Great Lakes.

As a result of the state's diverse economic activity, the District of Minnesota's civil docket is comprised of complex commercial and corporate litigation, with five times more antitrust cases in 1992 than the national average and almost twice as many copyright, patent and trademark cases. See Appendix H. In addition, cases involving banks and banking, ERISA⁶, and RICO⁷ have increased significantly over the last decade. See Appendix D, Table 1.

⁶The Employee Retirement Income Security Act, 29 U.S.C. §§ 1001-1461.

⁷The Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-68.

B. The Structure of the District of Minnesota

1. Article III Judges

The District has seven authorized judgeships. At the present time, there are five active judges: Chief Judge Diana E. Murphy, Judge Paul A. Magnuson, Judge James M. Rosenbaum, Judge David S. Doty, and Judge Richard H. Kyle.⁸

In addition, three senior judges currently preside over cases at the district level: Senior Judge Donald D. Alsop, Senior Judge Robert G. Renner, and Senior Judge Harry H. MacLaughlin.⁹ Senior Judge Earl R. Larson draws no district court cases, but occasionally sits with the Eighth Circuit Court of Appeals.

2. Magistrate Judges

The District has five magistrate judges, who are presently assigned as follows:¹⁰

⁸For the ten-year period SY82-91 (the statistical years ending June 30, 1982 through June 30, 1991), there were 38.8 vacant judgeship months: 4.5 in SY82, 11.6 in SY85, 12.5 in SY86, and 10.2 in SY87. See Appendix E, at 3-4. From the period SY88 to SY91, the Court was fully staffed with Article III judges. See *id.* at 2. Since the end of that period, three active judges have retired, and in SY92, there were 4.5 vacant judgeship months. *Id.* The court currently has two vacancies.

⁹On September 15, 1992, Senior Judge MacLaughlin began drawing an eighty percent civil caseload and no new criminal cases. As of April 1, 1993, Senior Judge Alsop began drawing a sixty percent civil and criminal caseload. At the present time, Senior Judge Renner is drawing no new civil or criminal cases.

¹⁰These assignments will likely change when the two vacant judgeships are filled. At the time of this report, the names of two candidates had been submitted to President Clinton, but he had not yet nominated any candidates for the District of Minnesota.

Chief Magistrate Judge J. Earl Cudd:	chief magistrate judge; general criminal assignments
Magistrate Judge Floyd E. Boline:	Judges Doty and Kyle
Magistrate Judge Franklin L. Noel:	Judges Rosenbaum, Alsop, and MacLaughlin
Magistrate Judge Jonathan G. Lebedoff:	Judges Murphy and Magnuson
Magistrate Judge Raymond L. Erickson:	All Fifth Division work (in Duluth); in the Twin Cities one week each month for settlement conferences

3. Divisions in the District of Minnesota

The District has six divisions, see 28 U.S.C. § 103. The Clerk of Court maintains offices in three of those divisions: the Third Division, located in St. Paul; the Fourth Division, located in Minneapolis; and the Fifth Division, located in Duluth.

The Court has exercised its pretermission authority to effectively eliminate trials and hearings from all divisions except those located in Minneapolis, St. Paul, and Duluth. See D. Minn. LR 83.11 & advisory committee's note. District judges maintain chambers in either Minneapolis or St. Paul. Cases from the First, Second, Third, Fourth, and Sixth Division are assigned to either the Third or Fourth Division based on the location of the chambers of the judge to whom the case is assigned. Cases from the Fifth Division are assigned to that division regardless of the location of the judge's chambers. Id. LR 83.11(a).

III. ASSESSMENT OF CURRENT CONDITIONS

A. Introduction

The Civil Justice Reform Act requires that the Advisory Group "determine the condition of the civil and criminal dockets" and identify trends in case filings and in demands on court resources. See 28 U.S.C. §§ 472(c)(1)(A)-(B).

The Advisory Group prepared such an analysis using statistical data provided by the Federal Judicial Center, the Administrative Office of the United States Courts, and the Clerk of Court for the District of Minnesota. For comparison purposes, the Group examined the most recent ten-year period for which data was available. In most instances, the Group used data for the period SY83-92 (the statistical years ending June 30, 1983 through June 30, 1992).¹¹ When data for SY92 was unavailable, the Advisory Group substituted the period SY82-91. In a few select categories, data was available only for the most recent six-year period, in which case the Group used the statistics for the shorter period of time.

B. Civil Docket Trends

Several possible measures are available to analyze the changes in the civil docket for the District of Minnesota. One measure is the number of civil trials

¹¹In some of the tables, the statistical year SY92 was changed from the twelve month period ending June 30, to the twelve month period ending September 30. Where possible, the Group used statistics for SY92 ending as of June 30, to correspond with the twelve month period that was used for earlier statistical years.

over the ten-year period. The most common measure is simply the number of civil filings over the ten-year period. A third measure uses weighted filing data, which involves a system of case weights based on an assessment of the judicial time devoted to various types of cases. Use of each of these three measures demonstrates that over the past ten years, the civil docket has remained relatively stable, with the overall caseload declining slightly and the number of weighted filings increasing slightly.

The first measure of the Court's civil workload, the number of civil trials, shows a decrease in the civil docket. Data is available on the number of trials over the past six years and indicates a decline in civil trials from 127 trials in SY86 to 98 trials in SY91. See Appendix D, at 20. However, as discussed below, the complexity of the District's civil cases is increasing.

Civil filings in the District of Minnesota have also declined in the ten-year period SY83-92. The raw numbers indicate that total filings in civil cases dropped from 3,615 in SY83 to 2,084 in SY92. See Appendix D, Table 1.

Although the foregoing measures suggest a declining civil caseload, the Advisory Group believes that the raw numbers exaggerate the decrease in the Court's civil caseload. For example, much of the drop in total civil filings can be attributed to a sharp decline in student loan and veteran's cases (from 1,705 to 150 cases) and social security cases (from 203 to 91 cases). These types of cases do not impose as heavy a burden on court resources as do cases in other categories, such as antitrust, securities, and copyright, patent, and trademark. In addition, a consistent theme in the interviews conducted by the Advisory Group

was that civil cases are growing increasingly complex with a commensurate increased burden on the Court.

Weighted filing data is designed to reflect more accurately the burden that particular types of case filings place upon the Court. The weighted filing data for civil cases confirms the conclusion that the Court's civil docket is becoming increasingly complex because the total number of weighted civil filings has increased despite the decrease in the raw number of civil filings. As set forth above, the total number of civil cases filed has dropped from 3,615 in SY83 to 2,084 in SY92, a decrease of 1,531 cases. See Appendix D, Table 1.¹² Total weighted civil filings, however, have increased 165 cases, from 2,754 in SY83 to 2,919 in SY92.¹³ See Appendix E, at 2, 4. The data therefore confirms that District's civil caseload is becoming increasingly complex, and that the average civil case in SY92 imposed a much greater burden on the system than the average civil case in SY83.

A review of the trends in particular types of civil cases confirms that the most significant increases have occurred in cases usually described as complex. Comparison of the beginning and end of the period SY83-92 shows that dramatic increases have occurred in banks and banking cases (from 2 to 22 cases), ERISA cases (from 81 to 179 cases), and RICO cases (from 0 to 16 cases). Asbestos

¹²In this table, SY92 ended as of June 30.

¹³The weighted filings per judge have declined from 459 weighted filings per judgeship in SY83 to 417 weighted filings per judgeship in SY92. See Appendix E, at 2, 4. The figures in the text were calculated by multiplying the weighted filings per judgeship by the number of total authorized judgeships, which was six in SY83 and seven in SY92. For purposes of these figures, however, SY92 was changed from the twelve month period ending June 30 to the twelve month period ending September 30. See id. at 2.

cases have increased from 0 to 6, with a high of 49 in SY90. See Appendix D, Table 1. Several important categories, such as civil rights, contract, and personal injury, have remained at roughly the same levels at the beginning and end of the ten-year period. See id. The Advisory Group believes that the increase in the amount in controversy requirement to \$50,000 for diversity cases likely means that the contract and personal injury cases on the docket have become more complicated.

In contrast, the steepest declines over the past decade have occurred in categories of cases generally described as less complex. Social security cases have dropped from 203 to 91, and student loan and veteran's cases have decreased from 1,705 to 150. See id. Social security cases are handled primarily by magistrate judges and law clerks with very minimal judge involvement. Similarly, student loan cases add a significant number of cases to the civil docket, but have little impact on the judge's time. In addition, a decade ago, the Court had a substantial number of individual sex discrimination cases against the University of Minnesota. Those cases, which were brought pursuant to the Rajender consent decree, did not require substantial judge involvement but added significantly to the number of cases on the docket.

Changes in the overall complexity of the cases before the Court are difficult to measure from a statistical standpoint. The Advisory Group recommends that the Court keep more detailed records that would better measure the complexity of cases, for example, by keeping track of the number of dispositive motions made per case, the number of cases involving multiple parties or claims, or the number of trial days or hours of trial required by individual cases and various categories of cases.

Although most statistical measures demonstrate a decrease in the civil workload in the District of Minnesota over the past decade, the Advisory Group concludes that the increasing complexity of the civil cases has provided a counterweight that has resulted in a relatively stable civil docket.

C. Criminal Docket Trends

In contrast, criminal case filings have increased over the ten-year period, rising from 234 criminal felony filings in SY83 to 266 in SY92.¹⁴ See Appendix E, at 2, 4. Like the civil case data, case filings alone may not be the best measure of trends in the criminal docket.

The Federal Judicial Center considers the number of criminal defendants to be a more accurate measure of a district's criminal workload. The number of defendants in the District of Minnesota rose from 351 defendants in SY83 to 412 defendants in SY92, with a high of 531 defendants in SY91. See Appendix D, at 21. By this measure, the criminal docket has also increased in the ten-year period.

Nationally, multiple-defendant cases require nearly twice the amount of judge time per defendant than single-defendant cases. See Appendix F.¹⁵ The

¹⁴These figures include both filed and transferred cases, and are calculated by multiplying the number of criminal felony filings per judgeship by the number of authorized judgeships. The statistical year SY83 ended as of June 30, while the statistical year SY92 ended as of September 30.

¹⁵Multiple-defendant cases require 347 minutes of judge time per defendant, while single-defendant cases require only 178 minutes per defendant. Cases involving the dominant type of drug offense, cocaine distribution, show a similar pattern: "the average (continued...)"

District has shown an increase in the number of multiple-defendant cases, with the average number of defendants rising from 1.5 defendants per felony case in SY86 to 1.7 in SY91. See Appendix E, at 3. These figures are slightly greater than the national average, which rose from 1.4 in SY86 to 1.6 in SY91. See id. at 7.

According to national data, the Sentencing Guidelines, which went into effect on November 1, 1987, have also increased the time that judges must expend on criminal cases. Cases under the Guidelines have resulted in a twenty percent increase in total judge time per defendant, and a sixty-one percent increase in judge time per defendant for sentencing matters. See Appendix F.¹⁶

The number of criminal trials in the District over the past six years similarly supports the conclusion of increased activity in the criminal docket, rising from 52 trials in SY86 to 96 trials in SY91. See Appendix D, at 20. This conclusion is further supported by a comparison of the number of criminal and civil trials. In SY86, there were 52 criminal and 127 civil trials. Criminal trials thus represented 29.1% of the total number of trials in the District. Id. In SY91, there were 96 criminal trials and 98 civil trials, and criminal trials constituted 49.5% of the District's trial docket.

¹⁵(...continued)

is 447 minutes per defendant in multi-defendant cases, and 232 minutes per defendant in single-defendant cases." See Exhibit F. The difference in judge time required may reflect the increased legal and factual complexity of cases involving multiple defendants.

¹⁶For guidelines cases, the average judge time used overall is 285 minutes per defendant; for pre-guidelines cases, that figure is 238 minutes per defendant. Id. The judge time for sentencing matters is 66 minutes per defendant for guidelines cases, and 41 minutes for pre-guidelines cases. Id.

The number of cases filed involving drug offenses has sharply increased in the past ten years. In SY82, 19 cases involving drug offenses were filed in the District. See Appendix E, at 5.¹⁷ In SY91, 106 drug cases were filed, an increase of more than 500%. Id. at 3. The percentage of criminal cases involving drug offenses has also increased significantly. In SY82, drug cases constituted 8.44% of all criminal cases filed in the District (19 out of a total of 225 cases¹⁸). Id. at 5. In SY91, drug cases accounted for 34.6% of all criminal cases filed (106 out of 306 cases). Id. at 3.

The number of drug defendants, however, has increased only slightly. In SY83, drug defendants represented 35.9% of all criminal defendants in the District (126 out of a total of 351 defendants); in SY92, drug defendants accounted for 38.3% of all criminal defendants (158 out of a total of 412 defendants). See Appendix D, at 21. In recent years, the trial time for drug cases has declined: in 1988, 48.2% of the criminal trial time involved controlled substance cases; in 1989, 41.2%; and in 1990, 33.4%.¹⁹ See Appendix G, at 2-4.

The District has also had a number of criminal trials of extraordinary length, thus creating significant delays in the particular judge's civil docket. For example, in 1990, United States v. Endotronics, a fraud case, required 425 hours of trial

¹⁷The total number of drug offenses is reached by adding the figures from Category F, which includes marijuana and controlled substance offenses, and Category G, which represents narcotics offenses. See id. at 1.

¹⁸Unlike the figures for the total number of criminal felony cases filed, the figures for the number of filings by nature of offense represent only the actual number of cases filed in the District, and do not include criminal felony transfers. See supra note 14. Statistics for classifying transferred criminal cases by offense were unavailable.

¹⁹This decline may reflect the extraordinary impact of the criminal cases discussed in the next paragraph, none of which involved drug offenses.

time, and United States v. Ferris Alexander required 213.5 hours. See id. at 4. The Midwest Federal criminal trials required more than five months of trial time. Finally, the loss of Senior Judge Edward J. Devitt, who handled a significant number of criminal cases, will further impact the docket.²⁰

The Advisory Group expects that the criminal workload in the District of Minnesota will continue to increase as the impact of new federal criminal laws is felt throughout the federal judicial system.

D. Condition of the Docket

The most obvious measure of the condition of the Court's docket, the number of pending cases, has decreased slightly over the past decade. In SY83, there were 2,582 pending civil and criminal cases. See Appendix E, at 4. In SY92, the number of pending cases had decreased to 2,344. Id. at 2. This decrease demonstrates that the Court has generally kept its backlog under control. During this period, the Court was usually fully staffed with judges. See supra note 8. Any prolonged vacancies would likely have a dramatic impact on the backlog.

²⁰For example, in 1988, Senior Judge Devitt presided over twelve of the seventy criminal trials in the District; in 1989, he presided over fifteen of the sixty-seven criminal trials in the District; and in 1990, he conducted seventeen criminal trials out of a total of sixty-one such trials. See Appendix G, at 2-4.

Despite the decrease in pending cases, the median time from filing to disposition in civil cases has tripled in the past decade. In SY83, the median time from filing to disposition was three months; in SY92 it was ten months, dropping from a high of twelve months in SY87. Id. at 2, 4. For cases that went to trial, the median time from the answer, or other initial response, to the date of trial increased from thirteen months in SY83 to twenty-five months in SY92. Id.

A March 1993 review of the civil docket sheets for the last five civil trials of six of the district judges (Chief Judge Murphy, Judge Magnuson, Judge Rosenbaum, Judge Doty, Judge Kyle, and Senior Judge Alsop), demonstrates a significant delay between the first date on which a case is ready for trial and the actual date of trial. Excluding seven cases that were transferred from one judge to another, the average delay in the remaining twenty-three cases was over twelve months.

Such data, however, does not necessarily demonstrate that the District of Minnesota is slowing down its handling of civil cases. The median time for terminated cases may be affected by factors other than the speed of the court. For example, if a significant number of pending old cases are terminated in one year, the median time from filing to disposition may sharply increase even though the court is actually gaining ground and reducing its caseload. Similarly, a court that experiences a sharp increase in new filings and is falling behind may nevertheless show an initial drop in the time from filing to disposition because the higher ratio of young cases to old cases may decrease the median age at termination. See John E. Shapard, [How Caseload Statistics Deceive](#) 1-2 (Federal Judicial Center, Aug. 9, 1991).

Shapard suggests that a more accurate measure of whether a court is staying abreast "is to track the ratio of pending cases to annual case terminations." Id. at 3. If this ratio remains constant, the court is keeping current; if it decreases, the court is reducing its backlog; and if the ratio increases, the court is falling behind.²¹

In the District of Minnesota, a review of the ratio of pending to terminated cases suggests an unfavorable trend: the Court is disposing of cases more slowly than in previous years.

²¹In addition to indicating whether a court is staying abreast:

The ratio of pending cases to annual case terminations is a good **estimate** of the true average duration (or life expectancy) of a court's cases (the ratio gives average case duration in years; if multiplied by 12 the result is average case duration in months).

Id. at 3 (emphasis in original).

The following chart shows the ratio calculated for each year from SY83 to SY92.

<u>STATISTICAL YEAR</u>	<u>PENDING CASES</u>	<u>TERMINATED CASES</u>	<u>RATIO OF PENDING TO TERMINATED CASES</u> ²²
SY83	2,582	3,678	0.70
SY84	2,878	3,233	0.89
SY85	2,581	4,615	0.56
SY86	2,615	3,261	0.80
SY87	2,238	2,876	0.78
SY88	2,243	2,466	0.91
SY89	2,249	2,541	0.89
SY90	2,141	2,475	0.87
SY91	2,107	2,206	0.96
SY92	2,344	2,327	1.01

See Appendix E, at 2-4.

Although the foregoing chart indicates that the District of Minnesota is disposing of cases more slowly than in the past, its ratios are generally much lower than the national average of such ratios in the federal court system. For example, in SY91 the national average was 1.14. See id. at 7. For the same year, the ratio in the District of Minnesota was 0.96. Similarly, in SY90 the national average was 1.12, while the ratio in this District was 0.87. This comparison

²²The ratio represents the total number of pending cases, civil and criminal, divided by the total number of terminated cases. For example, the ratio of 0.70 for SY 83 results from dividing 2,582 pending cases by 3,678 terminated cases.

supports the conclusion that the District generally disposes of cases more quickly than the average district.²³

Another measure of a court's docket condition is the percentage of civil cases that are more than three years old. The data indicates a gradual rise in the percentage of such cases in Minnesota, from 3.3% in SY83 to 4.4% in SY92. See id. at 2, 4. In SY92, the national percentage of such cases, 7.7%, was much higher. Id. at 6. In fact, the District of Minnesota has had a lower percentage of three-year-old cases than the national average for every year in the ten-year period SY83-92.

Judges and attorneys interviewed by the Advisory Group uniformly agreed that the federal court in Minnesota functions well and its docket has not reached a crisis stage. The amount of delay was regarded as reasonably tolerable. Participants also noted that they had not experienced some of the litigation shortcuts, such as the resolution of important motions without oral argument, employed by many other district courts.

Survey results were consistent with the interviews. Respondents concluded that neither the preference for criminal cases nor the condition of the civil calendar had unduly delayed their cases. In addition, they did not agree with the statement that "the failure of the court to engage in effective and ongoing pretrial management of the case caused undue delay."

²³In SY92, the District's ratio of 1.01 was slightly higher than the national average of 1.00. Id. at 2, 6.

E. Conclusion

The Advisory Group concludes that the problems with delay that have plagued other districts in large metropolitan areas are generally not present in the District of Minnesota. Over the past decade, the civil docket has remained relatively stable despite the increasing complexity of civil cases and the increase in the Court's criminal docket. On the whole, the situation in Minnesota compares favorably with the rest of the nation. However, there are warning signs that the situation may worsen, and several measures of delay suggest a trend toward slower disposition of cases in the District. In view of the depth of national concern about the delay in civil cases, the Advisory Group believes that new techniques to protect against increased delay are both appropriate and timely.

IV. **CAUSES OF COST AND DELAY**

A. Introduction

Under the Civil Justice Reform Act, the Advisory Group is also required to:

identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation.

28 U.S.C. § 472(c)(1)(C).

In the previous section, the Advisory Group concluded that litigants in the District of Minnesota are not confronted with excessive delay in the resolution of

their cases. Nevertheless, certain statistical indicia reveal that the time required to resolve civil cases is increasing in the District. Information concerning the amount of time required to litigate cases in the District is a matter of public record; however, the amount of money spent by private litigants is not. In order to determine whether excessive cost was perceived to be a problem in the District, the Group included cost-related questions in its surveys to attorneys and litigants, and inquired about excessive costs in its interviews of judges, magistrate judges, and practitioners.

The results of the Advisory Group's investigation of excessive costs in the District closely parallels the results of its investigation into delay. Litigants, counsel, and judicial officers all identified areas in which costs were perceived to be higher than necessary. Areas mentioned include personal attendance of counsel at hearings that could be heard by telephone, more depositions than necessary, acrimony between counsel, and counsel's unnecessary focus on issues that were relatively unimportant. The prevailing view of counsel, however, was that litigants did not incur excessive costs resulting from litigation in the District.

Although the Advisory Group's investigation did not reveal a crisis of excessive cost or delay in the District, that is not to say that civil cases are being resolved as quickly and cheaply as is theoretically possible. This section of the report will therefore describe the systems currently used in the District for minimizing cost and delay, and analyze limitations on their effectiveness.

B. Delay

Although the Local Rules for the District of Minnesota provide broad discretion to judges and magistrate judges in the management of cases from filing to trial,²⁴ the approaches currently used are fairly uniform. Most judges review complaints in cases assigned to them shortly after filing to identify those cases that present obvious questions about subject matter jurisdiction or that, because of their size or complexity, require the judge's earlier or greater involvement in managing pretrial activities.

Other than this informal system, and the procedure for managing social security cases set forth in Local Rule 7.2, the District uses no formal system for differential case management based on a review of the initial filing. Instead, differentiation among cases occurs during initial Rule 16 conferences.

The initial Rule 16 conference is generally held within three to six months after a complaint is filed. The judges differ somewhat in their approach to the conferences: at least two judges routinely conduct the conferences themselves, while the other judges typically rely on magistrate judges to conduct the conferences. The results, however, are the same in either case. The parties submit brief informational statements summarizing their claims and defenses, and indicating the need for amendments to the pleadings, joinder of parties, and the time necessary for discovery and trial. The judicial officer establishes deadlines

²⁴For example, Local Rule 16.1 provides that:

Each judge and magistrate [judge] may prescribe such pretrial procedures, consistent with the Federal Rules of Civil Procedure and with these rules, as the judge or magistrate [judge] may determine appropriate.

for the joinder of parties, amendments to the pleadings, completion of discovery, designation of experts, dispositive and non-dispositive motions, and trial-ready status. Both by tradition and local rule, the resulting deadlines are strictly adhered to. See D. Minn. LR16.3. Even if requested by stipulation, deadlines may be continued only if a party makes a written motion and demonstrates extreme good cause. Id.

All non-dispositive motions, including discovery motions, are heard and decided by the magistrate judge on fourteen days' notice, while the judge hears all dispositive motions on twenty-eight days' notice. Counsel can usually obtain a hearing date for non-dispositive motions within thirty days of requesting a date; hearing dates for dispositive motions are usually available within thirty to sixty days of request. At the present time, the judges and magistrate judges hear oral argument on virtually all non-dispositive and dispositive motions.

In addition to their control over civil pretrial matters, the magistrate judges in the District are vested with broad powers and duties pursuant to 28 U.S.C. § 636(a) and Local Rule 72.1. Among other things, the magistrate judges are empowered to try and sentence persons accused of minor offenses under 18 U.S.C. § 3401, hear and submit proposed findings and recommendations on applications for post-trial relief and prisoner petitions, conduct arraignments, hear probation revocation petitions, and issue the necessary subpoenas, writs, and attachment orders. The extensive use of the magistrate judges to perform these and other duties substantially contributes to the District's ability to efficiently control its criminal and civil dockets.

Under Local Rule 72.1(g), magistrate judges may also conduct civil trials upon the consent of all parties. The magistrate judges are qualified to preside over most, if not all, civil trials,²⁵ and can usually provide earlier and firmer trial dates than the Article III judges. Parties currently make moderate use of consent trials: in 1992, magistrate judges conducted eighteen civil trials.

Finally, Local Rule 72.1(c) permits magistrate judges to hear and issue proposed findings on dispositive motions, and applications for temporary restraining orders and preliminary injunctions. Most of the judges do not refer such matters to the magistrate judges, but rather hear and decide such motions themselves. Moreover, although such additional matters may be referred to the magistrate judges, to do so would necessarily impact their ability to expeditiously discharge the extensive and important duties that are already routinely assigned to them.

Local Rule 39.1 sets forth a procedure by which civil cases are to be scheduled for trial before the Article III judges, and most judges employ this mechanism for calling cases for trial. Under the Rule, at some point after a case is ready for trial, it is placed on a trial calendar that lists ten to twenty cases. Cases on the calendar are generally called to trial in the order listed, as preceding cases on the calendar are disposed of and the judge's criminal docket permits. At least ten days before the first case is called for trial, parties in all cases on the calendar must submit all of their significant pretrial documents, including exhibit

²⁵The District has the benefit of five highly qualified magistrate judges. The number of exceptional candidates who applied for the last vacancy is one indication of the perceived prestige of that position. The Advisory Group urges the Court to continue its tradition of appointing such highly qualified magistrate judges in the future.

and witness lists, jury instructions, special verdict forms, proposed voir dire questions, and designations of proposed deposition offerings.

At least one judge departs from this procedure, and convenes a final Rule 16 conference shortly after ready-for-trial status is achieved, at which time deadlines for submission of pretrial documents are set and after which the case may be called for trial at any time.

The Advisory Group believes that for most types of cases, the foregoing procedures efficiently move civil cases through discovery and trial. The results of the interviews and surveys conducted by the Advisory Group support this conclusion. By sending each case through the court system via a judicially supervised Rule 16 conference, case management may be specifically tailored to the needs of individual cases. Relatively simple cases requiring little discovery may be given shorter discovery deadlines and a relatively quick ready-for-trial status, while the system can also accommodate more complex cases that may involve many parties and require more extensive discovery. The Advisory Group believes that differential treatment based on the facts and circumstances of each case is warranted, and that the time taken by the judge or magistrate judge at this early stage is generally well spent.

The handling of the simplest civil disputes, such as foreclosures, asset forfeitures, simple negligence cases, government loan defaults, and other similar types of litigation, may represent the one exception to the general efficiency of the present system. Most of these cases could and should be fully discovered and ripe for resolution shortly after the complaint is filed. The current procedure of controlling such cases by a Rule 16 conference, which is usually held no sooner

than sixty days and frequently as long as six months after the complaint is filed, may produce unnecessary delay.

As a result of their workload, the judges may, on occasion, be unable to devote the time needed to resolve all the cases that are ready to be submitted to them. The judges' workload may thus represent the greatest limitation on the District's ability to resolve civil cases more quickly. Delays periodically occur at the dispositive motion stage. Litigants can generally make a dispositive motion and obtain a prompt decision because the judges will frequently rule, or indicate how they will rule, at the hearing. However, rulings are occasionally delayed for a few months or more after the hearing. In addition, at least one judge currently limits the parties' ability to make dispositive motions. For example, this judge will not hear partial summary judgment motions unless the movant demonstrates that the course of litigation and trial will be materially altered if the motion is submitted and granted.

More often, the weight of the judges' workload is reflected by their availability to try those cases that have achieved ready-for-trial status. It is not uncommon for civil cases to be placed on a trial calendar several months after they achieve ready-for-trial status, and to be actually called for trial more than a year after they are ready to be tried. Attorneys who responded to the Group's survey favored the setting of early, firm trial dates more strongly than any other procedural reform dealing with discover or pretrial management. See Appendix B, at 7 (survey question 19). During their interviews, judges and attorneys frequently stated that the setting of early, firm trial dates is the best way to avoid trial delays and encourage early settlement. Delays in scheduling and calling

cases to trial frustrate these goals. The judges' workload, however, limits the ability to set early, firm trial dates.²⁶

Various factors contribute to the judges' current workload, including the vacant judgeships in the District, the criminal docket, the increasing complexity of civil and criminal cases, and the impact of federal legislation. Each will be discussed below.

The current shortage of Article III judges contributes significantly to each judge's caseload. The shortage has existed since August and October of 1992, when two judges elected senior status. The three previous vacancies took three months, seven months, and twenty-two months to fill. By contrast, the Court was generally fully staffed during the 1980's. See supra Section III(D) & note 8. In fact, during that time the Court was essentially more than fully staffed because of the full criminal and civil caseload that Senior Judge Devitt handled from his elevation to senior status in 1981 until his death in 1992. See supra note 20. Senior Judge Devitt's extraordinary effort substantially contributed to the District's efficiency. At the present time, the District similarly benefits from the reduced, but still substantial, caseload carried by three of its senior judges.²⁷ There is, however, no way to foresee whether the senior judges will continue to make the

²⁶Resolution of civil cases may soon be delayed for another reason. Unless a supplemental appropriation is received, federal funding for civil juries will be exhausted sometime in June 1993. Once those funds are depleted, no civil jury trials will be scheduled until funding is restored.

²⁷As of March 31, 1993, Senior Judge Alsop had a total of 154 civil and criminal cases, Senior Judge MacLaughlin carried 253 cases, and Senior Judge Renner had 33 cases. See also supra note 9.

same contribution to the docket in the 1990's that Senior Judge Devitt made in the 1980's.

The present vacancies are a matter of great concern. A full complement of judges is necessary to carry out the management goals set forth in the Civil Justice Reform Act. See Report of the Advisory Group for the United States District Court for the Eastern District of Pennsylvania 49-51 (Aug. 1, 1991)("Report of the Eastern District of Pennsylvania"). For example, a shortage of judges makes it impossible to achieve the Act's goal of "setting early, firm trial dates." 28 U.S.C. § 473(a)(2)(B). A district cannot accomplish this goal merely by adopting a rule. The setting of an early, firm trial date is entirely contingent on a judge's ability to hear a case when that date arrives. If the judge is unavailable because of other matters, delay results, and as discussed below, increased costs often follow. The Advisory Group thus urges that all current, as well as future, vacancies be promptly filled.

In addition, the Advisory Group believes that the criteria for creating new judgeships should be reviewed. The Federal Judicial Conference will not recommend a new judgeship unless a district's weighted caseload per judge exceeds 400.²⁸ This formula sets the judges' workload at a very high level, and assumes the disposition of more than three cases every two working days. See Report of the Eastern District of Pennsylvania at 51 n.30. Moreover, during the period from 1982 to 1992, the staff of the criminal and civil divisions of the United States Attorney's Office increased from thirteen to thirty-eight attorneys, while only one additional Article III judgeship was created.

²⁸In SY92, the District's weighted filings per judgeship was 417. See Appendix E, at 2.

Most of the respondents in the Advisory Group's survey believed that the District of Minnesota has an insufficient number of judgeships (seven) to handle the civil and criminal cases filed in federal court.²⁹ To a lesser extent, the respondents viewed the number of magistrate judges (five) as insufficient.³⁰ The Group believes that any negative caused by an increase in the number of judgeships would be outweighed by gains in economy, speed, and fairness.

In addition to the shortage of judges in the District, the pressure of the criminal docket clearly contributes to the judges' occasional inability to dispose of civil cases that have reached trial-ready status, or are otherwise ripe for disposition. In the period from 1982 to 1992, the criminal division of the United States Attorney's Office grew from seven to twenty-eight attorneys. That growth is a strong indication of the increase in the number and complexity of criminal matters now submitted to the federal bench. From SY82 to SY91, the number of criminal felony filings increased by almost fifty percent, also reflecting the growing demands of the Court's criminal docket.³¹

The Advisory Group's investigation, particularly its interviews with judges and magistrate judges, reveals that the increasing demands of the criminal docket are caused by:

²⁹The mean response was 3.58 on a 9-point scale, with "1" representing the strongest view that the number of judgeships is insufficient, and "5" representing neutrality on the sufficiency or insufficiency of that number. See Appendix B, at 8 (question 40).

³⁰The mean response was 4.22 on the 9-point scale. See Appendix B, at 8 (question 40).

³¹The number of criminal felony filings increased from 228 in SY82 to 322 in SY91. See Appendix E, at 3, 4 (statistical years ending June 30).

- (a) mandatory minimum sentences, primarily in drug cases;
- (b) the federalization of firearms offenses;
- (c) the expansion of the findings of fact and legal rulings required at sentencing under the Sentencing Reform Act of 1987; and
- (d) the preference for criminal trials mandated by the Speedy Trial Act, 18 U.S.C. §§ 3161-74.

These developments, combined with the growth in the District's cadre of prosecutors, have clearly increased the number of criminal cases brought in the District. Equally significant, although harder to quantify, is the increase in judicial resources required by criminal cases due to the legal issues and incentives to go to trial created by a sentencing system of mandatory minimums and binding guidelines. It is beyond the charter of the Advisory Group to evaluate the wisdom of the congressional policies driving these changes, nor is it the Group's role to comment on the United States Attorney's practice of accepting an increasing number of cases traditionally handled in state criminal court, including many cases brought under tougher federal drug and gun laws. Nevertheless, the impact on the civil docket is felt profoundly by judges, magistrate judges, and civil litigants, and the Group believes that this impact should be considered when congressional policy is formulated and reviewed.

The complexity of District's civil and criminal trials also affects the judges' ability to devote time and resources to the resolution of civil cases. In the past two or three years, various judges have been required, for extended periods of time, to devote almost full-time attention to complex trials, including several

extended drug and money laundering trials, at least two lengthy white collar criminal cases, at least one substantial criminal racketeering trial, and an extensive antitrust case involving the National Football League. Those cases required weeks, or months, of trial time, which obviously impacted other matters pending before those judges.

The Court's workload is further impacted by recent federal legislation, which often seems to underestimate or ignore the judicial resources that will be required to handle the resulting claims. For example, cases brought pursuant to the Federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-75 ("CERCLA"), are notoriously time consuming, costly, and difficult to manage. CERCLA creates joint, several, and strict liability for any entity that has transported hazardous waste, disposed of hazardous waste, or owned property containing hazardous waste, and thus typically fosters litigation involving numerous defendants and third-party defendants, as the original defendants add parties to dilute potential exposure. This process, although perfectly legitimate and understandable in light of CERCLA standards, tends to create far more complex litigation than was probably contemplated by the statute. Although the District has demonstrated great flexibility in managing CERCLA cases, often appointing liaison counsel and special masters, these cases nevertheless drain the time and energy of judges and magistrate judges.

Similarly, the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, which was enacted in 1988, will likely affect the District's docket in ways unanticipated by Congress. The Act seeks to regulate entities involved in the management of gaming establishments on Indian tribal land, and apparently affects, if not supplants, more general and antiquated provisions enacted for the benefit of

Indian tribes. See, e.g., 25 U.S.C § 81 (setting forth requirements for contracts entered into with Indian tribes); id. §§ 261-64 (placing limits on entities that trade with Indian tribes). The Act, however, does not expressly supersede or preempt those older provisions. As a result, approximately fifty lawsuits have recently been filed in the District, seeking relief under the older statutes. Even if ultimately dismissed, those lawsuits would not have been brought if the Gaming Act had clearly expressed an intent to supersede earlier, arguably inconsistent provisions. Analogous questions of scope and applicability arise in litigation under ERISA, the Americans with Disabilities Act, 42 U.S.C. §§ 12101-213, and the 1991 Amendment to the Civil Rights Act.

C. Cost

Before describing and analyzing the District's current mechanisms for controlling costs, it is important to note that excessive cost is often linked to delay. For example, if resolution of dispositive motions is delayed, parties may incur extra costs by continuing the discovery and trial preparation of claims and defenses that ultimately may be dismissed. Similarly, delays and postponements in the setting of trial dates often cause duplication in trial preparation work, thereby increasing costs. Indeed, one of the perceived benefits of setting early and firm trial dates is that such scheduling controls costs by forcing counsel to focus time and money on matters that are truly important:

Perhaps the most important single element of effective managerial judging is to set a firm trial date. Limiting the amount of time before trial establishes a "zero sum game," in which part of the cost of working on one issue is the opportunity cost of not being able to work on other issues within the limited time available before trial. This creates incentives for attorneys to establish priorities and

'narrow the areas of inquiry and advocacy to those they believe are truly relevant and material' and to 'reduce the amount of resources invested in litigation.'

E. Donald Elliott, Managerial Judging and the Evolution of Procedure, 53 U. Chi. L. Rev. 306, 313-14 (1986)(footnotes omitted).

Excessive costs, however, may be caused by factors other than delay. For example, attorneys may subject opposing counsel to excessive and needless discovery within the confines of their discovery deadlines. Thus, although acknowledging the role that delay can play in the creation of excessive costs, the Advisory Group nevertheless believes that it is important to analyze separately issues of cost that may not be caused by or related to delay.

Few of the District's existing local rules directly relate to the control of litigation costs. Local Rule 33.1, which restricts parties to fifty interrogatories unless they obtain permission of the court, is the only explicit limit on discovery that would otherwise be available. Local Rule 37.1, which requires parties to confer and seek informal resolution of disputes before bringing discovery motions, and Local Rule 7.1(c), which sets page limits for briefs, may help to contain costs in certain cases, but those rules were clearly adopted to protect the Court from unnecessary motions and unnecessarily long briefs.

The only true method in place for controlling excessive litigation costs is the magistrate judges' discretion to control discovery pursuant to Local Rule 26.1(a). All of the magistrate judges are accessible via formal motion to resolve discovery disputes and protect parties from abusive discovery. Moreover, during their interviews, most of the magistrate judges indicated their willingness to take

emergency telephone calls to resolve discovery disputes that might arise, for example, during the course of a deposition. Although not a routine matter, all of the magistrate judges have awarded sanctions in cases where a party's position concerning discovery was wholly unfounded or where a party simply refused to comply with obviously germane discovery requests.

The magistrate judges, however, typically do not restrict the amount of discovery other than to impose deadlines by which discovery must be completed. The magistrate judges limit the number of depositions, the time spent taking individual depositions, and the number and scope of written discovery requests only in response to parties' specific requests or claims of abuse. At initial Rule 16 conferences, the scope and extent of discovery is rarely addressed, except as it relates to the setting of deadlines. In summary, as long as the parties don't complain and discovery is completed on schedule, the court rarely interjects itself into the parties' costs incurred in litigating cases in the District.

In their interviews, although acknowledging that discovery abuse causes unnecessary cost or delay, a number of judges and attorneys stated that problems with discovery are not as serious in Minnesota as those occurring in some other districts. Survey respondents generally disagreed with the assertions that in their cases discovery caused excessive costs,³² or delay,³³ and they generally agreed that discovery was "valuable in seeking a just result."³⁴ By a

³²Appendix B, at 3 (questions 21-23).

³³Appendix B, at 2 (questions 5-7).

³⁴Appendix B, at 4 (questions 37-39).

narrow margin, they opposed "greater limits on discovery" in general,³⁵ although they favored certain narrow reforms.³⁶ Because the present system is generally functioning well, many attorneys suggested in their interviews that the imposition of new rules or formal limitations may itself increase the costs of litigation.

National sources reflect greater concern over discovery abuse than was expressed in this District. For example, a report by the Brookings Institute noted that:

in the Harris survey, strong majorities of each respondent group identified "lawyers and litigants who use discovery as an adversarial tool or tactic to raise the stakes for their opponents" as a major cause of litigation costs and delays: 64 percent of defense litigators, 71 percent of public interest litigators, 77 percent of corporate counsel, and 71 percent of federal trial judges shared this view. In addition, 40 percent of the defense litigators and 46 percent of their counterparts from the plaintiffs' bar indicated that "lawyers who use discovery and motion practice simply to drive up the bill" were a major cause of costs and delays. Finally, 38 percent of the defense litigators and 44 percent of the plaintiffs' litigators indicated that "counsel who keep cases alive as long as possible to maximize billings" were another major cause of costs and delays.

Brookings Institute, Justice for All: Reducing Costs and Delay in Civil Litigation 35 (1989)(quoting Louis Harris & Associates, Survey at 25 (1989)).

The Advisory Group believes that only the first of the above concerns, that lawyers and litigants may use discovery as a method to raise their opponents' stakes, is warranted in this District. It is not uncommon for lawyers and litigants

³⁵Appendix B, at 5 (question 1).

³⁶Appendix B, at 6 (questions 6 & 9).

to express the view that some parties may engage in discovery, at least in part, to drive up the cost of litigation for the opposing side. We do not believe, however, that this District is faced with a significant number of lawyers who engage in excessive discovery or keep cases alive simply to increase their client's bill. In short, the Advisory Group found that the views expressed concerning expense and delay in this District did not approach the level of concern summarized in the Brookings Institute Report.

The Advisory Group believes, however, that the present system could be improved if the judicial officers conducting the initial Rule 16 conferences were encouraged to discuss not only discovery deadlines, but also the nature and scope of the discovery to be conducted within those deadlines. If the initial Rule 16 conferences were used to limit the number and length of depositions, and the number of written discovery requests, the District could monitor litigation costs and delay by employing the procedures already in place.

The Advisory Group is also concerned with the proliferation of localized rules and practices created in response to the Civil Justice Reform Act. To the extent that each district has different rules, local counsel's involvement in a case becomes more essential, and litigants based outside the district may be forced to pay for two sets of attorneys. Counsel may also be required to spend more time analyzing and ensuring compliance with individualized local rules. Many national litigants prefer federal to state courts because of the uniformity of the Federal Rules of Civil Procedure. However, that uniformity may be disappearing.

V. ALTERNATIVE DISPUTE RESOLUTION

Finally, the Advisory Group is required to consider:

- (1) authorization to refer appropriate cases to alternative dispute resolution programs, including mediation, minitrial, and summary jury trial, see 29 U.S.C. § 473(a)(6); and
- (2) a neutral evaluation program in which the legal and factual bases of a case are presented to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation.

Id. § 473(b)(4).

The Advisory Group studied the many formal methods of alternative dispute resolution ("ADR") presently used by state and federal courts, as well as informal methods selectively utilized by individual judges in an effort to alleviate case congestion. In addition, selected members of the Group interviewed judges, magistrate judges, and administrative personnel of the District, together with ADR program administrators in other jurisdictions. The rapidly developing body of ADR literature was also consulted.

The Group then carefully considered the information and insights obtained from those sources against the backdrop of this District's calendar status and challenges.

Based on its analysis, the Group recommends that the District not impose mandatory ADR procedures or requirements, either through amendment to the local rules, or by the establishment of mandatory procedures by individual judges. As discussed below, however, we strongly support the use of selective ADR

mechanisms on a case by case basis as determined by the individual judge or magistrate judge.

As the Court is aware, ADR mechanisms utilized throughout the country range from the highly intrusive (like the programs used by Hennepin County and the Northern District of California) to the informal consensual devices used by several of the judges in this District. While the variations between judicial districts correlate generally with the currency of the individual civil calendars, there is also a trend toward the use of ADR to solve all calendar difficulties. This trend has considerable momentum in its own right at both state and federal levels, and in some cases appears to be drawing adherents in the absence of a careful analysis of its suitability to individual circumstances.

Because of the overall health of the calendar in the District of Minnesota, and the relatively high level of satisfaction among attorneys and litigants, we believe that the Court should resist the temptation to institute mandatory ADR. Survey results indicate that the court-annexed arbitration program in Hennepin County is surprisingly unpopular, and regarded as costly and unhelpful by a majority of the attorneys who have used it. Although statistics may be interpreted to support differing conclusions, there does not appear to be strong evidence that the benefits of that program outweigh its costs and inconvenience.

This is not to say that we oppose all ADR for the District. Certain cases, including some of the most complex and time consuming, are especially suited to the use of discovery and settlement special masters, early neutral evaluation, mediation, and even full consensual referral. Such assignments should be made at the expense of the parties and with their consent. Cases should not be

referred pursuant to a preset formula, but rather by the informed choice of the referring judge. When combined with a system of strong, settlement-oriented magistrate judges, we believe that this approach will provide greater calendar relief than institutionalized ADR, and without the need for the bureaucratic resources associated with formal ADR programs. Survey respondents and persons interviewed also supported this approach.

Although we have no doubt that the case for mandatory ADR is strong in some other districts, we do not believe that it is necessary or sensible in this District at the present time. This recommendation reaffirms the position taken by our predecessor group, the Federal Practice Committee.

If, notwithstanding this recommendation, the Court wishes to institute a mandatory ADR program, we recommend that it adopt a demonstration program similar to that employed by the Western District of Missouri.

In the Western District of Missouri, approximately one-third of qualifying civil cases are diverted to an experimental program which runs for three years. An additional one-third ("elective group") are invited to join the process based upon their suitability for ADR. For all participating cases, an "assessment meeting" is scheduled before the program administrator thirty days after the filing of responsive pleadings. ADR options are discussed, with an emphasis upon early neutral evaluation and mediation. The parties are then required to select one of the ADR options (other than binding arbitration), or be subject to the choice made by the administrator. Neutrals are selected by the parties from a list of qualified attorneys, and are compensated at the hourly rates listed on their applications to

serve. See Civil Justice Expense and Delay Reduction Plan for the United States District Court for the Western District of Missouri (Apr. 30, 1992).

VI. RECOMMENDATIONS

1. The District Should Not Adopt a Formal Tracking System for the Management of Civil Cases

For over fifteen years, the Article III judges in this District have engaged in a form of differentiated case management by using magistrate judges to administer extensive pretrial civil case management. In fact, the District was one of the first in the United States to authorize its magistrate judges to handle all nondispositive motions and the vast bulk of pretrial case management. The District's reliance upon its magistrate judges has operated as a de facto adoption of a differentiated case management system, in which each civil action receives early and individual management and the attorneys have access to a case manager for resolution of pretrial management disputes.

The Advisory Group does not recommend the adoption of a formalized tracking system in which all cases would be automatically slotted into certain categories with uniform rules to govern pretrial administration. Rather, we recommend that our magistrate judges be provided with all of the necessary tools to manage effectively the problems of litigation cost and delay through hands-on management of individual cases, subject to the guidelines suggested below.

2. The District Should Not Impose Mandatory, Universal Limitations on Discovery

The Group concludes that it would be a mistake for this District to impose mandatory, universal limitations on the amount of pretrial discovery in civil cases. Most of the discovery practices currently used in the District facilitate the just and fair resolution of our cases. System managers should nonetheless be vigilant about the responsibility that we all share in controlling litigation expenses. We recognize that protracted litigation involves potential inefficiencies and extracts enormous societal costs. We believe, however, that except for the simplest types of cases, individualized case management by a judicial officer provides the best method of achieving an appropriate balance between adequate pretrial discovery and the control of litigation costs.

3. The District Should Adopt a Standard Procedure and Schedule for Referring Civil Cases to the Magistrate Judges

At the present time, the District has no formal structure or uniform timetable for the referral of cases to the magistrate judges for pretrial management. Some cases are automatically referred to the magistrate judge upon filing of the complaint while others are referred after the last possible answer has been filed. We therefore recommend that the Court adopt a standard procedure and time schedule for referring civil cases to the magistrate judges for pretrial management. This will permit magistrate judges to schedule and provide the parties with notice of the initial Rule 16 conference on a timely basis.

4. Initial Rule 16 Conferences Should be Held Within Ninety Days After the Complaint is Filed

It is the practice in the District of Minnesota to conduct early pretrial conferences in civil cases. As previously noted, the initial Rule 16 conference is generally held within three to six months after a complaint is filed. We believe that the conferences are a critical management tool, and that early intervention by the judicial officer plays an important role in the establishment and maintenance of efficient case management. We therefore recommend that the first Rule 16 conference be scheduled within ninety days of the filing of the complaint.

5. The District Should Modify the Format of the Reports that Must Submitted Prior to the Initial Rule 16 Conference

At the present time, parties must submit a report to the judicial officer prior to the initial Rule 16 conference. We believe that the format should be changed to provide the judicial officer with more useful information, and to encourage attorneys, individually and jointly, to develop a plan that places reasonable limitations on pretrial discovery. We therefore recommend that the report include the following information:

- a. Each party should propose a plan to control excessive litigation costs and delays; for example, by focusing the initial discovery on preliminary issues that might be case dispositive, instituting document control and retrieval mechanisms to contain costs, stipulating to facts to eliminate unnecessary discovery, or adopting procedures for orderly discovery, such as alternating periods for party discovery.

- b. Each party should set forth specific parameters for the discovery anticipated, including the number of depositions, the volume of documents expected to be produced, the volume of written discovery, and the extent of expert discovery.
- c. If required to disclose core information pursuant to the Federal Rules of Civil Procedure, a party should include a description of its compliance with that requirement.
- d. Parties should continue to provide the information already required, including the time periods proposed for fact discovery, the joinder of parties, and expert discovery; cutoff dates for both dispositive and non-dispositive motions, and a trial-readiness date.

6. The District Should Place Simple Civil Cases on an Expedited Management Track

The Group concludes that the handling of relatively simple civil cases through the use of a Rule 16 case management conference not only adds unnecessarily to the cost of these cases but also constitutes an inefficient use of judicial resources. The Group therefore recommends that the Court (with the assistance of the United States Attorney's Office, where appropriate) identify the types of cases that historically require little, if any, discovery and are capable of conclusion within six to nine months (by cross-motions for summary judgment or a one or two day trial). Cases so identified should be subject to expedited case management through the use of a standard pretrial order that the Clerk's office will send out automatically following the filing of an answer. The standard pretrial

order should set out all deadlines for discovery and motions, the date of a prescheduled settlement conference, and the date of trial readiness.³⁷

7. The District Should Amend the Local Rules to Provide Magistrate Judges with Greater Discretion to Limit Discovery

As noted above, the District is fortunate to have a team of highly experienced, skilled magistrate judges. We believe that encouraging the magistrate judges to fashion appropriate restrictions on pretrial discovery on a case by case basis best serves the goal of promoting efficient case management without undue cost or delay.

To eliminate unnecessary cost and delay, we recommend that the local rules be amended to specifically allow the judicial officer managing the pretrial phase of the case to restrict pretrial discovery as deemed appropriate. Judicial officers should be granted the authority to limit the number and scope of depositions; to minimize travel expenses and the expenditure of attorney time through the use of telephonic and video conferencing devices for recording deposition testimony; to order the use of a document depository for the common storage and retrieval of documents through imaging and data processing techniques; to require the use of multiple track discovery to expedite complex matters where appropriate; to encourage parties to minimize discovery costs by

³⁷The Group notes that the proposed changes to Federal Rules of Civil Procedure 16(b) and 26(f) suggest that the district court may exempt certain categories of actions from the pretrial scheduling conference and the preconference meeting requirements. See Amendments to the Federal Rules of Civil Procedure and Forms, 61 U.S.L.W. 4365, 4371, 4375 (Apr. 27, 1993)(setting forth rules that were announced on April 22, 1993).

stipulating to facts; and to impose and enforce discovery deadlines that promote adequate but prompt case preparation.

8. The District Should Conduct an Ongoing Assessment of the Magistrate Judges' Duties

We also recognize that there is a risk of generating new problems by overloading the magistrate judges with too many tasks in the administration of both civil and criminal cases. For example, although it may be beneficial to use the magistrate judges to preside over court or jury trials by stipulation of the parties, lengthy trial duties may create backlogs in the magistrate judges' handling of civil pretrial and criminal administration. We recommend that the District conduct an ongoing assessment of the magistrate judges' duties to insure that maximum time utilization occurs.

9. The District Should Continue Its Current Procedures Concerning Special Masters

In addition to the service performed by the magistrate judges, the District has effectively utilized the services of special masters, particularly in complex matters. The Court has often called on the resources of highly respected former United States magistrate judges, former state court and appellate judges, and members of the bar to assist in discovery and settlement matters. The use of special masters often reflects a cooperative spirit amongst the bench and bar to find ways to break deadlocks and resolve protracted litigation. Because the parties must bear the cost of compensating a special master, we recommend that the Court continue the current practice of using special masters for discovery or

settlement only upon the consent of all parties. We also recommend that the Court continue the present practice of selecting, in its discretion, a list of potential candidates from which the parties may chose a special master, rather than using a formal, published list of appointed referees.

10. The District Should Not Institute a Mandatory ADR Procedure

As previously described, the Group recommends that the District not impose mandatory alternative dispute resolution procedures or requirements, either by amendment to the local rules, or by the establishment of mandatory procedures by individual judges. We believe that the best dispute resolution techniques for this District continue to be settlement negotiations conducted by an Article III judge, a magistrate judge, or a special master who is sensitive to the timing of such discussions on a case by case basis. We do recommend that various dispute resolution techniques, such as referral to commercial arbitration panels or summary mock trials, be made available to the judicial officer conducting settlement discussions. We believe, however, that all such techniques should be used only with the parties' consent, particularly in light of the costs involved. We reaffirm the position taken by our predecessor group, the Federal Practice Committee, that the District of Minnesota should not institutionalize any ADR bureaucracy.

11. The District Should Adopt New Methods for Tracking Sources of Possible Delay and for Evaluating the Complexity of Civil Cases

The Advisory Group concludes that the delay, if any, between the trial-readiness date and actual trial date is an important measure of the condition of

the District's civil docket. Accordingly, the Group recommends that the Court keep track of the following dates for civil cases: the date on which a case achieves ready-for-trial status, the date on which it is placed on a trial calendar, and the date on which it is tried.

Rulings on dispositive motions may also be a source of delay. The Group thus recommends that the Court keep a record of the following dates: the date on which a party requests a hearing date for a dispositive motion, the date on which the hearing is held, and the date on which the ruling is issued.

As the report previously noted, changes in the overall complexity of the Court's cases are difficult to measure from a statistical standpoint. The Advisory Group therefore recommends that the Court keep more detailed records that would better measure the complexity of cases, for example, by keeping track of the number of dispositive motions made per case, the number of cases involving multiple parties or claims, or the number of trial days or hours of trial required by individual cases and various categories of cases.

12. A Handbook for Litigants in Federal Court Should be Developed

By and large, the practitioners view the management of cases in the District quite favorably, and they do not seek radical reform of pretrial or trial procedures. We recognize, however, that parties are often exposed to the federal court through one case that may have significant, lifelong impact, and they may be adversely affected by excessive costs and delay. As a result, parties often have a much different perspective and reaction to case management than the attorneys practicing in the federal court.

Although there may be specific cases where parties' frustration over cost and delay is caused by inefficient case administration by counsel or the court, it is our view that a great deal of the frustration expressed by parties arises from a lack of information about the federal court's process of dispute resolution. We believe that increased public awareness would lead to greater satisfaction with the system. We therefore recommend that the Court, in conjunction with the federal bar, develop a handbook to acquaint lay parties with the federal court system and to inform them about what they can expect in case processing and management.

This handbook may include the following topics: the important role of legal counsel as both an advocate and an officer of the court; the obligations of the parties and their counsel to cooperate in the efficient processing of cases and the avoidance of delay; the role of adversary counsel; alternatives to going to court; a description of the federal court system, including its rules of evidence, and its forms and procedures for filing complaints, pleadings, and motions; the necessity of exhausting administrative grievance procedures and other non-adjudicatory remedies; a description of trial procedures; a description of the function of the judge and the jury; what the litigants can expect in terms of discovery limitations and obligations; case event deadlines and trial dates; rules of decorum and other guidelines for party and attorney conduct in court, in depositions, and in settlement conferences; the important role played by magistrate judges and special masters appointed by the court; the calendaring of cases, and the competition for judicial resources, particularly the impact of the priority that the Court must give to criminal matters.

We further recommend that upon approval and publication of such a handbook by the District, either the attorney of record or the party, if

unrepresented, be required to inform the Court that the handbook has been provided to the party.

Submitted to the United States District Court for the District of Minnesota by the Civil Justice Reform Act Advisory Group, May 15, 1993.

**APPENDIX A:
ADVISORY GROUP MEMBERS**

ATTORNEY MEMBERS

Jeffrey J. Keyes, Chair
Briggs & Morgan
2400 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

612-334-8540

Magistrate Judge Raymond L. Erickson
412 United States Courthouse
515 West First Street
Duluth, MN 55802

218-720-5273

Note: Magistrate Judge Erickson was in private practice at the time of his appointment to the Advisory Group.

Donald M. Lewis
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Case Management and Delay
Chief Deputy Attorney General
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612-296-2351

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Collins, Buckley, Sauntry & Haugh
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St. Paul, MN 55101-1379

612-227-0611

Margaret H. Chutich
At appointment:
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Present position:

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Criminal Division
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Faegre & Benson
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Craig D. Diviney, Chair of Subcommittee
on Controlling Costs
Dorsey & Whitney
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612-340-2993

LITIGANT REPRESENTATIVE MEMBERS

Emily Anne Staples
1640 Xanthus Lane
Minneapolis, MN 55447

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Note: Ms. Staples is currently
Hennepin County Commissioner
2400 Government Center
Minneapolis, MN 55487

612-348-7887

Charlton Dietz
Minnesota World Trade Center # 3050
30 East Seventh Street
St. Paul, MN 55101

612-733-1190

Note: At the time of his appointment, Mr. Dietz was a member of the
Board of Directors of 3M.

Michael J. O'Rourke, Chair of Subcommittee
on Alternative Dispute Resolution
Executive Vice President and General Counsel
First Bank System
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UNITED STATES ATTORNEY OR DESIGNEE

Designee: Mary E. Carlson
Assistant United States Attorney
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234 United States Courthouse
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EX OFFICIO MEMBERS

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Senior United States District Judge
760 Federal Courts Building
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612-290-3000

The Honorable Harry H. MacLaughlin
Senior United States District Judge
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REPORTER

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APPENDIX B
CIVIL JUSTICE
RESEARCH SURVEY

1. GENERAL INFORMATION

a. A copy of docket sheet in your case is attached.

b. Please identify the party you represented: (check one)

433 Plaintiff
391 Defendant or Third Party Defendant
74 Other (pro se)

c. Please identify your

- (1) Years of practice to date: M = 13.99, N = 564
- (2) Number of jury trials to date: M = 19.29 civil M = 20.04 criminal
- (3) Percentage of cases representing: M = 55.64 defense M = 51.73 plaintiff/prosecution
- (4) If you were not the primary attorney for this case, please explain your role * p. 9
- (5) City of practice * p. 9

2. NATURE OF SUIT.

a. How would you characterize this case:

(Circle the number that reflects the degree to which you agree with each statement)

	strongly disagree							strongly agree	
	1	2	3	4	5	6	7	8	
The legal issues were complex									M=4.74, N=586
The case evidence was complex									M=4.17, N=581
There was a large volume of evidence									M=4.19, N=584

Control Number--this number will be used only to monitor the return of surveys and not to link specific survey forms with specific respondents

QUESTIONS ABOUT DELAY

Using the scale to the right, circle the number that best reflects the degree to which you agree with each statement.

- (1) The court's overcrowded civil calendar caused undue delay.
- | | | | | | | | | | |
|-------------------|---|---|---|---|---|---|----------------|---|---------------|
| strongly disagree | | | | | | | strongly agree | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | M=3.03, N=577 |
| | | | ^ | | | | | | |

- | | | | |
|-----|--|------------------------|---------------|
| (2) | The preference given criminal cases caused undue delay | 1 2 3 4 5 6 7 8 9
^ | M=3.32, N=565 |
| (3) | The failure of the court to engage in effective and ongoing pretrial management of the case caused undue delay | 1 2 3 4 5 6 7 8 9
^ | M=2.41, N=572 |
| (4) | Opposing counsel's delaying tactics caused undue delay | 1 2 3 4 5 6 7 8 9
^ | M=3.08, N=569 |

If the following procedures were used, circle the appropriate number. Otherwise, put "X" in the "not applicable" blank .

strongly disagree strongly agree

- | | | | |
|------|--|---|-----------------------|
| (5) | Framing and answering interrogatories caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=3.42, N=325, NA=257 |
| (6) | Document discovery, production and management caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=3.74, N=344, NA=237 |
| (7) | Conducting and attending depositions caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=3.23, N=303, NA=278 |
| (8) | Waiting for court's decisions on non-dispositive motions caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.52, N=281, NA=300 |
| (9) | Waiting for court's decisions on dispositive motions caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.58, N=323, NA=259 |
| (10) | The summary judgment process caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.54, N=260, NA=320 |
| (11) | The court's failure to set an early trial date caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=3.02, N=284, NA=294 |
| (12) | The court-required settlement conferences caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.08, N=280, NA=298 |
| | | strongly disagree strongly agree | |
| (13) | The parties' unproductive settlement negotiations caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=3.59, N=353, NA=222 |
| (14) | Unproductive efforts to arrive at a mediated settlement caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=3.07, N=113, NA=464 |
| (15) | Continuances after trial date set caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.81, N=140, NA=434 |
| (16) | Failure of the court to effectively manage the trial of this case caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.20, N=186, NA=388 |
| (17) | Waiting for court's ruling on post-trial motions caused undue delay | 1 2 3 4 5 6 7 8 9
^not applicable | M=2.27, N=85, NA=487 |

- (45) The parties' settlement negotiations were valuable in seeking a just result 1 2 3 4 5 6 7 8 9 M=5.54, N=342, NA=225
 not applicable
- (46) Efforts to arrive at a mediated settlement were valuable in seeking a just result 1 2 3 4 5 6 7 8 9 M=5.20, N=86, NA=479
 not applicable
- (47) The court's effective management of the trial was valuable in seeking a just result 1 2 3 4 5 6 7 8 9 M=5.90, N=104, NA=462
 strongly disagree not applicable strongly agree
- (48) The court's rulings on post-trial motions were valuable in seeking a just result 1 2 3 4 5 6 7 8 9 M=5.18, N=49, NA=516
 not applicable
- (49) Experts were valuable in seeking a just result 1 2 3 4 5 6 7 8 9 M=5.70, N=190, NA=375
 not applicable
- (50) The availability of adequate lawyering resources was valuable in seeking a just result 1 2 3 4 5 6 7 8 9 M=6.68, N=330, NA=224
 not applicable

**SETTLEMENT NEGOTIATIONS
AND ALTERNATIVE DISPUTE RESOLUTION (ADR)**

3. Did this case settle prior to trial? 318 yes 179 no 10 partial settlement

a. What was nature of settlement?

- Monetary \$ M=1016626.06
- Other _____
- Consent judgment _____

b. How fruitful were efforts devoted to the following forms of ADR?

	not at all fruitful	very fruitful	
Special master	1 2 3 4 5 6 7 8 9		M=1.34, N=79
Consensual Reference (Rent-a-Judge)	1 2 3 4 5 6 7 8 9		M=1.30, N=78
Third party mediation	1 2 3 4 5 6 7 8 9		M=1.68, N=85
Summary trial by Magistrate/Master	1 2 3 4 5 6 7 8 9		M=1.67, N=82
Arbitration	1 2 3 4 5 6 7 8 9		M=1.32, N=78
Other	1 2 3 4 5 6 7 8 9		M=5.59, N=98

GENERAL RECOMMENDATIONS

Reformers have proposed a variety of changes in federal procedure. Please indicate your opinion about these proposals using the scale to the right. Circle the number that best reflects the strength of your agreement or disagreement with each statement

- (1) Greater limits on discovery. 1 2 3 4 5 6 7 8 9 M=4.40, N=506
 strongly oppose strongly favor
- (2) Requiring the losing party on a discovery motion to pay the winner's costs and attorney's fees. 1 2 3 4 5 6 7 8 9 M=4.88, N=506
 strongly oppose strongly favor

(3)	More use of sanctions to limit unnecessary discovery.	1 2 3 4 5 6 7 8 9 A	M=5.03, N=505
(4)	Much shorter periods for pretrial discovery (e.g. 120 days in a complex case) than current practice	1 2 3 4 5 6 7 8 9 3	M=3.50, N=506
(5)	Requiring automatic disclosure, within a short time after service of the answer, of "core" information (names of witnesses, documents bearing on the claim and defense, and damage computations).	1 2 3 4 5 6 7 8 9 A	M=5.87, N=507
(6)	Limiting the number of depositions permitted to ten per side, unless the court otherwise orders.	1 2 3 4 5 6 7 8 9 6	M=6.06, N=507
(7)	Restricting each deposition to six hours unless the court otherwise orders.	1 2 3 4 5 6 7 8 9 5	M=5.11, N=508
(8)	Limiting the number of interrogatory questions to 15, unless the court otherwise orders.	1 2 3 4 5 6 7 8 9 3	M=3.45, N=508
(9)	Requiring disclosure to the opponent of written reports signed by each expert witness containing a complete statement of the expert's opinions and their basis.	1 2 3 4 5 6 7 8 9 6	M=6.48, N=507
(10)	Requiring disclosure of written reports signed by each expert setting forth the qualifications of the expert.	1 2 3 4 5 6 7 8 9 6	M=6.87, N=507
(11)	Requiring disclosure of written reports signed by each expert listing other cases in which the expert has testified.	1 2 3 4 5 6 7 8 9 6	M=6.52, N=508
(12)	Requiring the parties to prepare a detailed discovery/case management plan early in the litigation.	1 2 3 4 5 6 7 8 9 5	M=5.58, N=508
(13)	Greater use of court-appointed discovery masters.	1 2 3 4 5 6 7 8 9 5	M=5.22, N=498
		strongly oppose strongly favor	
(14)	Greater use of court-supervised settlement talks.	1 2 3 4 5 6 7 8 9 6	M=6.27, N=507
(15)	Greater use of court-appointed masters to conduct settlement discussions.	1 2 3 4 5 6 7 8 9 5	M=5.52, N=504
(16)	Greater use of magistrate judges to conduct settlement conferences.	1 2 3 4 5 6 7 8 9 6	M=6.13, N=505
(17)	A pretrial conference that includes discussion of settlement/ADR to be held within sixty days of the service of the answer.	1 2 3 4 5 6 7 8 9 5	M=5.43, N=500
(18)	A more active "hands-on" judicial role in managing litigation (setting deadlines, controlling discovery, encouraging settlement, narrowing issues).	1 2 3 4 5 6 7 8 9 5	M=5.90, N=506

(19)	Setting of early firm trial dates.	1 2 3 4 5 6 7 8 9	M=6.24, N=507
(20)	Greater use of alternative dispute resolution.	1 2 3 4 5 6 7 8 9	M=5.12, N=505
(21)	More use of early neutral third-party evaluation of cases.	1 2 3 4 5 6 7 8 9	M=4.99, N=505
(22)	More use of mediation.	1 2 3 4 5 6 7 8 9	M=4.73, N=503
(23)	Requiring mandatory non-binding arbitration on the Hennepin County model.	1 2 3 4 5 6 7 8 9	M=2.93, N=497
(24)	To promote settlement, greater use of non-binding summary jury trials in which lawyers summarize their cases (no witnesses).	1 2 3 4 5 6 7 8 9	M=4.16, N=504
(25)	To promote settlement, greater use of non-binding "mini-trials" with limited witness testimony.	1 2 3 4 5 6 7 8 9	M=3.97, N=503
(26)	More incentives to use magistrate judges to try cases on the merits.	1 2 3 4 5 6 7 8 9	M=5.26, N=503
(27)	Less use of pretrial scheduling conferences.	1 2 3 4 5 6 7 8 9	M=4.16, N=502
(28)	Conducting more pretrial scheduling conferences by telephone.	1 2 3 4 5 6 7 8 9	M=6.64, N=490
(29)	In nonjury trials, giving the proponent the option of offering a witness's direct testimony in affidavit form, subject to live cross-examination by the opponent.	strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor	M=4.08, N=507
(30)	Amend the rules to discourage motions for summary judgment.	1 2 3 4 5 6 7 8 9	M=2.90, N=506
(31)	Amend the rules to toughen requirements for admission of expert opinions.	1 2 3 4 5 6 7 8 9	M=4.42, N=506
(32)	Require a party who rejects a settlement offer to bear the additional costs of trial unless the trial outcome exceeds the settlement offer.	1 2 3 4 5 6 7 8 9	M=4.51, N=505
(33)	Greater limits on the contingent fee.	1 2 3 4 5 6 7 8 9	M=3.59, N=507
(34)	After trial, make the loser pay the winner's attorney's fees.	1 2 3 4 5 6 7 8 9	M=3.22, N=506
(35)	Allow a party to substitute tape recording of a deposition for a stenographic recording whether or not the other party agrees to that procedure.	1 2 3 4 5 6 7 8 9	M=3.92, N=501
(36)	Less use of jury trial.	1 2 3 4 5 6 7 8 9	M=3.23, N=505
(37)	Require notice prior to suit.	1 2 3 4 5 6 7 8 9	M=4.04, N=507
		1 2 3 4 5 6 7 8 9	M=7.33, N=508

- (38) Require written opinion giving reasons whenever a judge grants or denies a summary judgment motion.

GENERAL JUDGMENTS

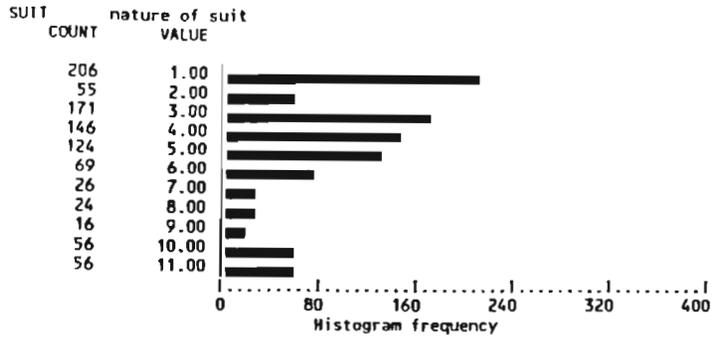
- (39) To what extent would you agree that the federal court in Minnesota:

	strongly agree										
Undermanages civil cases	1	2	3	4	5	6	7	8	9		M=5.90, N=492
Does not adhere to its own deadlines	1	2	3	4	5	6	7	8	9		M=5.93, N=493
Effectively helps parties reach settlement	1	2	3	4	5	6	7	8	9		M=4.51, N=491
Presses too hard for settlement	1	2	3	4	5	6	7	8	9		M=5.87, N=490

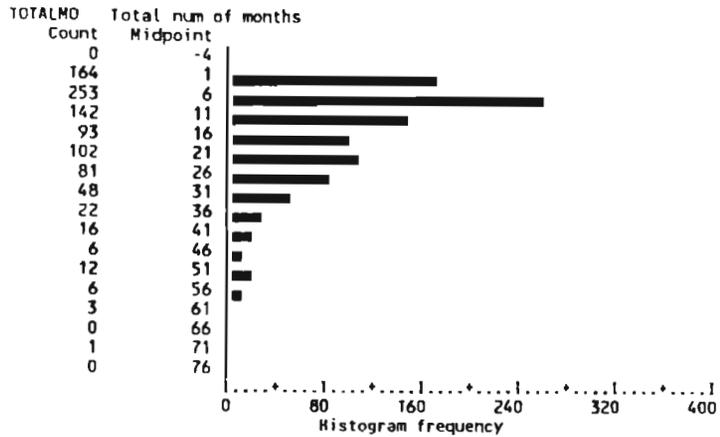
- (40) In your opinion are the current resources of the Court sufficient or insufficient to handle the civil and criminal cases filed in federal court?

<u>Resource:</u>	Insufficient				More than sufficient					
Judges (7)	1	2	3	4	5	6	7	8	9	M=3.58, N=480
Magistrate Judges (5)	1	2	3	4	5	6	7	8	9	M=4.22, N=476
Law clerks	1	2	3	4	5	6	7	8	9	M=5.28, N=425
Court reporters	1	2	3	4	5	6	7	8	9	M=5.54, N=427
Clerical staff	1	2	3	4	5	6	7	8	9	M=5.53, N=426
Facilities	1	2	3	4	5	6	7	8	9	M=4.71, N=435

- (41) Additional comments regarding possible changes in civil litigation practices:



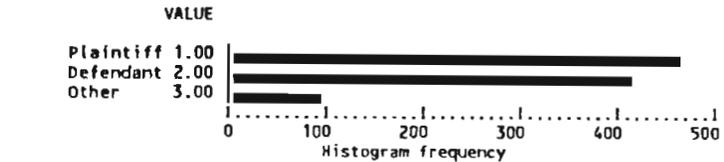
Mean 4.364 Std dev 2.958 Valid cases 949



Mean 14.277 Std dev 12.162 Valid cases 949

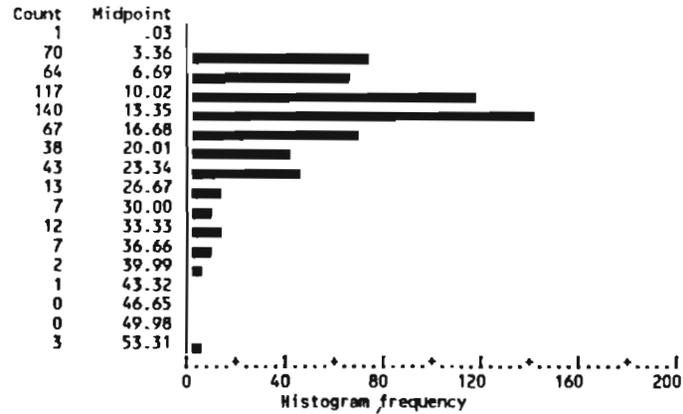
1. GENERAL INFORMATION

b. PARTY



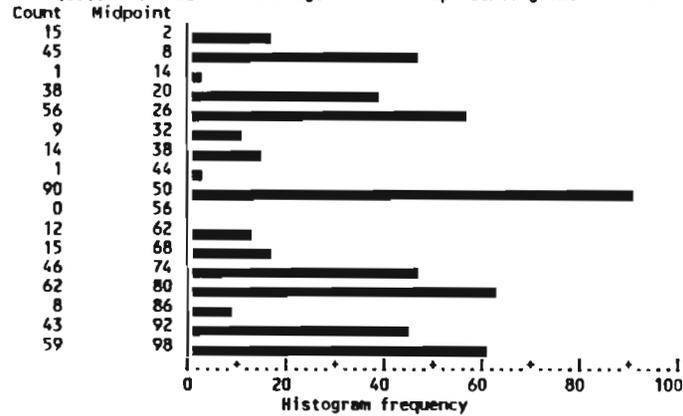
Mean 1.609 Std dev .647 Valid cases 947

(1). YEARS years of practice



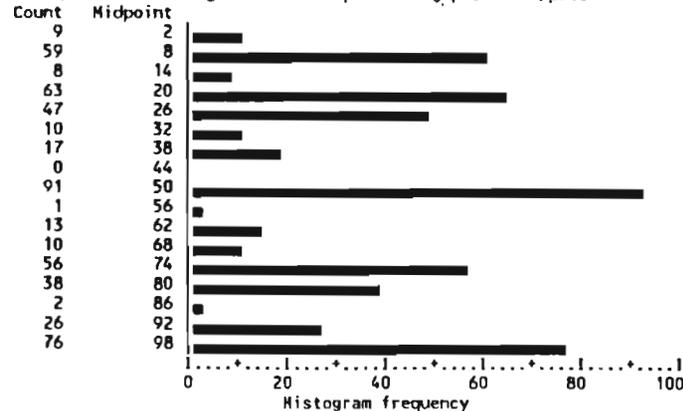
Mean 13.974 Std dev 7.916 Valid cases 585

(3a). DEFENSE Percentage of cases representing the defense



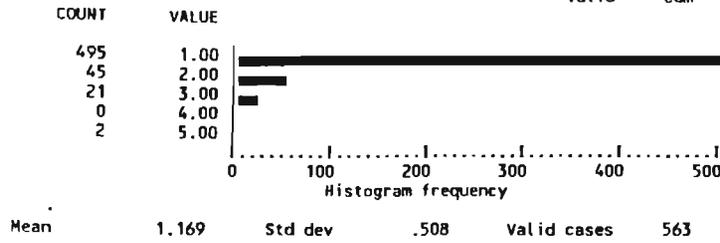
Mean 55.305 Std dev 30.733 Valid cases 514

(3b). Percentage of cases representing plaintiff/prosecution



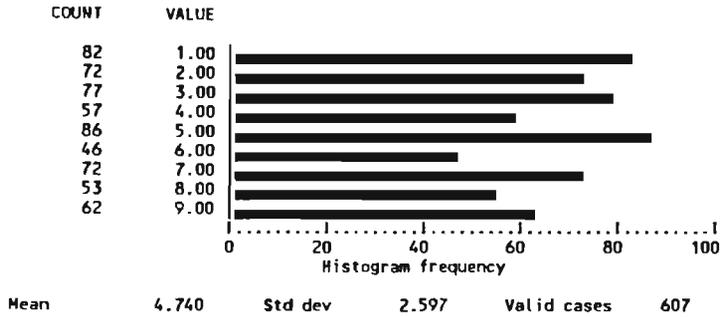
Mean 51.973 Std dev 31.504 Valid cases 526

(5). CITY city of practice

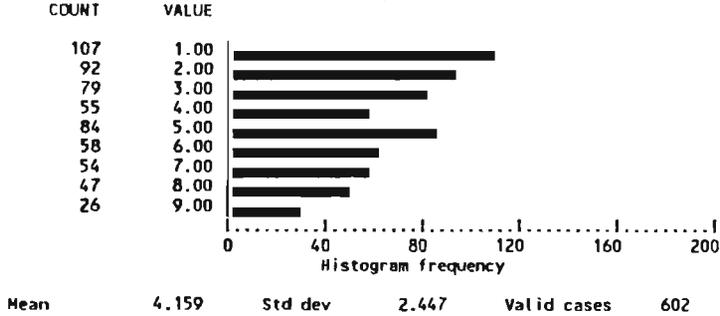


2. NATURE OF SUIT

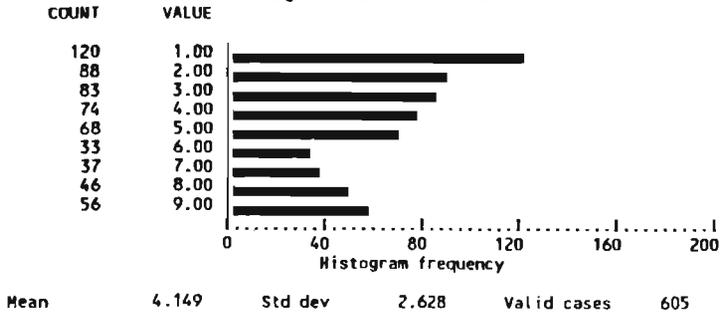
1. The legal issues were complex



2. The case evidence was complex

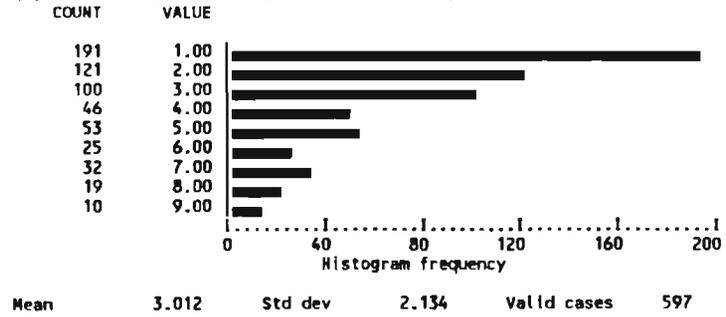


3. There was a large volume of evidence

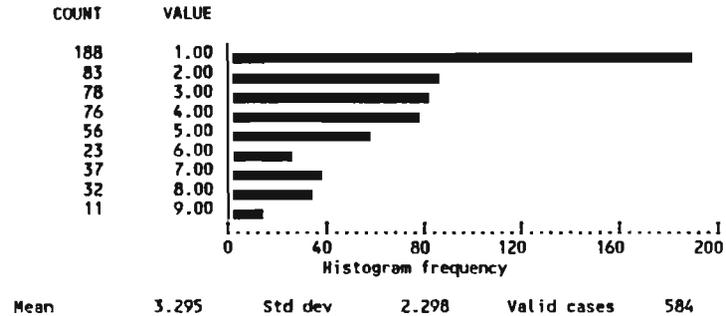


QUESTIONS ABOUT DELAY

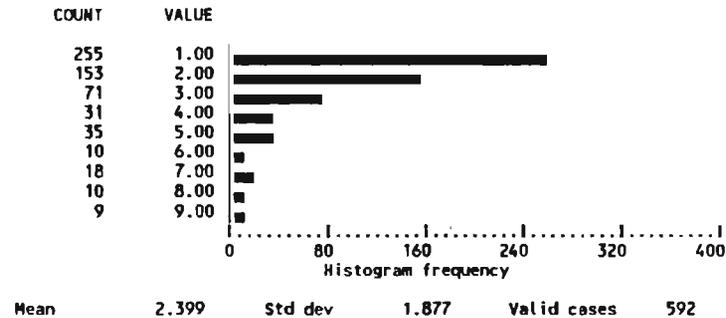
(1). overcrowded civil calendar caused delay



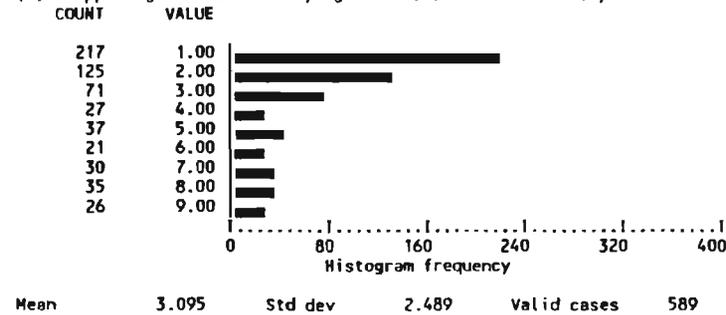
(2). preference given criminal cases caused delay



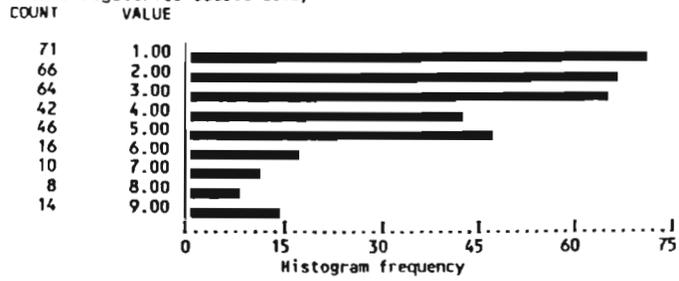
(3). Failure in effective pretrial management caused delay



(4). Opposing counsel's delaying tactics caused undue delay

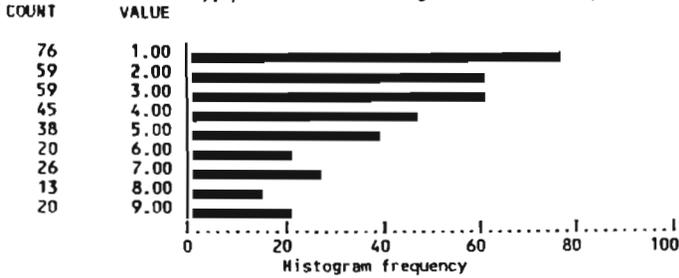


(5). Interrogatories caused delay



Mean 3.409 Std dev 2.132 Valid cases 337

(6). Document discovery, production and management caused delay



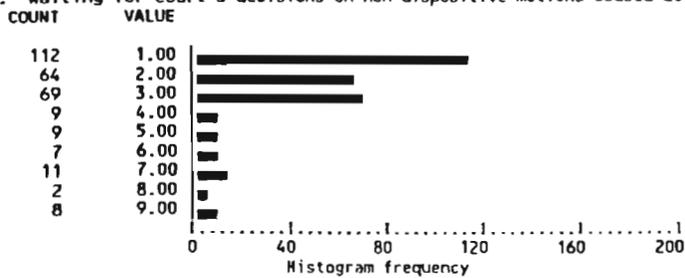
Mean 3.728 Std dev 2.381 Valid cases 356

(7). depositions caused delay



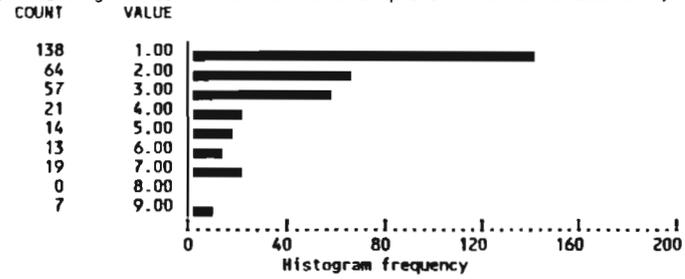
Mean 3.268 Std dev 2.259 Valid cases 313

(8). Waiting for court's decisions on non-dispositive motions caused delay



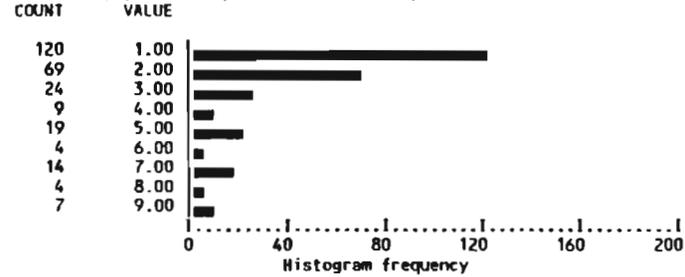
Mean 2.526 Std dev 1.920 Valid cases 291

(9). Waiting for court's decisions on dispositive motions caused delay



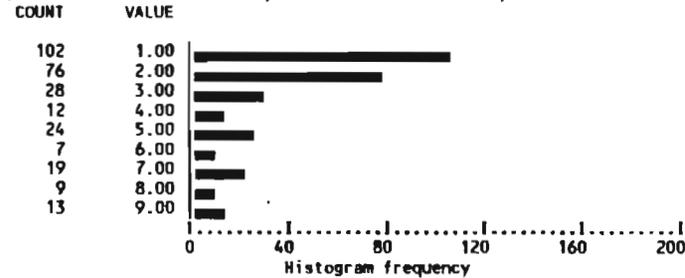
Mean 2.598 Std dev 1.988 Valid cases 333

(10). Summary judgement process caused delay



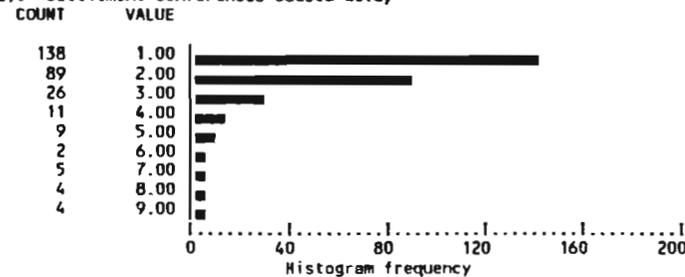
Mean 2.511 Std dev 2.096 Valid cases 270

(11). failure to set an early trial date caused delay



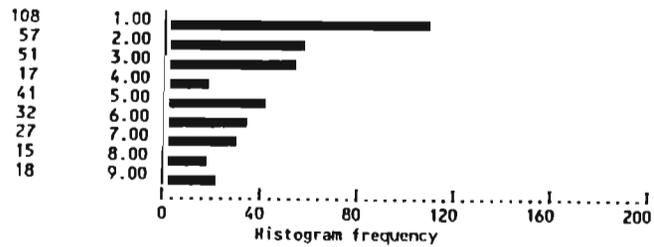
Mean 3.000 Std dev 2.391 Valid cases 290

(12). settlement conferences caused delay



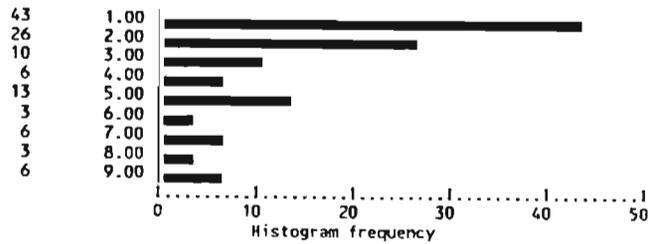
Mean 2.076 Std dev 1.653 Valid cases 288

(13). Unproductive settlement negotiations caused delay



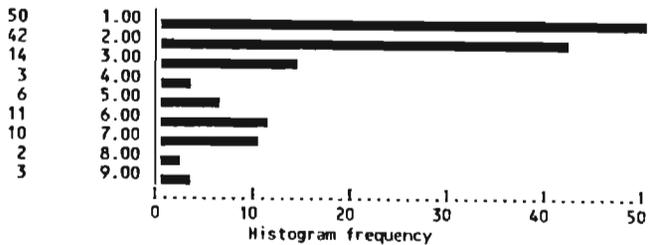
Mean 3.582 Std dev 2.504 Valid cases 366

(14). Unproductive efforts to arrive at a mediated settlement caused delay



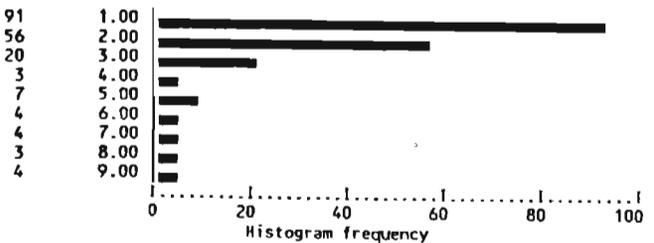
Mean 3.034 Std dev 2.413 Valid cases 116

(15). Continuances caused delay



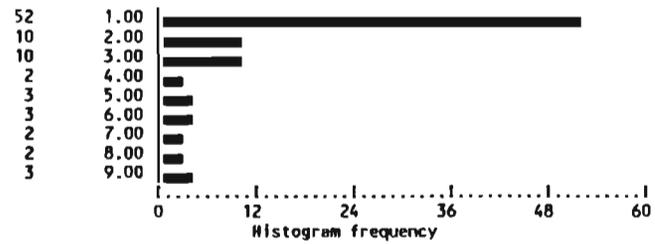
Mean 2.816 Std dev 2.206 Valid cases 141

(16). Failure of court to effectively manage trial caused delay



Mean 2.198 Std dev 1.840 Valid cases 192

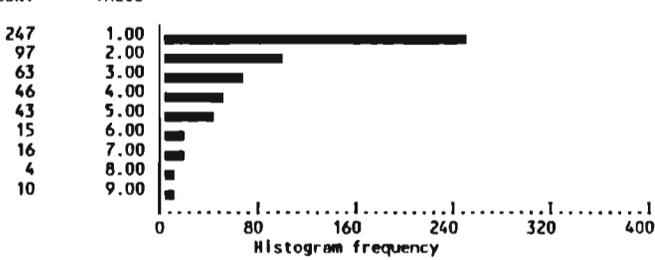
(17). Waiting for court's ruling on post-trial motions caused delay



Mean 2.299 Std dev 2.173 Valid cases 87

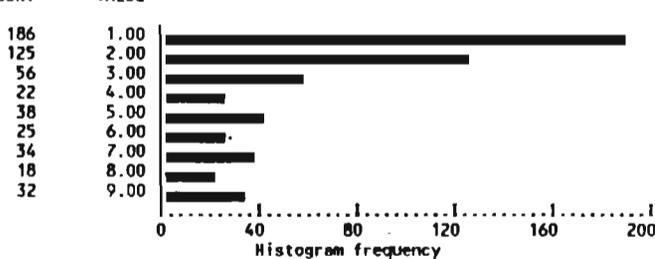
QUESTIONS ABOUT COSTS

(19). Lack of pretrial management caused excessive cost



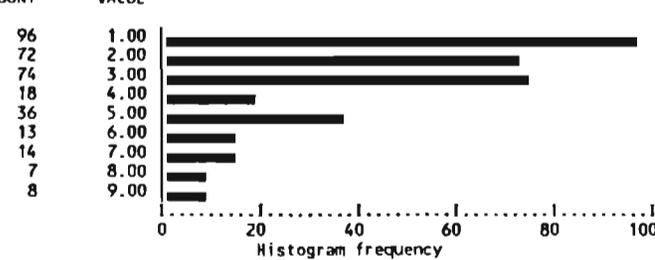
Mean 2.501 Std dev 1.934 Valid cases 541

(20). Opposing counsel's delay tactics caused excessive cost



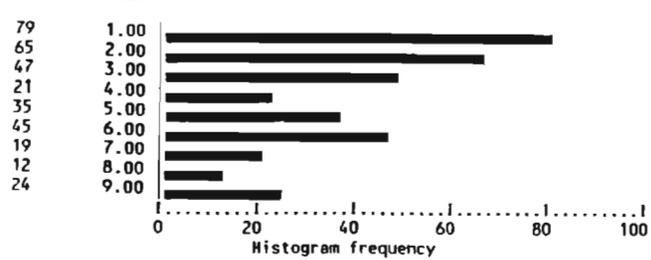
Mean 3.175 Std dev 2.520 Valid cases 536

(21). Interrogatories caused excessive cost



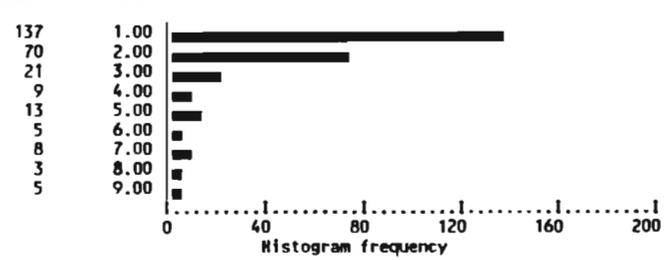
Mean 3.012 Std dev 2.054 Valid cases 338

(22). Document discovery, production and management caused excessive cost



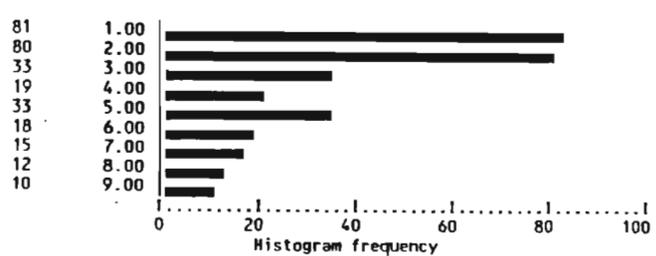
Mean 3.816 Std dev 2.513 Valid cases 347

(26). settlement conferences caused excessive cost



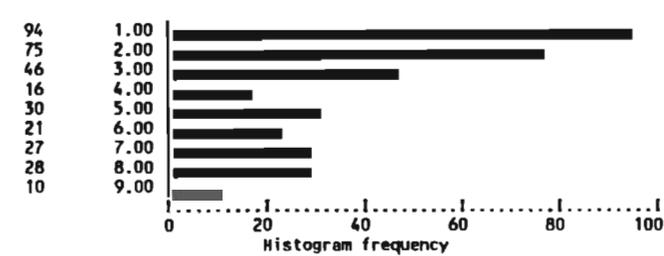
Mean 2.199 Std dev 1.859 Valid cases 271

(23). Depositions caused excessive cost



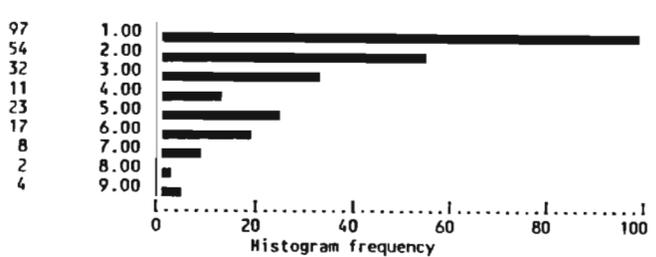
Mean 3.256 Std dev 2.307 Valid cases 301

(27). unproductive settlement negotiations caused cost



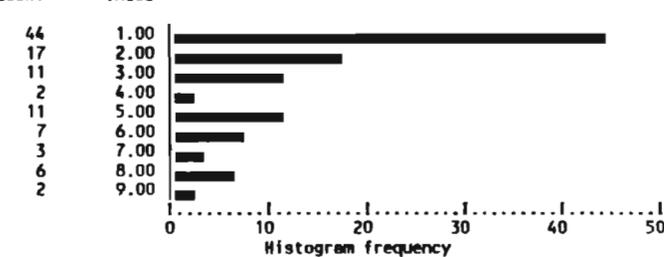
Mean 3.530 Std dev 2.505 Valid cases 347

(24). summary judgement process caused excessive cost



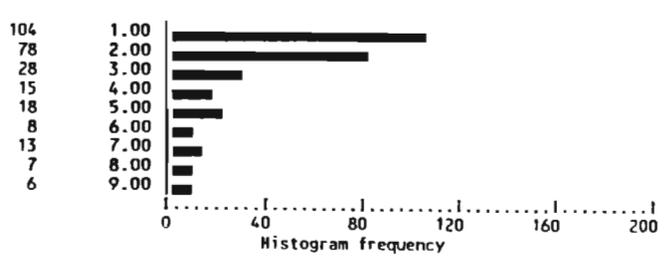
Mean 2.702 Std dev 2.010 Valid cases 248

(28). Unproductive efforts to arrive at a mediated settlement caused cost



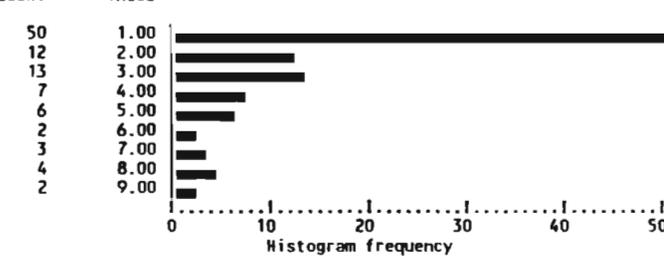
Mean 2.942 Std dev 2.367 Valid cases 103

(25). Failure to set early trial date caused excessive cost



Mean 2.682 Std dev 2.106 Valid cases 277

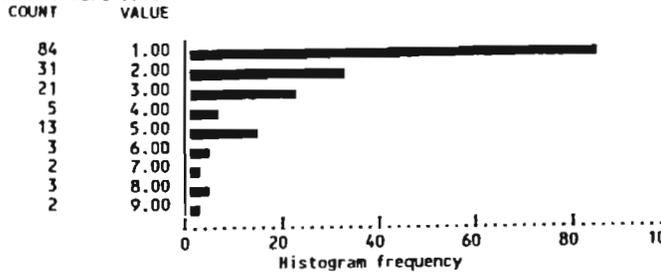
(29). continuances caused cost



Mean 2.566 Std dev 2.172 Valid cases 99

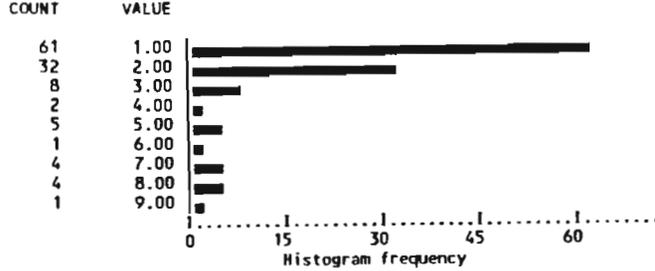
VALUE OF PRETRIAL PROCEDURES

(30). failure of the court to manage trial caused excessive cost



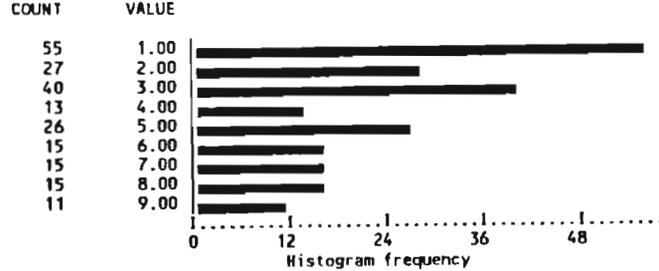
Mean 2.244 Std dev 1.814 Valid cases 164

(31). delayed court decisions caused cost



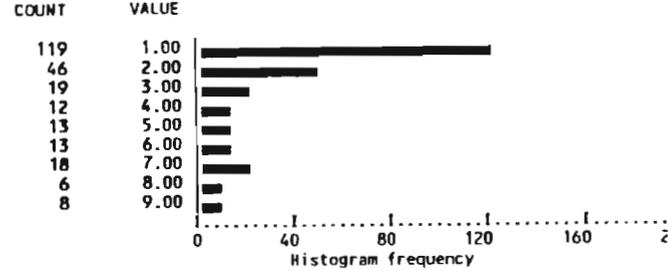
Mean 2.178 Std dev 1.911 Valid cases 118

(32). the use of experts caused cost



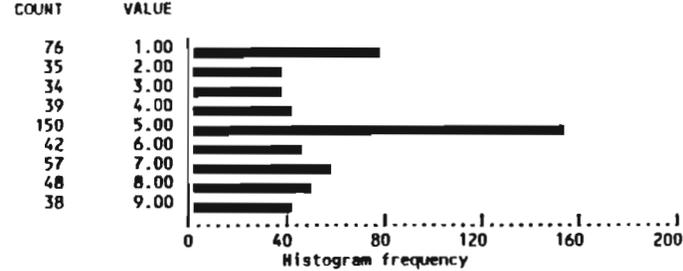
Mean 3.802 Std dev 2.519 Valid cases 217

(33). Too many lawyers caused cost



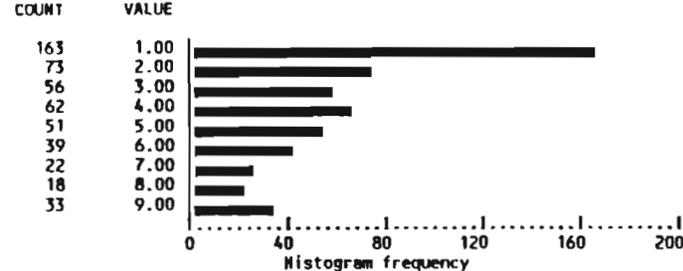
Mean 2.776 Std dev 2.366 Valid cases 254

(35). pretrial management was valuable



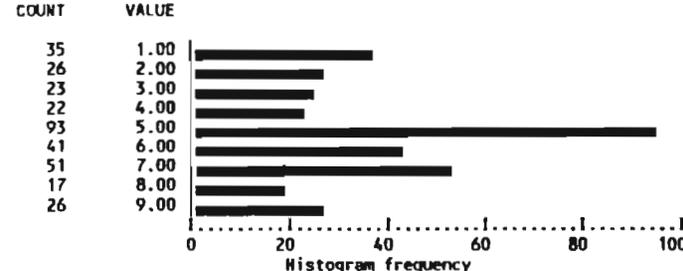
Mean 4.877 Std dev 2.410 Valid cases 519

(36). Opposing counsel's delaying tactics impeded progress



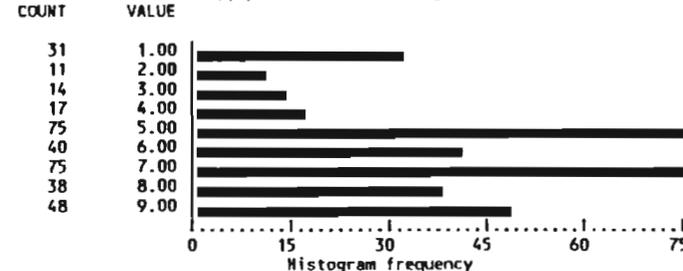
Mean 3.499 Std dev 2.492 Valid cases 517

(37). interrogatories are valuable



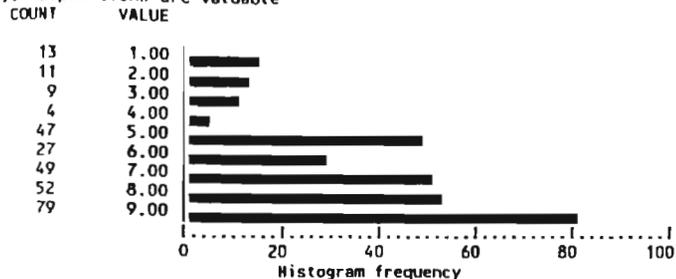
Mean 5.036 Std dev 2.274 Valid cases 334

(38). document discovery, production and management are valuable



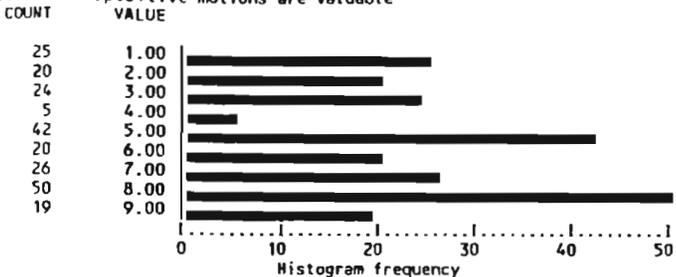
Mean 5.842 Std dev 2.318 Valid cases 349

(39). depositions are valuable



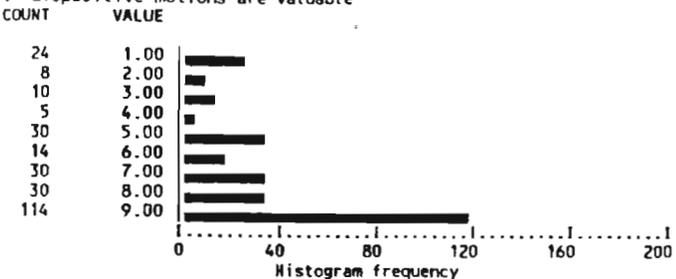
Mean 6.684 Std dev 2.257 Valid cases 291

(40). non-dispositive motions are valuable



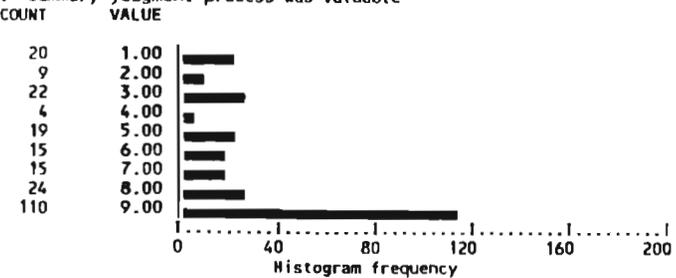
Mean 5.368 Std dev 2.577 Valid cases 231

(41). dispositive motions are valuable



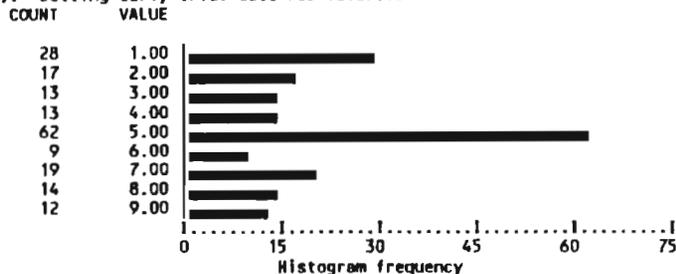
Mean 6.792 Std dev 2.667 Valid cases 265

(42). Summary judgment process was valuable



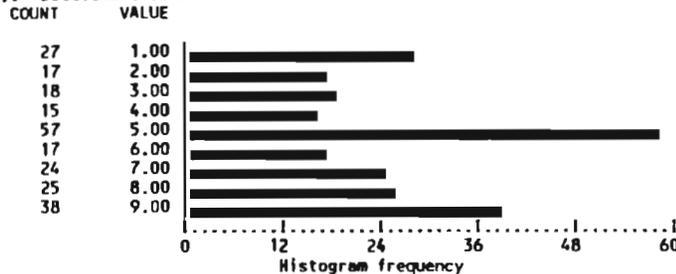
Mean 6.689 Std dev 2.805 Valid cases 238

(43). Setting early trial date was valuable



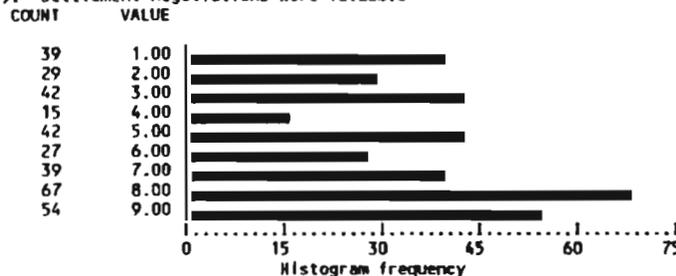
Mean 4.652 Std dev 2.372 Valid cases 187

(44). Settlement conferences were valuable



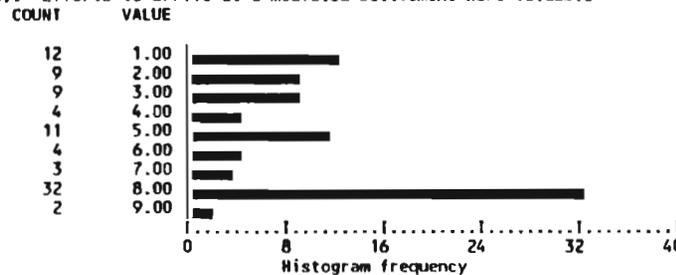
Mean 5.345 Std dev 2.590 Valid cases 238

(45). Settlement negotiations were valuable



Mean 5.508 Std dev 2.728 Valid cases 354

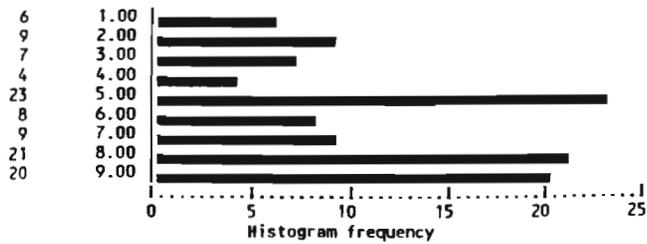
(46). Efforts to arrive at a mediated settlement were valuable



Mean 5.198 Std dev 2.756 Valid cases 86

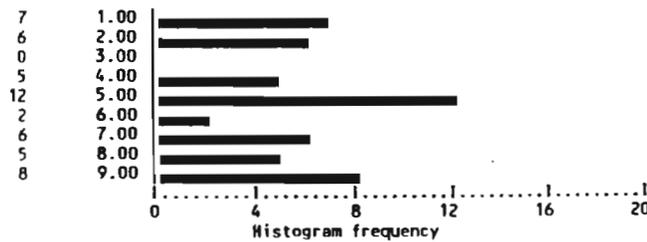
**SETTLEMENT NEGOTIATIONS
AND ALTERNATIVE DISPUTE RESOLUTION (ADRI)**

(47). Effective management of the trial was valuable



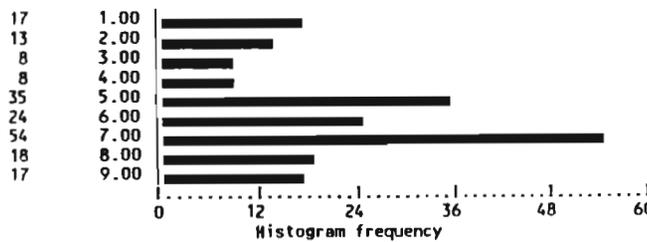
Mean 5.935 Std dev 2.511 Valid cases 107

(48). The court's rulings on post-trial motions were valuable



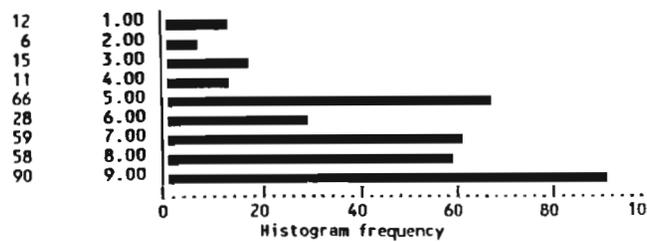
Mean 5.196 Std dev 2.713 Valid cases 51

(49). experts were valuable



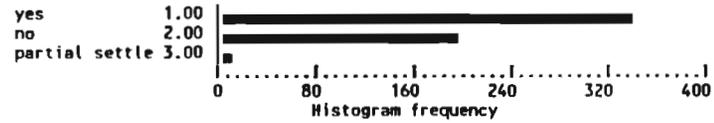
Mean 5.634 Std dev 2.305 Valid cases 194

(50). availability of adequate lawyering resources was valuable



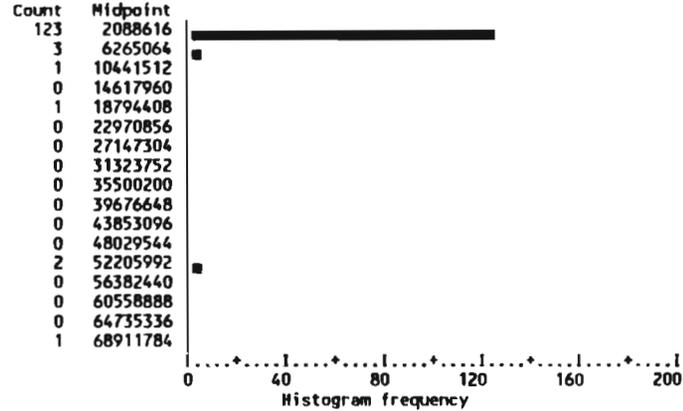
Mean 6.661 Std dev 2.151 Valid cases 345

Did this case settle prior to trial?



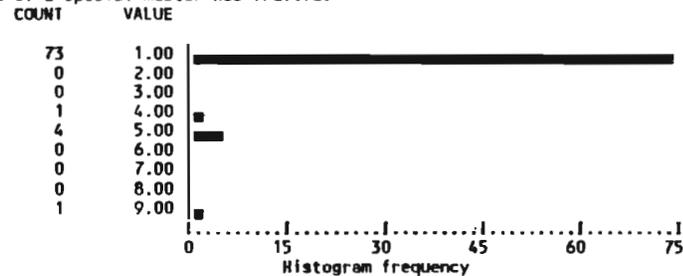
Mean 1.392 Std dev .526 Valid cases 530

Amount of monetary settlement



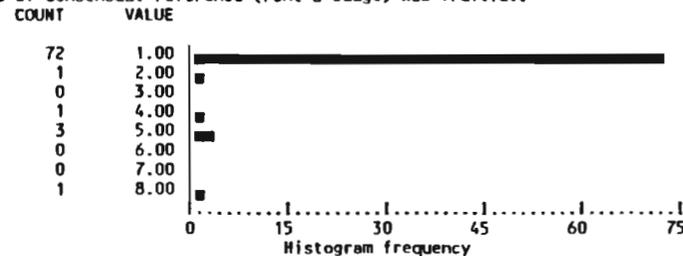
Mean 1895279.47 Std dev 8921671.28 Valid cases 131

Use of a special master was fruitful



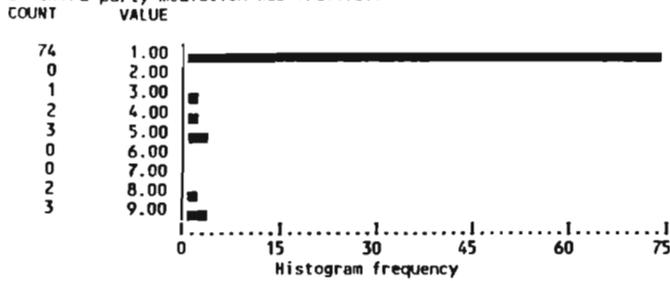
Mean 1.342 Std dev 1.280 Valid cases 79

Use of Consensual reference (rent-a-Judge) was fruitful.



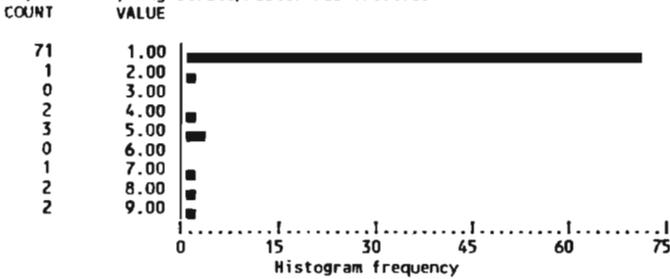
Mean 1.295 Std dev 1.141 Valid cases 78

Use of third party mediation was fruitful.



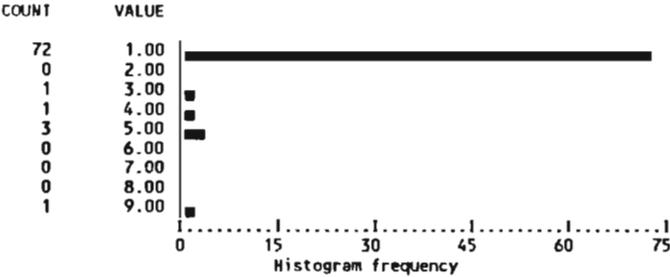
Mean 1.682 Std dev 1.953 Valid cases 85

Summary trial by Magistrate/master was fruitful



Mean 1.671 Std dev 1.899 Valid cases 82

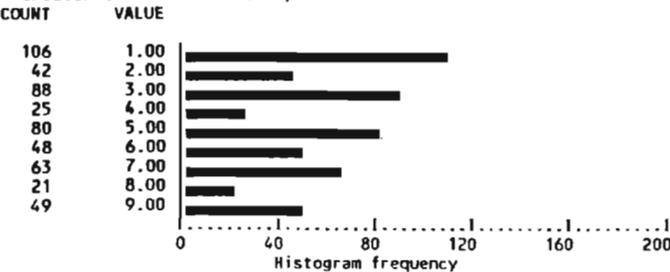
Use of Arbitration was fruitful



Mean 1.321 Std dev 1.233 Valid cases 78

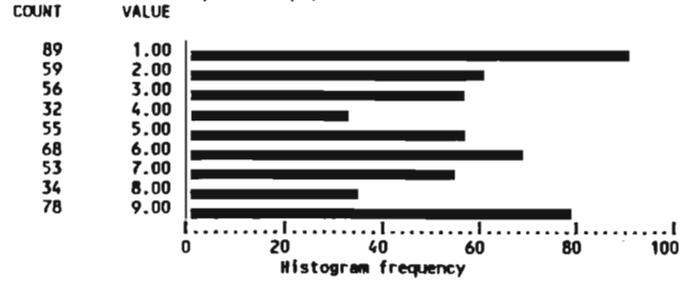
GENERAL RECOMMENDATIONS

(1). Greater limits on discovery



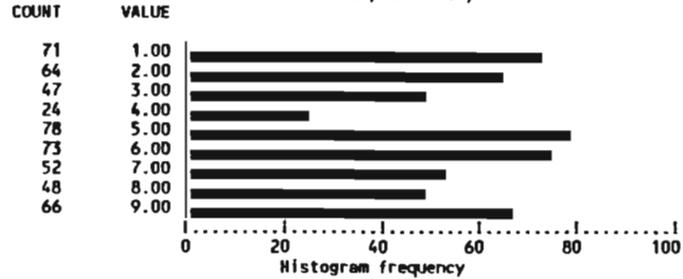
Mean 4.391 Std dev 2.603 Valid cases 522

(2). Loser on discovery motion pay winner's costs



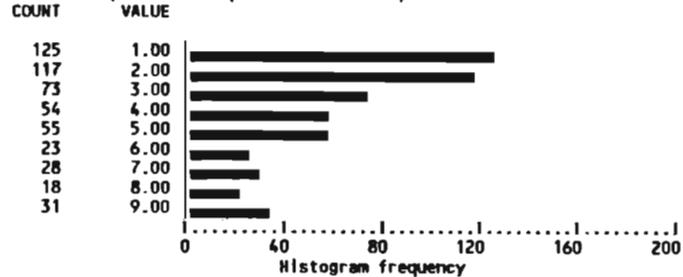
Mean 4.830 Std dev 2.776 Valid cases 524

(3). More sanctions to limit unnecessary discovery



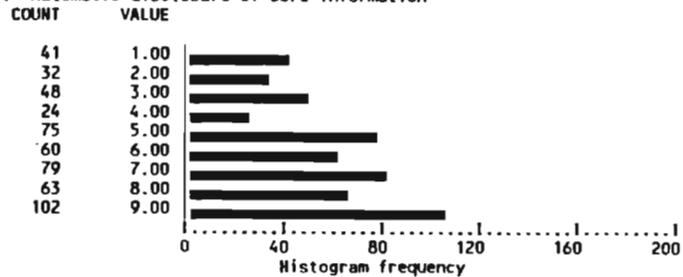
Mean 4.983 Std dev 2.660 Valid cases 523

(4). Shorter periods for pretrial discovery



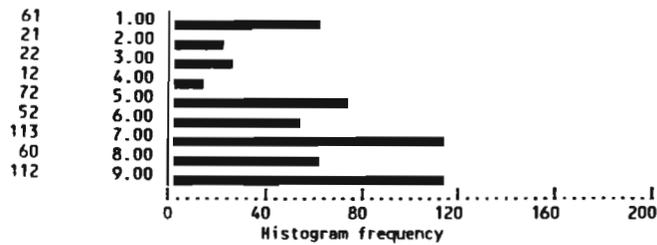
Mean 3.485 Std dev 2.391 Valid cases 524

(5). Automatic disclosure of core information



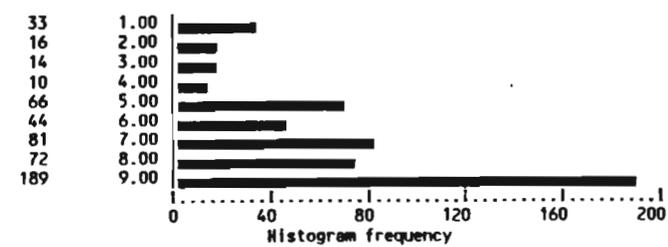
Mean 5.830 Std dev 2.540 Valid cases 524

(6). Limit deposition to ten per side



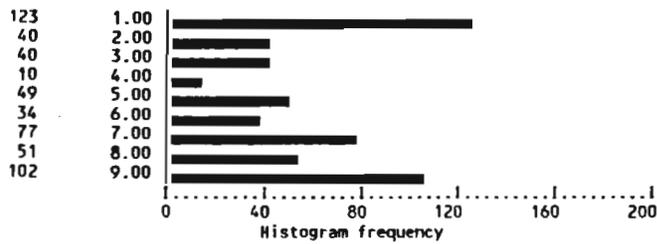
Mean 6.034 Std dev 2.599 Valid cases 525

(10). Disclosure of expert's qualifications



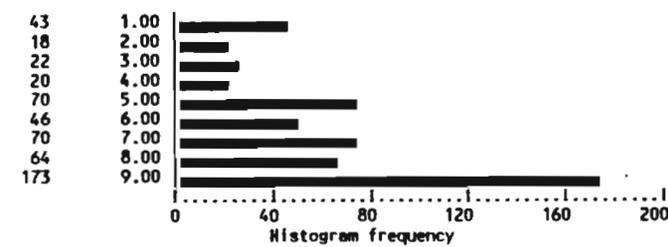
Mean 6.829 Std dev 2.402 Valid cases 525

(7). Limit depositions to 6 hours



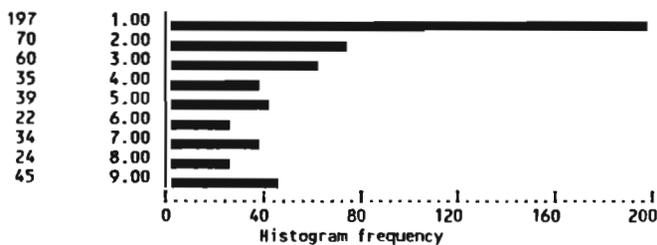
Mean 5.089 Std dev 3.063 Valid cases 526

(11). Disclosures of expert's other cases



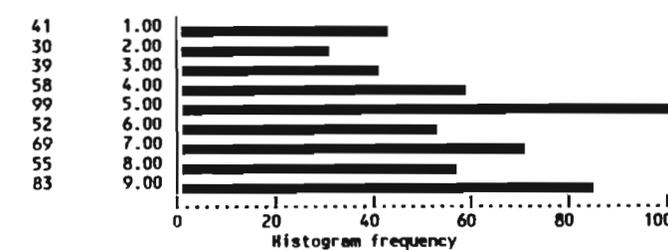
Mean 6.483 Std dev 2.571 Valid cases 526

(8). Limit interrogatory questions to 15



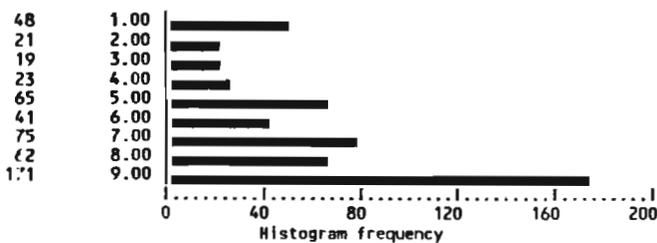
Mean 3.458 Std dev 2.726 Valid cases 526

(12). Preparation of detailed discovery/case management plan



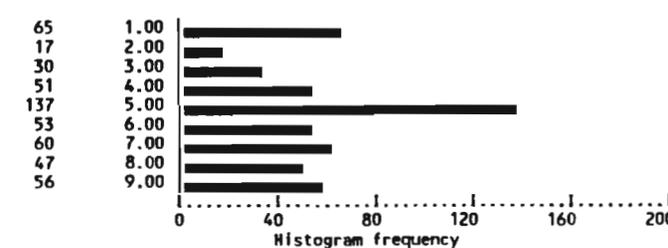
Mean 5.565 Std dev 2.439 Valid cases 526

(9). Disclosure of expert's opinions



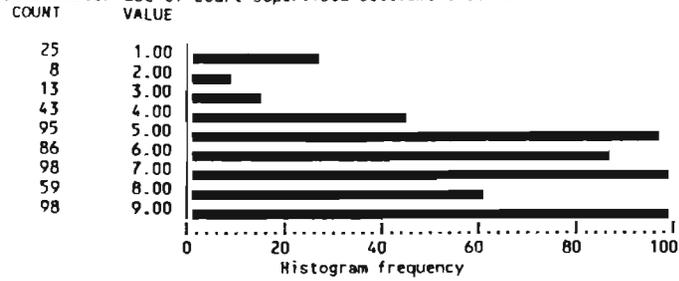
Mean 6.419 Std dev 2.633 Valid cases 525

(13). Greater use of discovery masters



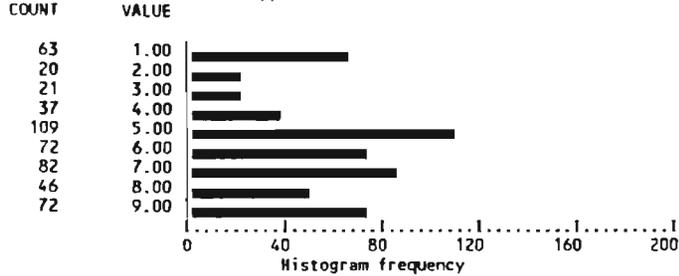
Mean 5.225 Std dev 2.393 Valid cases 516

(14). Greater use of court-supervised settlement talks



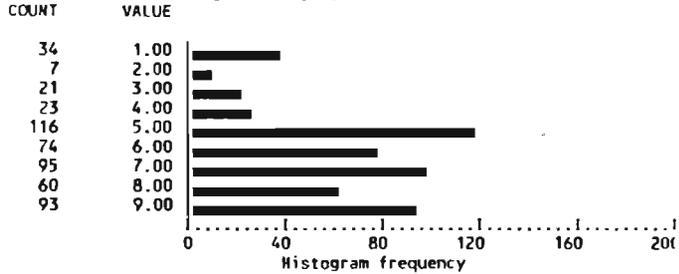
Mean 6.253 Std dev 2.104 Valid cases 525

(15). Greater use of court-appointed masters



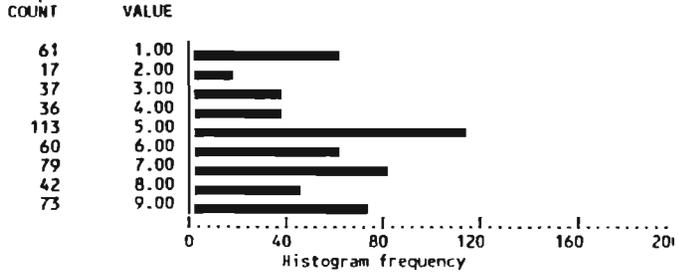
Mean 5.519 Std dev 2.453 Valid cases 522

(16). Greater use of magistrate judges to conduct settlement conference



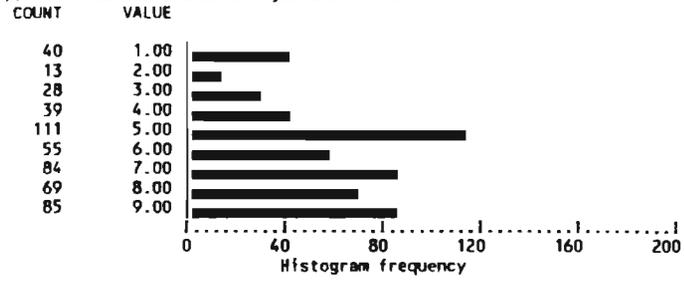
Mean 6.136 Std dev 2.198 Valid cases 523

(17). pretrial conference that includes discussion of settlement/ADR



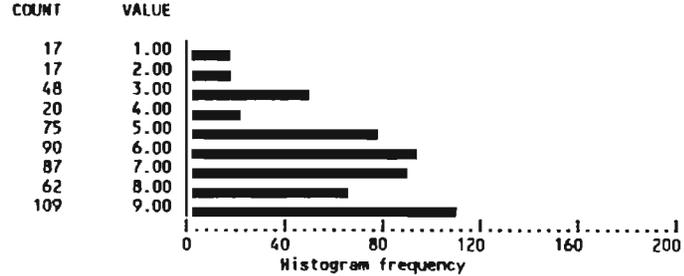
Mean 5.446 Std dev 2.461 Valid cases 518

(18). More active "hands-on" judicial role



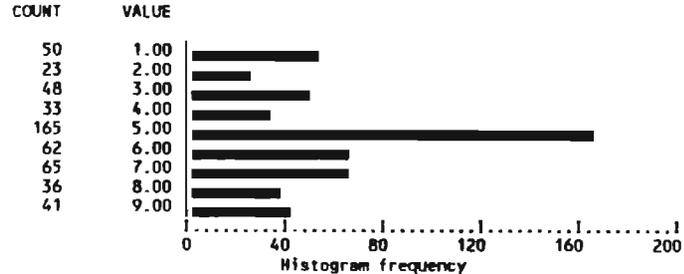
Mean 5.908 Std dev 2.333 Valid cases 524

(19). Set early firm trial dates



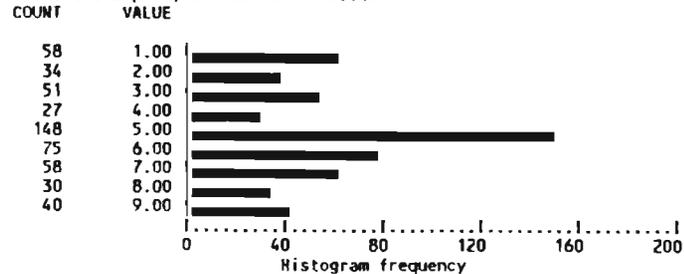
Mean 6.240 Std dev 2.215 Valid cases 525

(20). Greater use of ADR



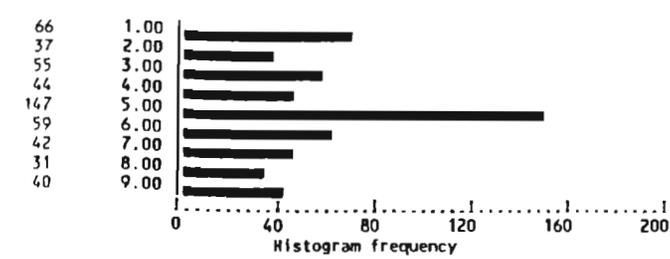
Mean 5.126 Std dev 2.200 Valid cases 523

(21). More 3rd party evaluation of cases



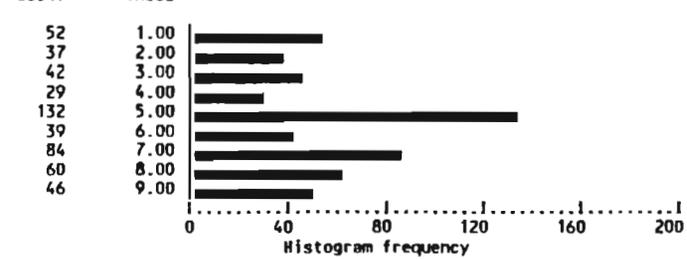
Mean 4.958 Std dev 2.271 Valid cases 521

(22). More use of mediation



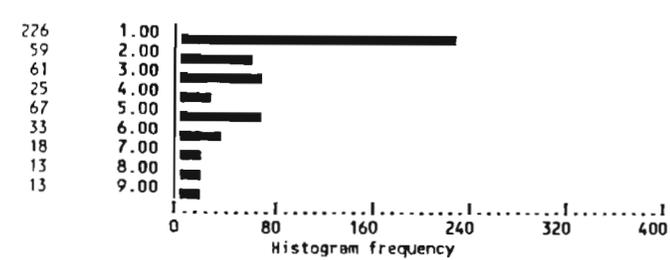
Mean 4.745 Std dev 2.306 Valid cases 521

(26). Use of magistrate judges to try case on merits



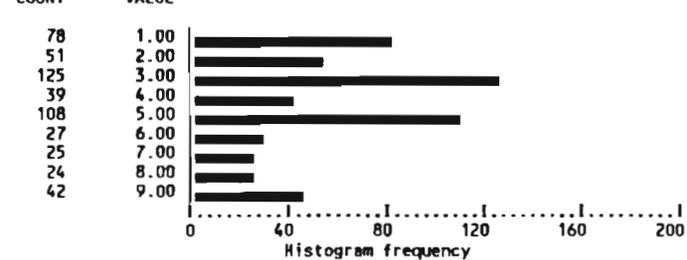
Mean 5.267 Std dev 2.392 Valid cases 521

(23). Requiring mandatory non-binding arbitration on the Hennepin County model



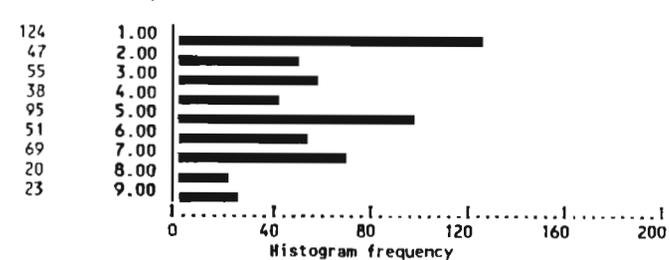
Mean 2.926 Std dev 2.263 Valid cases 515

(27). Less use of pretrial scheduling conferences



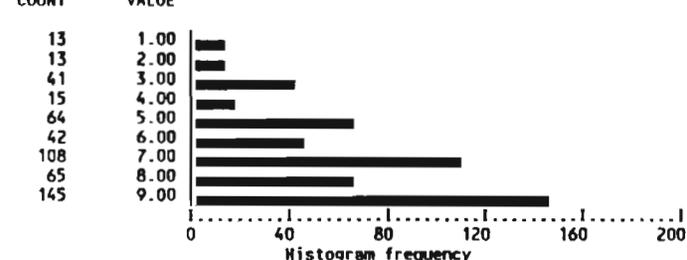
Mean 4.158 Std dev 2.363 Valid cases 519

(24). Greater use of non-binding summary trials



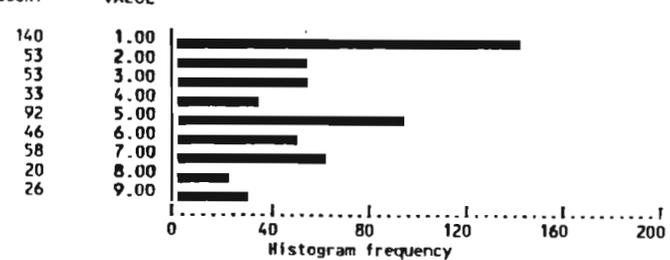
Mean 4.149 Std dev 2.464 Valid cases 522

(28). pretrial scheduling conferences by telephone



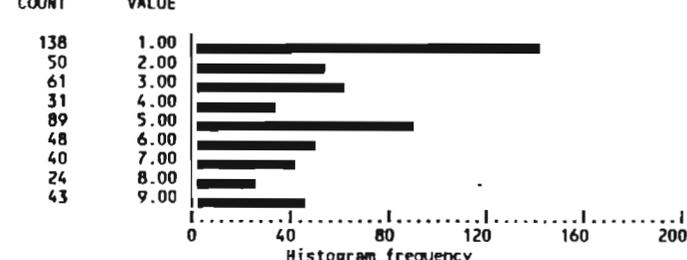
Mean 6.670 Std dev 2.212 Valid cases 506

(25). Greater use of non-binding mini-trials



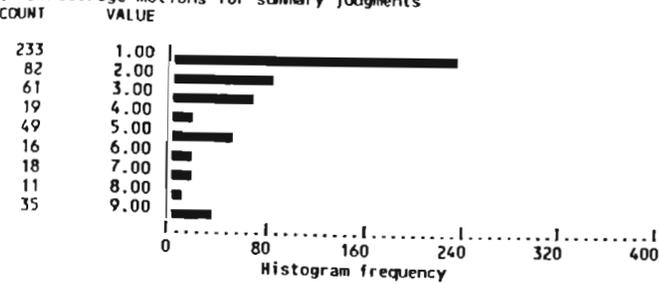
Mean 3.979 Std dev 2.516 Valid cases 521

(29). Option of offering direct testimony in affidavit



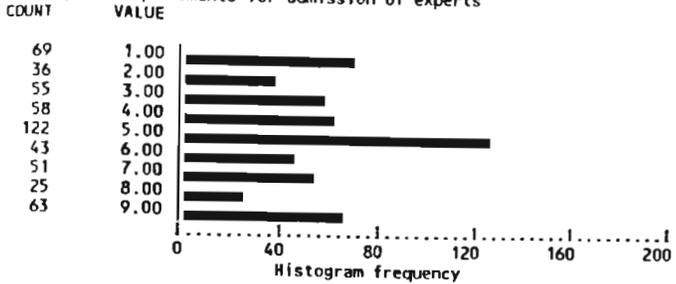
Mean 4.078 Std dev 2.624 Valid cases 524

(30). Discourage motions for summary judgments



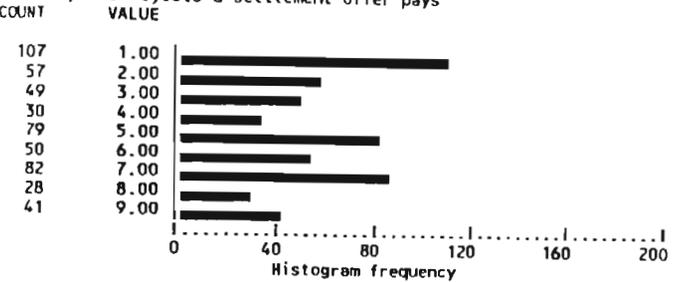
Mean 2.912 Std dev 2.470 Valid cases 524

(31). Toughen requirements for admission of experts



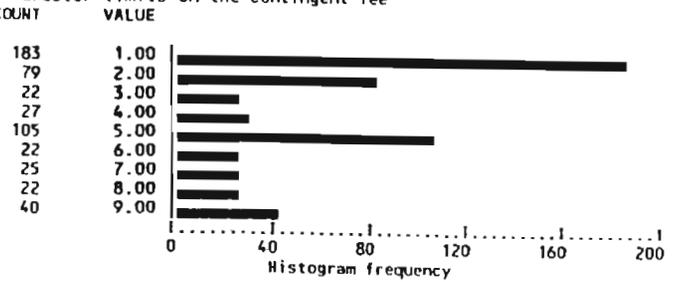
Mean 4.847 Std dev 2.468 Valid cases 522

(32). Party who rejects a settlement offer pays



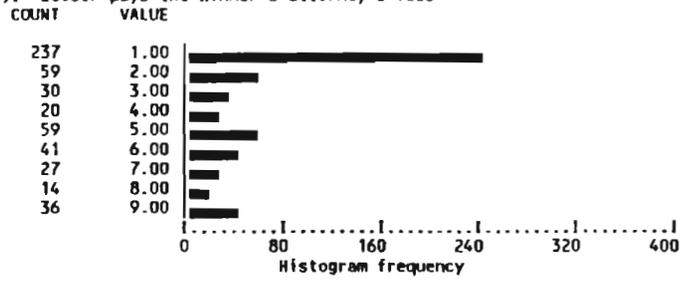
Mean 4.493 Std dev 2.627 Valid cases 523

(33). Greater limits on the contingent fee



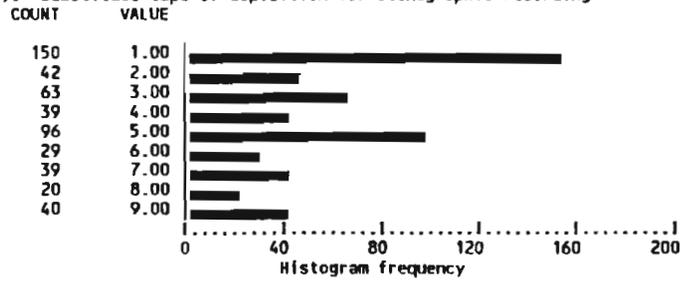
Mean 3.587 Std dev 2.645 Valid cases 525

(34). Loser pays the winner's attorney's fees



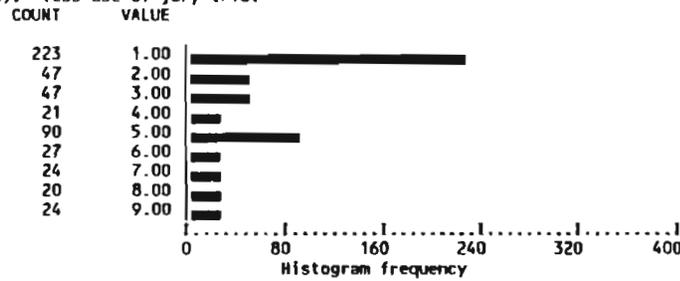
Mean 3.233 Std dev 2.656 Valid cases 523

(35). Substitute tape of deposition for stenographic recording



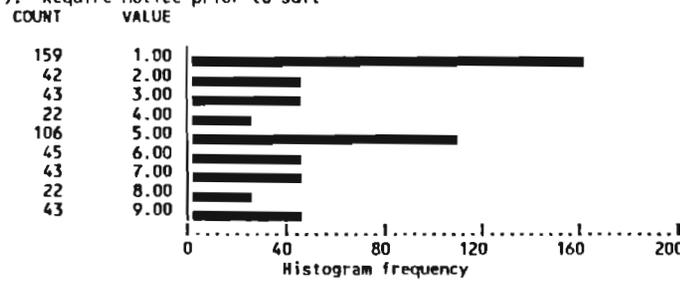
Mean 3.911 Std dev 2.587 Valid cases 518

(36). less use of jury trial



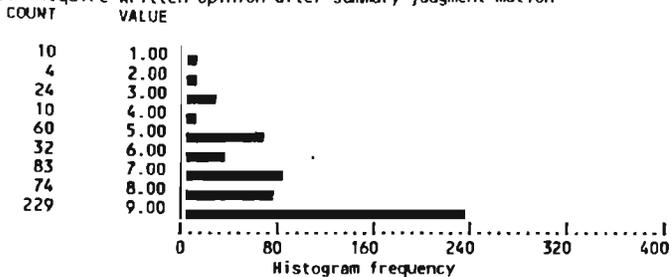
Mean 3.247 Std dev 2.506 Valid cases 523

(37). Require notice prior to suit



Mean 4.046 Std dev 2.672 Valid cases 525

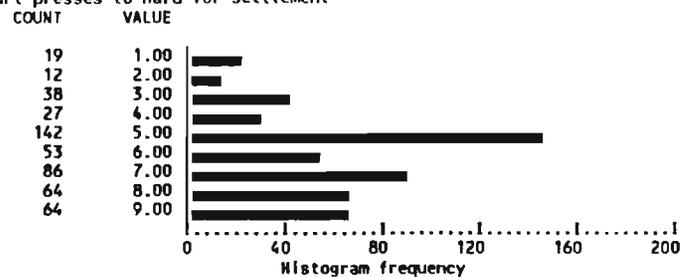
(38). Require written opinion after summary judgment motion



Mean 7.331 Std dev 2.018 Valid cases 526

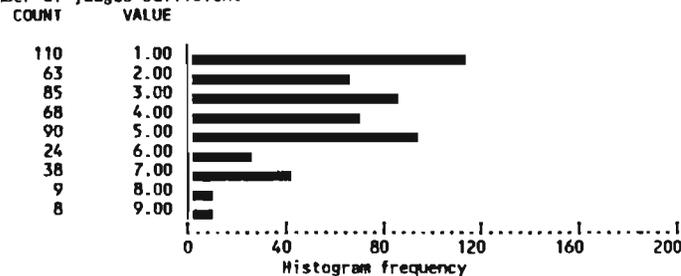
GENERAL JUDGMENTS

Court presses to hard for settlement



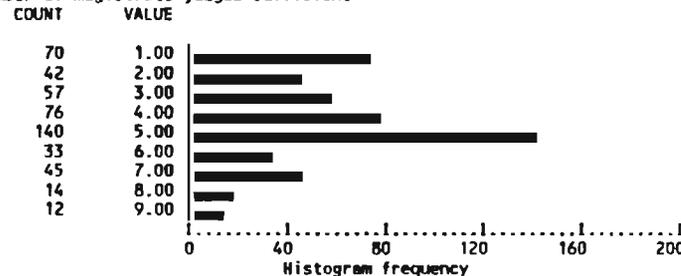
Mean 5.907 Std dev 2.076 Valid cases 505

Number of judges sufficient



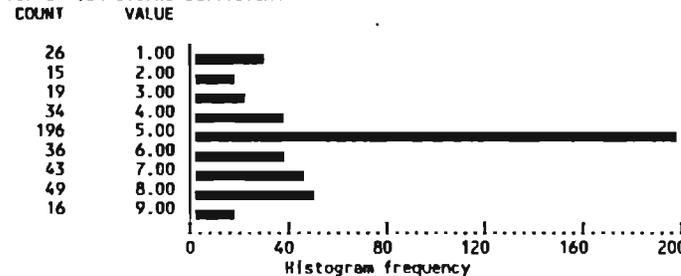
Mean 3.570 Std dev 2.065 Valid cases 495

Number of magistrate judges sufficient



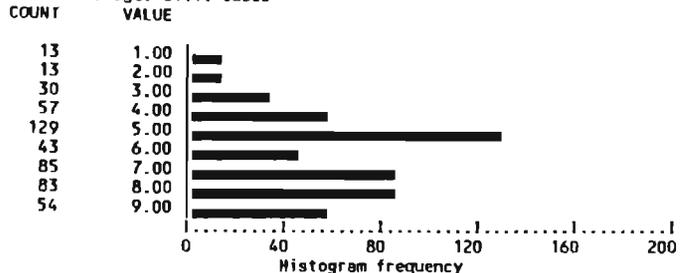
Mean 4.217 Std dev 2.041 Valid cases 489

Number of law clerks sufficient



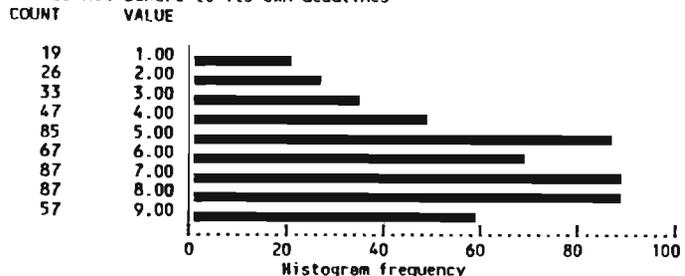
Mean 5.258 Std dev 1.884 Valid cases 434

Court undermanages civil cases



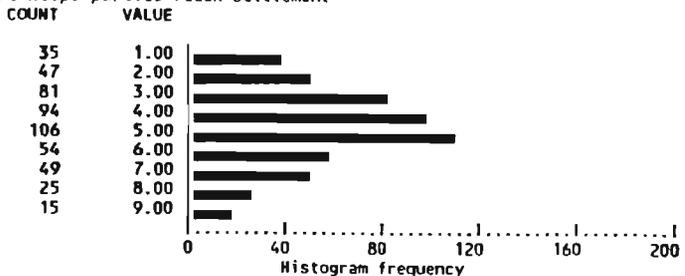
Mean 5.927 Std dev 2.018 Valid cases 507

Court does not adhere to its own deadlines



Mean 5.911 Std dev 2.178 Valid cases 508

Court helps parties reach settlement



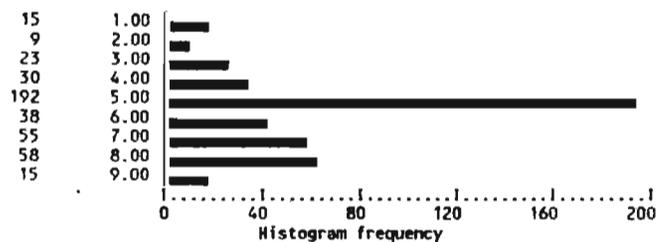
Mean 4.506 Std dev 1.986 Valid cases 506

Number of court reporters sufficient



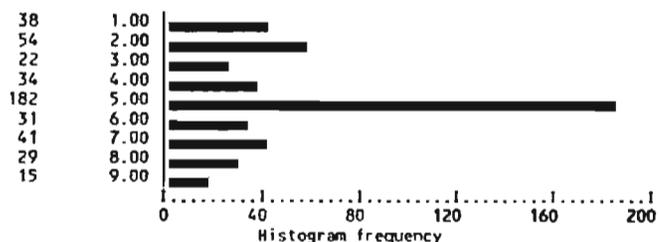
Mean 5.525 Std dev 1.753 Valid cases 436

clerical staff sufficient



Mean 5.503 Std dev 1.765 Valid cases 435

Facilities are sufficient



Mean 4.704 Std dev 2.052 Valid cases 446

CIVIL JUSTICE SURVEY

ATTORNEY QUESTIONNAIRE

SAMPLE

Among the major consumers of Federal District Court services and resources are the attorneys who regularly practice before the court. In order to assess their experiences with the court and their views about sources of delay and cost, and their views of proposed changes in court procedure, an effort was made to systematically solicit the views of attorneys from recent cases before the Federal District Court of Minnesota. The 554 cases most recently closed as of June 9, 1992, in the Federal District Court of the State of Minnesota were used as the source of our sample of attorneys. Twenty of these cases were excluded because they were prisoner motions to vacate sentences. These cases were excluded from this list because the cases had no attorneys. For the remaining 534 cases an attempt was made to identify the principal attorneys for the plaintiff and the defendant. In 114 of these cases it was only possible to identify one of the two attorneys. The remaining 420 cases yielded two attorney names. A total of 954 questionnaires were sent out to the attorneys. Responses were received from 607 attorneys, 22 of the questionnaires were returned as undeliverable. This gives us a total response rate of 65.12%. Of the returned questionnaires 50.5% were returned by attorneys for the plaintiff and 47.5% were returned by attorneys for the defendant.

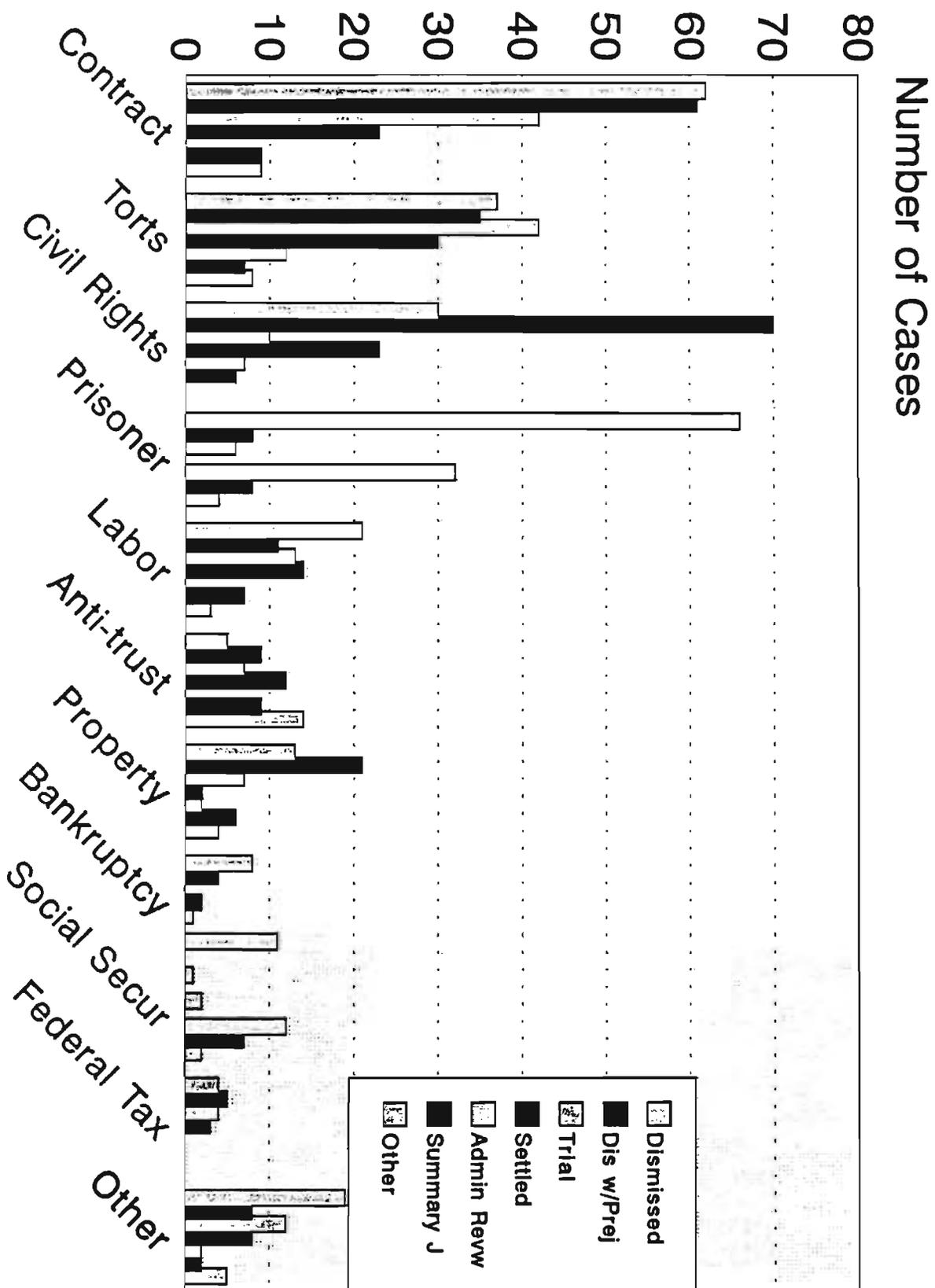
The case type classification used in the District Court's docket files was condensed to form eleven case type categories. The response rates and total numbers within each category are shown in the table below.

TYPE OF SUIT	NON-RESPONDENTS	RESPONDENTS	TOTAL NUMBER
CONTRACT	17.3%	34.9%	206
REAL PROPERTY /PROPERTY RIGHTS	5.3%	6.1%	55
TORTS	17.5%	18.3%	171
CIVIL RIGHTS	17.3%	14.3%	146
PRISONER PETITIONS /FORFEITURES	18.1%	10.2%	124
LABOR	6.1%	7.9%	69
BANKRUPTCY	3.2%	2.5%	26
SOCIAL SECURITY	1.8%	3.0%	24
FEDERAL TAX	2.6%	1.2%	16
ANTI-TRUST/SECURITIES	5.0%	6.4%	56
OTHER	5.8%	5.9%	56
NUMBER	342	607	949

Information contained in the court docket sheets was used to form the following outcome categories: dismissal, dismissals with a notation of "dismissed with prejudice," trial, settlement, administrative review, summary judgment, and other. However, the numbers associated with these categories are not very reliable insofar as the dockets are often incomplete (e.g. it is clear that many cases scheduled for trial were terminated without a trial taking place and it also appears that the docket sheets do not capture a significant percentage of cases that responding attorneys indicated were voluntarily settled), and there are sound reasons to believe that different clerks recorded these events in different ways. As a result, numbers presented in discussions of outcomes should be viewed with some caution.

An overview of the resolutions recorded for each case type is provided in the following figure.

Case Resolutions as a Function of Case Type



SURVEY QUESTIONNAIRE

The questionnaire was designed to obtain information from attorneys in the following areas: 1. beliefs about factors in their own case which lead to additional costs, beliefs about factors in their own case which lead to additional delay, and those aspects of the process which they found most valuable. Attorneys were also asked to give their general recommendations about ways to reduce cost and delay. The questionnaire is attached as appendix A.

RESPONSES AS A FUNCTION OF CASE TYPE

Do attorneys representing parties in different types of cases identify different sources of excessive cost or delay? Do they favor or oppose different substantive and procedural changes? For these analyses we used the eleven case types indicated in the table above.

SAMPLE CHARACTERISTICS

Case Type Differences

These case types differ from one another in variety of ways. For example, the average number of plaintiffs involved ranges from 1.0 in the social security cases to 2.6 in the property cases and 4.5 in the other category. The number of defendants varies from 1.0 in social security to 4.2 in the anti-trust/security and 6.8 in the other categories.

The case types also vary quite dramatically in the level of legal activity reflected in the court records. These records include counts of "events" such as filing of motions, scheduling of hearings, and orders by the court. Labor cases reflect a relatively low level of activity (an average of 8.4 events) compared to a average high of 44.3 events for the anti-trust/social security cases. The case types also vary dramatically in the average number of months they are active in the court files: Bankruptcy cases are resolved fairly quickly (an average of 4.5 months) compared to 20 months for tort cases and 21 months for tax cases.

	plntfs	defs	evnts	totmon
Contract	1.22	1.99	26.71	13.15
Property	2.56	3.14	25.05	13.76
Torts	1.31	2.33	32.14	20.18
Civil rights	1.27	2.49	28.32	13.65
Prisoner/forfeiture	1.18	3.36	22.33	13.22
Labor	2.30	2.07	15.98	11.57
Bankruptcy	1.19	1.96	8.42	4.50
Social Security	1.00	1.00	14.95	12.50
Tax	1.25	2.25	19.18	21.00
Anti-trust/security	1.60	4.16	44.30	15.98
Other statutory	4.51	6.80	20.55	9.83
Total/Average	1.61	2.77	26.24	14.27

Attorney Differences

The respondents were asked a number of questions about their practices and average responses are shown in the table below. Above each column, there is an identifying label and a number that is tied to the questionnaire. For example, the first column indicates the average number of years of practice for attorneys in each case type and for the sample as a whole. The years of practice question is number "1c1" on the first page of the questionnaire.

The attorneys involved in these cases are relatively experienced: they average 14 years of practice, but there is some variability as a function of case type. The least experienced attorneys are found in the prisoner/forfeiture cases (an average of 11.5 years) and the most experienced are found in the anti-trust cases (19.1 years). Trial experience also varies substantially. Attorneys in social security cases reported an average of 75 criminal trials (compared to an average of 1.7 criminal trials among attorneys in the bankruptcy cases). On the civil side, attorneys in tort cases reported an average of 35 trials compared to 5.4 among attorneys in the bankruptcy cases.

	1c1 yrsprc	1c2 civjur	1c2 jurcrm	1c3 prcntd	1c3 prcntp
Contract	13.34	10.68	9.63	54.25	47.57
Property	14.05	14.18	20.31	45.20	54.66
Torts	15.30	35.42	14.37	64.41	50.94
Civil rights	13.80	21.77	6.03	68.12	34.86
Prisoner/forfeiture	11.59	7.41	46.95	52.13	86.02
Labor	12.43	6.88	17.00	50.18	67.35
Bankruptcy	13.53	5.42	1.69	42.72	53.33
Social Security	11.55	14.17	74.66	25.15	79.56
Tax	12.71	6.00	2.60	60.00	48.57
Anti-trust/security	19.10	12.52	4.33	47.82	53.55
Other statutory	13.88	23.28	32.34	47.90	58.45
Total/Average	13.97	17.57	18.44	55.30	51.97

Case Complexity

Although the attorneys did not regard most cases as very complex (the average ratings--on a 9-point scale where 9 reflects high complexity--were 2.1 for legal issues, 2.1 for evidence complexity, and 2.2 for volume of evidence) there was some variance among case types. Tax cases were thought to reflect the greatest average legal complexity: 2.6 versus a low of 1.3 in social security cases. A similar pattern was reflected in the evidence ratings. As expected, cases which took longer to resolve were judged to have more complex legal issues ($r = .16$), more complex evidence ($r = .26$), and a greater volume of evidence ($r = .26$).

	2a Leglcx	2a Evicx	2a Volevi
Contract	3.85	3.60	3.44
Property	4.64	4.25	3.75
Torts	4.57	4.55	4.44
Civil rights	5.96	4.60	5.64
Prisoner/forfeiture	5.16	4.58	4.45
Labor	4.25	3.54	3.12
Bankruptcy	5.80	4.06	3.46
Social Security	2.55	2.58	3.26
Tax	5.85	4.14	3.71
Anti-trust/security	6.15	5.46	5.23
Other statutory	4.83	3.44	3.35
Total/Average	4.73	4.15	4.14

SOURCES OF DELAY

Court and Opposing Counsel as Sources of Delay

Given the variability in the number of events recorded for the various case types and the length of time that various case types spend in the court system, it is not surprising that the attorneys in the different case types report different levels of difficulty with court undermanagement, over-crowding, priorities given to criminal trials, and the activities of the opposing attorney.

Across all case types attorneys did not perceive court undermanagement to be a cause of delay (mean = 2.40, where 9 = strongly agree that the court failed to provide effective pretrial management). Only for the bankruptcy cases was there any indication that court management had an impact on delay (mean = 3.1).

Although crowding was not, overall, perceived to be a source of delay (mean = 3.0 on a 9-point scale where 9 reflects the greatest problem), attorneys in the bankruptcy cases most strongly agreed that crowding caused delay in their case (mean = 4.3) while attorneys in the contract and property cases saw this as less of a problem (mean = 2.7 and 2.8 respectively). Although the preference given to criminal cases was seen as slightly more problematic (mean = 3.2 over all case types) the pattern of responses was quite similar to those for crowding (bankruptcy cases = 4.4 and contract and property cases = 2.7 and 2.5).

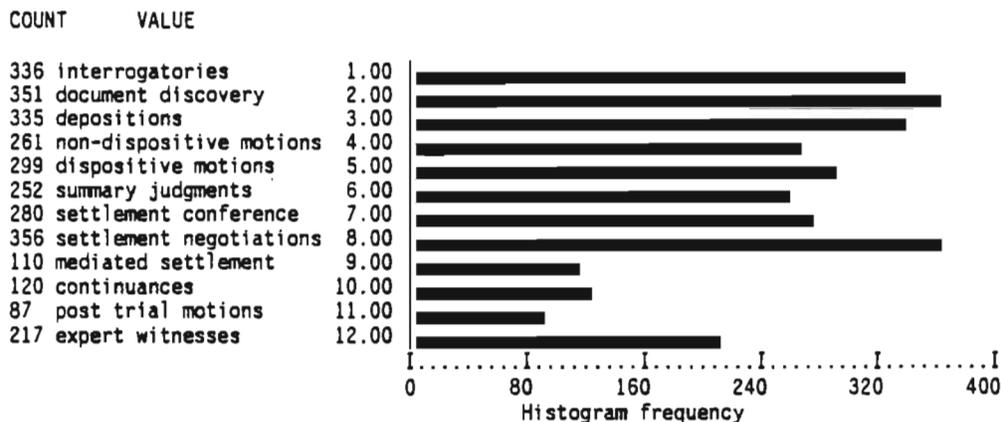
Opposing attorneys were not, in general, perceived to be a significant source of delay (mean = 3.3 where 9 = strongly agree that opposing counsel's delaying tactics caused undue delay). However, these ratings varied considerably by case type. The other side was perceived to delay most in the prisoner/forfeiture cases (4.4), the anti-trust/security cases (4.1) and the bankruptcy cases. Ratings in tax cases (1.6) were extremely low and fairly low in tort cases (2.5).

	1	2	3	4
	ctmgt	crowd	crim	oppos
Contract	2.13	2.74	2.78	2.52
Property	2.09	2.76	2.50	2.82
Torts	2.43	3.43	3.93	3.11
Civil rights	2.70	2.84	3.58	3.08
Prisoner/forfeiture	2.40	3.19	2.82	4.37
Labor	2.21	2.70	3.06	2.67
Bankruptcy	3.07	4.27	4.40	4.00
Social Security	2.39	3.68	4.11	2.66
Tax	2.57	3.57	3.57	1.57
Anti-trust/security	2.64	2.97	4.00	4.12
Other	2.65	2.67	2.83	3.08
total	2.40	3.01	3.29	3.10

Procedural Sources of Delay

The number of responses to questions in this section varies substantially because not all attorneys made use of all pretrial procedures. In addition, not all attorneys who handled more than one case provided this information about all their cases. The average number of responses to questions relevant to each type of procedure is shown in the histogram below.

AVERAGE NUMBER OF RESPONSES FOR TRIAL EVENTS



The number of responses to each question is indicated at the bottom of each column. Overall, it is evident that none of these procedures was viewed as particularly problematic. Document discovery drew the highest rating as a source of delay (3.7 where 9=strongly agree that a procedure caused undue delay). Most of the procedures were substantially below the mid-point of the scale with court-required settlement conferences (mean=2.1), trial management (2.2) and post-trial motions (2.3) also drawing low ratings.

Three major case type categories--contracts, torts and labor--produced relatively unnotable ratings, generally near or below the means for all case types. However, despite the generally positive overall ratings there are instances in which the attorneys handling particular types of cases identified particular procedures as problematic.

In property cases, interrogatories (3.8) and document production (4.1) were somewhat more important sources of delay than in the average case. Property cases also produced much higher delay ratings for court-required conferences (3.2), settlement negotiations (4.3), continuances (3.7), trial management (3.4) and post-trial motions (3.0).

In civil rights cases only interrogatories (4.1) and document discovery (4.3) stand out as problem areas.

Attorneys in prisoner/forfeiture cases noted delays in several areas: interrogatories (5.2), document discovery (6.0), depositions (6.7), continuances (4.9), and post-trial motions (5.2).

Because there were relatively few ratings from attorneys in the bankruptcy, social security, and tax cases (never more than ten on a single question), it is probably unwise to rely heavily on those ratings.

Anti-trust/security cases produced fairly large numbers of responses and the responding attorneys gave higher than average ratings for delay in a number of areas. Ratings for depositions and opposing counsel were markedly above the mean for all cases, but document discovery (4.2), non-dispositive (3.3) and dispositive motions (3.1), were also identified as problems

	5	6	7	8	9	10
	inter	docs	depos	Non-dis	Dispos	SummJ
Contract	3.14	3.41	2.85	2.50	2.52	2.79
Property	3.82	4.10	2.91	2.72	2.70	2.40
Torts	2.56	2.96	2.67	1.94	1.80	1.55
Civil rights	4.09	4.28	3.10	2.98	2.68	2.14
Prisoner/forfeiture	5.22	6.04	6.65	2.57	3.37	4.10
Labor	2.96	3.06	2.50	1.94	2.19	1.56
Bankruptcy		5.33	4.50	3.00	2.50	2.66
Social Security	5.33				6.20	4.66
Tax	2.00	2.75	3.00	1.00	1.50	1.00
Anti-trust/security	3.77	4.17	5.04	3.25	3.10	2.92
Other	2.88	3.27	2.75	2.53	2.40	2.55
total	3.40	3.72	3.26	2.52	2.59	2.51
	(337)	(356)	(313)	(291)	(333)	(270)

	11	12	13	14	15	16	17
	early	confer	negots	mediate	continu	trialmgt	posttrial
Contract	3.07	2.05	3.75	3.22	2.57	1.92	2.33
Property	2.92	3.15	4.30	2.16	3.71	3.40	3.00
Torts	3.26	1.98	3.39	2.58	2.78	2.18	1.84
Civil rights	2.68	2.14	3.04	3.28	2.52	2.22	2.50
Prisoner/forfeiture	3.87	2.87	2.55	3.66	4.90	2.73	5.20
Labor	2.05	1.75	3.45	3.25	2.50	1.50	1.00
Bankruptcy	3.00	2.16	4.11	4.00	3.20	3.00	1.75
Social Security			2.00			1.00	4.00
Tax	3.33	1.66	4.50		3.50	1.50	
Anti-trust/security	3.78	1.80	4.89	3.33	2.40	2.09	2.83
Other	2.46	1.78	3.15	2.75	1.66	2.40	1.71
total	3.00	2.07	3.58	3.03	2.81	2.19	2.29
	(290)	(288)	(366)	(116)	(141)	(192)	(87)

SOURCES OF COST

Court and Opposing Counsel as Sources of Cost

As is characteristic of the ratings of sources of delay, the attorneys in this sample gave relatively low ratings to the wide variety of factors that might be a source of excessive cost. All factors received overall ratings below the midpoint of the 9 point scales used for these items (where 9 = "strongly agree" that a factor caused excessive delay in the case. As is evident in the table above, respondents gave generally strong ratings to court management (particularly in tax and prisoner cases). The major exceptions to this pattern were the ratings from attorneys handling civil rights, anti-trust/security, and social security cases--but even here, the ratings were well below the midpoint of the scale. Although respondents were somewhat more likely to identify opposing counsel's tactics as a source of excessive cost, the mean rating was relatively low. Only the anti-trust/security attorneys' ratings approached the midpoint of the scale.

	19 mgt	20 oppos
Contract	2.20	2.80
Property	2.20	2.96
Torts	2.39	3.10
Civil rights	3.36	3.19
Prisoner/forfeiture	1.71	3.38
Labor	2.30	3.13
Bankruptcy	3.00	3.46
Social Security	3.16	2.66
Tax	1.14	1.57
Anti-trust/security	3.28	4.84
Other	2.39	3.09
total	2.50	3.17

Procedural Sources of Costs

As was true for ratings of procedural sources of excessive cost, not all procedural categories were employed in a particular case and thus the number of responses in some categories is relatively small. Total responses for particular questions are indicated at the bottom of each column. In some instances, e.g. for social security cases, there are no responses to some questions.

Overall, none of the procedures is rated as a major source of excessive cost--all the overall ratings are well below the midpoint of the 9-point scale. Document discovery and experts drew the highest average ratings (3.8 each), whereas court-required settlement conferences (2.2), court decisions (2.2) and trial management (2.4) were viewed as the least problematic.

As was true for the ratings of sources of delay, there was some variability in cost ratings as a function of case type.

In contract cases the responding attorneys were somewhat more inclined than most attorneys to identify mediation efforts as a source of excessive cost although the mean (3.4) is still relatively low. On the other hand, document discovery was viewed as less of a problem (3.1) than in other case types. In other respects contract cases were largely indistinguishable from the average case.

Attorneys in property cases gave much higher than average ratings in a number of areas: depositions (4.0), summary judgment (3.2), conferences (3.0), negotiations (4.3), continuances (7.5), trial management (2.8), waiting for court decisions (4.0), and too many lawyers (4.4). Note that the property cases also generated a number of higher than average ratings for delay--these may be cases that merit additional management attention.

Attorneys in the torts cases generated responses that were near the overall means except for the higher than average ratings for costs attributed to experts (4.3).

Civil rights cases did not generate notably high cost ratings except in the deposition category (4.9).

Although attorneys handling prisoner/forfeiture cases identified a number of areas in which they believed there was excessive delay (especially as compared to the average case), their ratings of cost factors were generally low (and sometimes significantly so). The only notable problem area concerned document discovery where their ratings (5.8) were appreciably higher than the document discovery ratings from any other case type.

Cost ratings for labor cases were generally near or below the mean ratings except for significantly higher than average ratings for mediation (3.7) and experts (4.6).

Bankruptcy cases generated a large number of higher-than-average cost ratings. Excessive high costs were attributed to interrogatories (4.3), document discovery (5.1), depositions (5.0), mediation (4.0), trial management (3.7), and too many lawyers (4.0).

There were not enough responses from attorneys in social security cases to reach any reliable conclusions.

Tax cases produced higher than average ratings for document discovery (5.0), for depositions (4.3), and for too many lawyers (3.7).

Anti-trust/security cases yielded a number of higher than average ratings for excessive costs. The major problem areas were interrogatories (4.1), depositions (4.6), negotiations (5.3), continuances (4.5), experts (4.8), and too many lawyers (3.9).

	21 inter	22 docs	23 depos	24 SummJ
Contract	2.75	3.10	3.23	3.26
Property	4.23	4.00	4.00	3.22
Torts	2.54	3.12	3.53	2.24
Civil rights	3.29	4.85	2.86	2.42
Prisoner/forfeiture	1.66	5.76	1.46	2.35
Labor	2.95	3.16	2.23	2.14
Bankruptcy	4.33	5.14	5.00	2.25
Social Security				2.66
Tax	2.00	5.00	4.33	1.00
Anti-trust/security	4.14	4.10	4.58	3.30
Other	3.41	3.77	2.83	2.94
total	3.01 (338)	3.81 (347)	3.25 (301)	2.70 (248)

	25	26	27	28	29	30	31	32	33
	Notearl	confer	negots	mediate	continu	trialmgt	ctdecis	experts	lawye
Contract	2.70	2.47	3.98	3.40	2.42	2.15	2.39	3.62	2.84
Property	2.44	3.00	4.26	3.33	7.50	2.80	4.00	3.85	4.42
Torts	2.81	2.23	3.00	2.35	2.29	2.03	1.73	4.26	2.60
Civil rights	2.60	2.35	2.98	3.05	2.78	2.63	2.76	3.06	1.81
Prisoner/forfeiture	2.12	1.33	1.75	1.00	2.33	2.25	2.75	3.60	2.00
Labor	1.93	1.86	3.48	3.66	1.75	1.60	1.50	4.62	3.18
Bankruptcy	3.16	2.40	3.85	4.00	1.75	3.71	1.80	3.40	4.00
Social Security			1.00		8.00				
Tax	2.00	1.33	3.66		3.00	1.00		4.00	3.66
Anti-trust/security	3.09	1.84	5.28	3.00	4.50	2.68	1.75	4.78	3.86
Other	3.06	1.63	2.81	2.75	1.00	1.20	1.80	2.28	2.81
total	2.68	2.19	3.53	2.94	2.56	2.24	2.17	3.80	2.77
	(277)	(271)	(347)	(103)	(99)	(164)	(118)	(217)	(254)

VALUE OF PRETRIAL PROCEDURES

The costs and delays associated with various pretrial and trial procedures capture only one-half of the evaluative picture. Although attorneys in some case types may attribute substantial delay and excessive costs to particular procedures, it is possible that delay is tolerable if the yield or value of the procedure is relatively high. It is, of course, unlikely that excessive costs can or would be associated with high value being placed on a procedure. In addition, it is likely that some procedures are especially valuable to attorneys and parties in some case types but are of little value in other case types. Differences in value can clearly be useful when deciding how much time and effort should be devoted to a particular procedure. In this section we consider ratings of the "value in seeking a just result" given to various procedures (where 9 = strongly agree the procedure was valuable).

Overall, it is clear that procedures vary somewhat in their overall perceived value. The highest mean ratings are given to dispositive motions (6.8), the summary judgment process (6.7), depositions (6.7), and the availability of adequate lawyering resources (6.7). Of course, even the least valuable procedures--setting an early trial date (4.7) and ongoing pretrial management by the court (4.9) are rated near the midpoint of the 9-point scale. The question about opposing counsel's delaying tactics asked whether these tactics impeded progress toward a just result. Thus, the rating of 3.5 indicates that delaying tactics were not considered a major barrier in the average case.

Overall ratings conceal a large number of significant differences across case types. For instance, in contract cases opposing counsel's tactics are viewed as less of a problem (2.9) than in the average case, and interrogatories (6.4), document discovery (5.5), and court-required settlement conferences (5.8) are rated as more valuable than in the average case. On the other hand, mediation (4.3), post-trial motions (4.6), experts (5.1), and lawyering resources (6.1) are viewed as less valuable than in the average case.

Attorneys handling property cases rate pretrial management (5.6), dispositive motions (7.5), summary judgment procedures (7.9), early trial dates (6.0), negotiations (6.4), and post-trial motions (6.0) as appreciably more valuable than in the average case. On the other hand,, interrogatories (5.3), document discovery (4.2), depositions (5.3), and trial management (4.0) were rated as much less valuable than in the average case.

Tort cases produced higher than average value ratings for discovery (5.5) and post-trial motions (5.8),

but lower than average ratings for a number of other procedures: dispositive motions (5.7), summary judgment procedures (5.6), early trial dates (4.1), negotiations (4.8), and mediation (3.0).

A number of procedures received higher (sometimes substantially higher) than average ratings in civil rights cases. These include: depositions (7.8), non-dispositive motions (6.1), dispositive motions (7.4), summary judgment (7.9), negotiations (6.5), mediation (7.1), trial management (6.5), post-trial motions (6.4), and lawyering resources (7.6).

Prisoner/forfeiture cases yielded a mixture of more and less valuable ratings that logically track the nature of the disputes and procedures used in those cases. Below average ratings were given to pretrial management (3.6), interrogatories (3.9), document discovery (3.5), depositions (5.4), early trial dates (2.2), mediation (1.0), trial management (1.5), and post-trial motions. On the other hand, non-dispositive (5.9) and dispositive motions (7.3) and negotiations (6.0) were given higher than average ratings.

Lawyers in labor cases rated trial management (6.6) as more valuable than in the average case. Non-dispositive motions (4.9), early trial dates (5.2), and experts (3.4) received lower than average ratings (post-trial motions and mediation received too few responses to be meaningful).

There are too few ratings in bankruptcy, social security, and tax cases to make comparisons meaningful.

Although attorneys in anti-trust/security cases gave higher than average ratings to pretrial management (5.2), interrogatories (6.8), and early trial dates (6.0), they attributed significantly less than average value to discovery (4.5), depositions (6.0), non-dispositive motions (4.5), dispositive motions (6.2), summary judgment (5.6), settlement conferences (4.7) and trial management (5.12).

	35	36	37	38	39	40	41	42
	premtg	opdelay	inter	discov	depos	nondis	dispos	summju
Contract	4.69	2.90	6.38	5.54	6.52	5.12	6.66	6.36
Property	5.64	3.96	5.30	4.22	5.27	5.16	7.50	7.88
Torts	5.24	3.30	6.00	5.53	6.86	5.20	5.65	5.59
Civil rights	5.01	3.84	5.53	4.72	7.84	6.10	7.44	7.88
Prisoner/forfeit	3.62	4.30	3.90	3.52	5.41	5.92	7.33	6.81
Labor	5.13	3.22	5.95	5.27	6.50	4.87	6.38	7.00
Bankruptcy	4.36	3.90	3.42	2.28	4.00	4.14	5.00	3.40
Social Security	3.00	2.25					7.00	8.40
Tax	4.83	2.00	4.50	4.33	4.50	4.00	9.00	9.00
Anti-trust/secu	5.23	4.58	6.75	4.53	6.04	4.48	6.20	5.60
Other	4.60	3.45	6.31	5.73	6.00	6.50	7.47	6.78
total	4.87	3.49	5.84	5.03	6.68	5.36	6.79	6.68
	(519)	(517)	(334)	(339)	(291)	(231)	(265)	(238)

	43	44	45	46	47	48	49	50
	early	confer	negots	mediat	tr mgt	ps trl	exp rt	lw yrs
Contract	4.79	5.82	5.17	4.31	6.32	4.62	5.12	6.07
Property	6.00	5.37	6.38		4.00	6.00	5.37	6.36
Torts	4.06	5.49	4.75	3.00	6.39	5.78	5.66	6.90
Civil rights	4.77	5.06	6.45	7.05	6.46	6.40	6.37	7.55
Prisoner/forfeit	2.25	5.60	6.00	1.00	1.50	3.00	5.33	6.40
Labor	5.16	5.07	5.33	1.00	6.60	9.00	3.40	6.60
Bankruptcy	3.83	5.50	5.22	3.33	3.16	3.50	4.00	3.62
Social Security						8.00		8.33
Tax	4.50	5.50	3.75		7.50	7.00	8.00	5.50
Anti-trust/secur	6.00	4.73	5.26	5.25	5.12	4.71	5.83	6.76
Other	4.66	5.00	6.82	4.50	5.40	1.50	4.71	6.81
total	4.65	5.34	5.50	5.19	5.93	5.19	5.63	6.66
	(187)	(238)	(354)	(86)	(107)	(51)	(194)	(345)

RECOMMENDATIONS

All respondents were asked to rate thirty-eight procedural, substantive, and management reforms that might be considered by the court. It is informative to know which proposals are viewed more or less favorably by all attorneys, but it would also be informative to know whether attorneys in different practice areas are more or less favorably disposed to particular types of reform. Although the data set does not include a question asking about the dominant area of each attorney's practice, we can assume that the particular cases in our sample probably capture important practice areas for most of our respondents and use the federal case type classifications as a basis to compare responses from attorneys in different practice areas. In the tables below, we have employed the same eleven case type categories as in the preceding analyses. Respondents who handled more than one case are counted only once for these ratings. Because all responding attorneys were asked to complete these evaluations, the total number of ratings never falls below 506 and the number of responses by case type for that question (use telephone for pretrial conferences) is given in the first column below. Note that due to the small number of responses in the social security and tax cases, means for those case types are not as meaningful as they are for the other case types.

A quick scan of the tables reveals that enthusiasm for the reforms varies quite dramatically, both as a function of the proposed reform and as a function of the type of case the responding attorney represented. Average levels of endorsement are fairly high for required disclosure of expert qualifications (6.8), listings of other cases in which the expert has appeared (6.5), use of the telephone for pretrial conferences (6.7), and a requirement for a written opinion on summary judgment motions (7.3). On the other hand there is far less enthusiasm for a Hennepin County form of non-binding arbitration (2.9), for an amendment to the rules to discourage summary judgment motions (2.9), and for a proposal that losers at trial pay the winner's attorney fees (3.3).

There are several ways in which differences across case types might be viewed. As in the preceding sections, one might examine each case type to determine the most and least preferred reforms. Alternatively, one might look at reforms that receive high ratings and note the case types that produce the strongest and weakest endorsements of the proposal with an eye to considering mechanisms that would permit differential application of reforms to particular case types. Yet another alternative might focus on proposals that generate strong opposition within particular case types. Finally, one might look for particularly high ratings throughout the tables on the theory that

very strong endorsements of reforms within particular case types signal both problem areas and reforms that should be given the highest priority--at least to the extent that reforms can be custom-tailored or custom-applied within different case types. We believe the latter strategy is the best place to begin.

If one arbitrarily takes a rating of 7.0 or greater as a signal of strong enthusiasm for a reform, one can quickly spot preferred reforms. Automatic discovery generates a 7.1 rating from attorneys in bankruptcy cases [but a low, 3.7, rating from the (small number of) tax attorneys]. Attorneys in the civil rights and prisoner/forfeiture cases strongly favor disclosure of expert opinions, expert qualifications and listings of prior cases in which the experts have testified. Attorneys from the bankruptcy and social security cases also strongly endorse the latter two proposals. The bankruptcy attorneys also favor early preparation of a case management plan (and are rather distinctive in that preference). The bankruptcy attorneys also endorse court-supervised settlement talks and early discussion of settlement/ADR. The same attorneys also endorse a more "hands on" management by the court (as do the attorneys handling anti-trust and securities cases). The anti-trust/securities attorneys are also most enthusiastic about the setting of early trial dates. Telephone conferencing is strongly endorsed by most attorneys (the civil rights group is least enthusiastic, but even their rating is a fairly high 5.7. Clearly, the most enthusiastic support is generated for the proposal to require a written opinion for summary judgment motions--all but the anti-trust/security give ratings near or above 7.0.

Though it may be difficult to fashion rules that take account of the variations in general preferences across case types, these results can certainly provide guidance to judges in the application of discretionary encouragement, deadlines, prioritizing of meetings, the fashioning of orders, and the like. They can also provide guidance to attorneys who may wish to suggest alternative practices but are uncertain about the likelihood opposing counsel will view their suggestions favorably.

		1	2	3	4	5	6	7	8	9	10
	number	morelmt	loseron	mresanc	shrtrti	autodis	tendepo	limtdep	lmtinte	expopin	expqual
Contract	121	4.64	5.43	5.15	3.90	5.78	6.12	5.04	3.74	6.65	6.91
Property	34	5.72	5.29	6.61	3.79	5.63	5.73	4.38	4.38	6.29	6.73
Torts	92	4.49	4.51	4.70	3.19	5.71	6.17	5.79	3.42	6.33	6.90
Civil rights	85	4.00	4.42	4.53	2.75	5.62	6.31	4.36	2.85	7.04	7.40
Prisoner/forfeit	35	3.81	3.70	4.16	3.89	6.86	6.76	6.78	3.86	7.31	7.55
Labor	45	3.43	4.93	4.87	3.27	5.93	5.66	5.16	2.66	5.25	5.93
Bankruptcy	13	6.42	5.64	7.14	5.28	7.07	6.42	6.14	5.57	6.71	7.14
Social Security	4	3.80	6.75	4.60	3.80	5.80	5.60	6.20	3.40	6.20	7.20
Tax	6	4.71	6.00	4.71	2.71	3.71	3.71	4.14	3.42	6.28	5.28
Anti-trust/secur	38	3.65	4.10	4.73	3.15	5.47	5.23	3.97	3.10	5.60	6.07
Other	33	4.78	5.21	5.21	3.87	6.09	5.87	4.48	3.27	5.84	6.36
total		4.39	4.83	4.98	3.48	5.83	6.03	5.08	3.45	6.41	6.82

	11	12	13	14	15	16	17	18	19
	exprtpr	disc/cas	grtr use	ct super	msters c	mag judg	pretrial	hands-on	set earl
Contract	6.63	5.72	5.15	6.45	6.04	6.43	5.63	5.94	6.22
Property	6.41	5.38	5.54	6.70	6.17	6.14	5.97	6.29	6.58
Torts	6.11	5.60	5.02	6.19	5.48	6.20	5.00	5.40	6.24
Civil rights	7.22	5.54	5.40	5.81	4.48	5.85	5.57	6.08	6.16
Prisoner/forfeit	7.34	5.89	4.81	5.44	4.94	5.35	4.94	5.16	5.37
Labor	5.95	5.18	5.00	6.55	5.80	6.29	5.78	5.17	5.36
Bankruptcy	7.00	7.00	6.28	7.28	6.64	6.50	7.35	7.35	6.92
Social Security	7.00	6.40	5.80	6.00	5.60	6.20	6.20	6.00	6.80
Tax	4.85	2.00	1.71	4.00	2.14	4.28	3.00	4.57	6.00
Anti-trust/secu	5.76	5.57	5.81	6.84	6.15	6.63	4.97	7.23	7.42
Other	5.84	5.27	5.64	6.24	5.37	5.78	5.45	6.48	6.63
total	6.48	5.56	5.22	6.25	5.51	6.13	5.44	5.90	6.24

	20	21	22	23	24	25	26	27	28
	More ADR	More 3rd	More med	HennCty	non-bind	mini-tri	mag judg	less prt	pretrial
Contract	5.39	5.27	5.05	3.04	4.49	4.42	5.62	4.40	6.94
Property	5.17	4.97	4.08	3.06	4.35	3.70	5.44	3.76	7.17
Torts	4.68	4.51	4.51	2.65	4.39	4.10	5.19	4.48	7.26
Civil rights	5.58	5.44	5.28	2.32	3.18	3.18	5.04	3.81	5.71
Prisoner/forfeit	4.97	4.75	4.75	3.20	3.97	3.83	4.71	4.77	7.20
Labor	5.08	5.06	5.02	3.38	4.40	4.04	5.38	4.19	6.68
Bankruptcy	6.64	6.64	6.50	4.57	5.50	4.78	6.07	4.28	6.53
Social Security	6.40	6.40	6.40	6.00	5.60	5.80	6.20	4.20	5.75
Tax	2.85	1.71	2.28	1.83	1.57	1.57	2.57	4.00	8.66
Anti-trust/secu	4.47	4.13	3.54	2.47	3.47	3.39	5.00	3.07	5.73
Other	4.84	4.66	4.06	3.33	4.75	4.87	5.43	4.03	6.24
total	5.12	4.95	4.74	2.92	4.14	3.97	5.26	4.15	6.67

	29	30	31	32	33	34	35	36	37	38
	wtnsst	discmtns	hrshexpr	rejects	lmtcont	lsrpay	tapeto	lessjur	reqnoti	opinion
Contract	4.24	2.83	4.72	5.04	3.44	3.56	3.77	3.31	4.21	6.83
Property	4.05	1.94	5.08	4.14	5.55	3.85	3.50	5.29	4.38	7.79
Torts	3.96	3.35	5.51	4.74	3.45	2.69	3.99	2.55	4.21	7.40
Civil rights	2.97	2.64	4.30	4.01	2.87	2.54	3.05	2.10	3.16	8.35
Prisoner/forfeit	5.28	2.97	5.40	3.97	3.62	3.25	4.86	4.00	5.00	7.76
Labor	4.25	2.68	4.23	4.62	3.72	3.14	3.93	3.85	4.18	6.95
Bankruptcy	4.61	3.38	4.84	5.53	4.00	4.84	5.15	4.33	5.23	6.76
Social Security	4.20	2.60	4.40	3.60	1.80	2.40	5.20	1.60	3.20	8.00
Tax	4.57	2.28	3.57	1.85	3.57	2.71	5.14	2.42	3.00	7.42
Anti-trust/secu	4.71	4.23	4.53	4.25	3.17	3.48	4.47	3.63	3.53	6.10
Other	3.96	2.21	5.36	4.30	4.66	4.21	4.12	3.78	4.03	7.42
total	4.07	2.91	4.84	4.49	3.58	3.23	3.91	3.24	4.04	7.33

RATINGS OF COURT PERFORMANCE

The respondents were asked to rate the federal district court's performance on several measures. Overall the court received positive ratings with respect to case management (5.9) and adherence to its own deadlines (5.9) (in these ratings 9 = disagree that the court undermanages cases or fails to adhere to deadlines). There is not much variation in these responses as a function of case type--in fact, the differences in responses to adherence to deadlines are not statistically significant. For management evaluations torts attorneys provide the highest ratings (6.4) and bankruptcy lawyers the lowest ratings (5.0). Ratings of court effectiveness in helping parties settle cases are near the midpoint of the scale (4.5) and the variations in ratings across case types is not statistically significant.

Attorneys generally strongly rejected the proposition that the court presses too hard for settlement (5.9 where 9 = strongly disagree). There were significant variations in ratings as a function of case type. Attorneys in anti-trust/security most strongly rejected the proposition (7.0), while attorneys (n=6) in tax cases gave ratings at the midpoint of the scale (5.0). In short, the court receives positive ratings, though certainly not wildly enthusiastic ones and there are some case types that generate somewhat less enthusiastic ratings.

	39 undermgn	39 notadhe	39 helpsetl	39 presses
Contract	6.13	6.20	4.50	5.78
Property	6.11	6.02	4.23	6.32
Torts	6.39	6.16	4.51	6.03
Civil rights	5.43	5.62	4.51	5.46
Prisoner/forfeit	6.20	5.84	4.10	6.32
Labor	5.89	5.62	4.62	5.79
Bankruptcy	5.00	6.14	5.85	5.28
Social Security	5.50	6.25	5.00	5.50
Tax	5.66	5.33	3.83	5.00
Anti-trust/secur	5.21	5.18	4.15	7.02
Other	5.90	6.06	4.93	5.48
total	5.92	5.91	4.51	5.90

RATINGS OF COURT RESOURCES

Respondents were asked to rate several court resources on a 9-point where 9=more than sufficient. In most instances the overall ratings were near or below the midpoint of the scale. The resource that was viewed as least sufficient was judges (3.6), followed by magistrate judges (4.2). These ratings underscore the hardships imposed by vacant judgeships. Ratings of law clerks, court reporters, clerical staff and facilities varied significantly across case types while the judge and magistrate judge ratings did not. Overall, attorneys in civil rights cases perceived the least problem with staff (clerks = 6.4, court reporters = 6.6, and clerical = 6.5). Prisoner/forfeiture cases produced the lowest ratings for staff resources (clerks = 4.3, court reporters = 4.3, and clerical = 4.4). Tort and labor lawyers were most satisfied with facilities (both = 5.2), though these ratings are only barely above the midpoint of the scale. The lowest rating (3.0) was supplied by attorneys in tax cases, but that figure is based upon only 5 responses. On the whole it appears that respondents perceive the greatest shortcomings in judge and magistrate resources, and in general the other ratings are near the midpoint of the scale--suggesting that resources are viewed as adequate, though certainly not lavish.

	40 judges	40 magjudg	40 law clrks	40 ctrptrs	40 clerickl	40 facility
Contract	3.61	4.04	5.06	5.33	5.50	4.72
Property	3.20	4.41	5.16	5.54	5.35	4.57
Torts	3.58	4.42	5.30	5.60	5.54	5.23
Civil rights	3.87	4.40	6.36	6.61	6.54	4.09
Prisoner/forfeit	3.55	3.72	4.30	4.33	4.41	4.30
Labor	3.69	4.65	5.52	5.46	5.31	5.21
Bankruptcy	3.69	4.30	4.63	4.81	4.63	4.45
Social Security	3.00	3.33	5.50	7.00	6.00	4.00
Tax	2.40	2.40	4.60	5.40	5.40	3.00
Anti-trust/secur	3.45	4.00	4.56	5.46	5.23	4.91
Other	3.12	4.12	5.06	5.06	5.16	4.77
total	3.57	4.22	5.26	5.53	5.50	4.70

RESPONSES AS A FUNCTION OF CASE COMPLEXITY

Attorneys were asked to respond to three questions regarding the complexity of their case. They rated the complexity of the legal issues for their case, the complexity of the evidence, and the volume of evidence. These three variables were combined to form a single composite score measuring complexity. Each of the three separate measures of complexity correlated .88 or better with the composite measure. [A correlation a measure of the association between two variables. It ranges in value from -1 to +1 with an $r = 0$ indicating that there is no relationship between the two variables. A positive correlation indicates that as one variable increases so does the other. A negative correlation indicates that as one variable increases the other variable decreases. For the purposes of this survey an r greater than .50 can be considered a strong relationship].

The complexity of the case was correlated with several of the attorney ratings of sources of delay, cost, and the recommendations for court reform. Cases which were rated as being more complex by the attorneys were also in the court's docket for more total months ($r = .26$) and had more total events ($r = .33$). Thus, case complexity is only moderately related to these two factors.

Attorneys from complex cases were more likely to believe there were delays caused by an overcrowded civil calendar ($r = .19$), a preference given to criminal cases ($r = .29$), a failure of the court to engage in effective pretrial management ($r = .20$), and the opposing attorney's delaying tactics ($r = .37$). Attorneys from complex cases were also more likely to believe that interrogatories ($r = .35$), document discovery ($r = .37$) and depositions ($r = .38$) caused undue delay.

As with their ratings of delay, attorneys from complex cases were more likely to believe that undue costs were caused by an overcrowded civil calendar ($r = .19$), a failure of the court to engage in effective pretrial management ($r = .33$), and the opposing attorney's delaying tactics ($r = .33$). Attorneys from complex cases were also more likely to believe that interrogatories ($r = .24$), document discovery ($r = .51$) and depositions ($r = .19$) caused excessive cost.

Respondents from more complex cases rated the efforts to arrive at a mediated settlement as more valuable ($r = .57$), as well as finding the availability of adequate lawyering resources as more valuable ($r = .21$).

When asked to give their recommendations for reform attorneys in complex cases differed from those in less complex cases in a number of ways. Respondents from complex cases were less likely to endorse recommendations that the losing party on a discovery motion pay the winner's cost ($r = -.20$). Similarly attorneys from complex cases did not support the ideas of using sanctions to limit unnecessary discovery ($r = -.24$), making shorter periods for pretrial discovery ($r = -.18$), restricting depositions to six hours ($r = -.17$), or limiting the number of interrogatory questions ($r = -.18$). Attorneys from complex cases also did not endorse items suggesting mandatory arbitration ($r = -.14$), use of non-binding summary jury trials ($r = -.19$), use of non-binding mini trials ($r = -.16$), conducting pretrial scheduling conferences by telephone ($r = -.18$), less use of the jury trial ($r = -.20$), or requiring notice prior to suit ($r = -.18$).

Attorneys from more complex cases were also more likely to believe that the facilities of the court

were insufficient ($r = -.24$).

TORT PLAINTIFFS

Though it is possible to pose questions about a wide variety of particular case types, one category of cases often draws critical commentary in legal and popular writings--tort plaintiffs. The present sample included 87 attorneys representing tort plaintiffs. In order to determine whether their views on sources of delay, cost, procedural value, or their recommendations set them apart from other attorneys, we formed three groups for comparative analysis: the 87 tort plaintiff attorneys, 368 other plaintiff attorneys, and 407 defense attorneys. Pro se respondents were not included in these analyses. We report results only for those variables where there were significant differences among the three groups. These differences may arise because the responses of tort plaintiff attorneys are different from one or both of the other groups or because defense attorneys' responses differ from other plaintiff attorneys' responses.

CASE DIFFERENCES

The cases handled by the tort plaintiff's are distinctive in several ways. The files include a larger number of events than do either of the other groups, on average the cases were in the court dockets more than seven months longer than other plaintiffs' cases. Tort plaintiffs' attorneys had more than 2.5 years more experience in practice than other plaintiffs' attorneys (with defense attorneys reporting about one year less experience than the other plaintiff group). Tort plaintiff attorneys had conducted nearly two and a half times as many trials as other plaintiff attorneys and defense attorneys. Not too surprisingly, plaintiffs' attorneys reported that they disproportionately represented plaintiffs and defense attorneys disproportionately represented defendants (numbers for each group do not add to 100% due to reporting and rounding errors, and incomplete data).

	NUMBR	TOTEV	TOTAL	YEARS	JURTR	DEFEN	PLANT	%TRIED
Tort Plaintiffs	87	31.67	19.96	16.80	39.46	33.66	77.30	22
Other Plaintiffs	368	24.60	12.72	14.24	16.40	40.48	63.85	06
Defense	407	28.91	15.59	13.28	14.75	69.48	35.71	11
Totals	862	27.35	14.81	13.99	17.60	55.35	51.95	10

SOURCES OF DELAY

Tort plaintiff's attorneys also differed from the other respondents in their assessments of some sources of delay. Compared to the other two groups they attributed far more delay to overcrowding, preferences for criminal trials, and the failure of the court to set an early trial date (though it is important to note that even these higher ratings fell below the midpoint of the scale--tort plaintiffs' attorneys only weakly rejected these factors as sources of delay). Compared to the other two groups tort plaintiffs' attorneys attributed less delay to depositions and the summary judgment process. They were somewhat less inclined than other plaintiffs' attorneys to attribute delay to settlement negotiations and continuances, but both attributed more delay to these factors than did defense attorneys.

	1 DOVRC	2 DCRIM	7 DDEPO	10 DSUMJ	11 DEARL	12 DSETN	15 DCONT
Tort Plaintiffs	3.90	4.50	2.67	1.75	4.25	3.72	3.07
Other Plaintiffs	3.05	3.28	3.64	2.98	3.00	4.08	3.42
Defense	2.71	3.08	3.10	2.09	2.72	3.10	2.37
Totals	2.96	3.28	3.25	2.41	2.98	3.56	2.81

SOURCES OF EXCESSIVE COST

With respect to judgments about sources of excessive cost, the three groups were largely similar to one another. Tort plaintiffs' attorneys were not as inclined as other plaintiffs' attorneys to attribute excessive costs to opposing counsel's delaying tactics or the summary judgment process, but both rated these factors higher than defense attorneys. Other plaintiffs' attorneys attributed more substantial excess costs to court required settlement conferences than did tort attorneys or defense attorneys--who did not differ from one another. Once again, it is important to note that all these ratings fall beneath the midpoint of the rating scales and reflect moderate to strong rejection of these factors as sources of excessive cost.

	20 COPDE	24 CSUMJ	26 CSETN
Tort Plaintiffs	3.24	2.42	3.02
Other Plaintiffs	3.50	3.36	4.09
Defense	2.85	2.19	3.14
Totals	3.16	2.65	3.53

VALUE OF PRETRIAL PROCEDURES

The three groups differed on assessments of the value of a number of pretrial procedures. Tort plaintiffs valued pretrial management more than the other two groups, defense attorneys attributed the least value to document discovery, while other plaintiffs' attorneys gave the lowest ratings to depositions. The summary judgment process, settlement negotiations, and (especially) mediation were valued most by defense attorneys and least by tort plaintiffs' attorneys, with other plaintiffs' attorneys taking an intermediate position. Finally, the availability of adequate lawyering resources was valued less by other plaintiffs' attorneys than by either of the other groups. Note that in general the value ratings for these procedures is near or above the midpoint of the rating scale. The clearest exceptions to this are the ratings of mediation provided by the two groups of plaintiffs' attorneys. Because relatively few of these cases went to mediation, there is a total of only 84 responses for this question.

	35 VPREM	38 VDOCD	39 VDEPO	42 VSUMV	45 VSETN	46 VMEDI	50 VLWYR
Tort Plaintiffs	5.76	6.17	6.97	5.41	4.66	3.16	6.86
Other Plaintiffs	4.77	6.26	6.17	6.25	5.24	4.04	6.28
Defense	4.82	5.49	6.97	7.18	5.86	6.01	6.93
Totals	4.89	5.85	6.69	6.73	5.49	5.25	6.66

RECOMMENDATIONS

The three groups of attorneys produced significantly different recommendations on nearly two-thirds of proposed procedural changes they were asked to evaluate. In order to emphasize the differences we report, for each group, the procedural changes for which they take a distinctive position. As in the preceding analyses it is important to keep in mind that the overall levels of support for the various proposed changes varies quite dramatically. None of three groups is very enthusiastic about non-binding arbitration, but all are quite enthusiastic about written opinions for summary judgments. Within these broad contours the groups vary in the intensity of their support/opposition.

Tort plaintiffs' attorneys express the strongest preferences for the following: automatic discovery, a limit of 10 depositions per side, a limit of six hours per deposition, greater use of masters and magistrate judges to conduct settlement discussions, firm trial dates, non-binding summary jury trials and mini-trials, fewer pretrial scheduling conferences, rule amendments to discourage summary judgment motions, and the use of tape recordings as opposed to stenographic records. They are most strongly opposed to limits on contingency fees, requiring losers to pay the winner's attorney fees and less use of the jury (note that none of the three groups is particularly enthusiastic about these latter proposals).

Although they are most commonly occupying a position intermediate between tort plaintiffs' attorneys and defense attorneys, attorneys for other plaintiffs are more enthusiastic than the other two groups in their support of court-supervised settlement talks, mandatory arbitration, and less use of the jury. They are least enthusiastic about limits on depositions, disclosure of expert qualifications, and written opinions for summary judgments.

Defense attorneys are more supportive than the other two groups of required disclosure of expert opinions, expert qualifications, tougher admission requirements for expert opinions, limits on contingency fees, payment of attorney's fees by losers, and written opinions in summary judgments. They are least enthusiastic about automatic discovery, six hour limits on depositions, court-supervised settlement discussions, master and magistrate judge involvement in settlement discussions, firm trial dates, mandatory arbitration, summary jury trials and mini-trials, fewer scheduling conferences, limits on summary judgment motions, and taped depositions.

	5 AUTOD	6 LIMDE	7 DEPO6	9 EXPST	10 EXPQU	14 SETTA	15 MASTD	16 MAGJU	19 FIRMD	23 MANDA
Tort Plaintiffs	6.65	7.13	7.42	6.00	6.71	6.25	6.13	6.51	7.21	2.95
Other Plaintiffs	5.86	5.70	5.07	5.93	6.49	6.63	6.01	6.34	6.35	3.33
Defense	5.64	6.12	4.60	6.89	7.12	5.88	4.96	5.85	5.98	2.51
Totals	5.82	6.03	5.05	6.42	6.82	6.22	5.49	6.11	6.24	2.89

	24 NBSUM	25 NBMIN	27 PSCPH	30 DMSUM	31 EXPRE	33 CONFE	34 PAYAT	35 TAPED	36 LESSJ	38 SRITE
Tort Plaintiffs	4.93	4.65	7.35	4.78	4.08	1.95	2.21	4.95	2.25	7.38
Other Plaintiffs	4.22	4.14	6.76	3.61	4.28	3.16	3.07	4.19	3.47	6.81
Defense	3.90	3.68	6.48	1.90	5.42	4.22	3.41	3.45	3.24	7.70
Totals	4.12	3.96	6.67	2.86	4.83	3.58	3.16	3.89	3.24	7.31

RATINGS OF COURT RESOURCES

Although the three groups did not differ in their evaluations of federal court management efforts (question 39 near the end of the questionnaire). Non-tort attorneys were somewhat less likely than the other two groups to believe that the court had adequate clerk, reporting, and clerical staff (all question 40).

	LCLER	CREPO	CLERI
Tort Plaintiffs	5.35	5.57	5.39
Other Plaintiffs	4.90	5.17	5.17
Defense	5.45	5.74	5.73
Totals	5.24	5.51	5.49

PARTISANSHIP

To some extent the results reported in the previous section may be colored by broader partisan differences in attorney orientations. That is, attorneys who characteristically represent plaintiffs may differ in their recommendations from attorneys who characteristically represent defendants. In order to assess the relationship between partisan role and the other variables we computed the correlation between the variable measuring the percentage of cases an attorney represents plaintiffs (which varies from 0% to 100% across the 526 attorneys who answered the question) and recommendation questions. The correlations reported below include only those that reach conventional levels of significance.

As the set of correlations demonstrates there are number of significant relationships between partisanship and the strength of the endorsements given to various recommendations. Although most relationships are modest in size (r 's ranging from .1 to .2), a few are a fairly substantial and identify the proposals that are most likely to incur partisan support and opposition. The strongest relationships are between partisan role and views on the proposal to revise rules to discourage summary judgment motions ($r = .34$), the proposal to toughen requirements for admission of expert opinions ($r = -.31$) and the proposal to limit use of the contingent fee ($r = -.29$). Not surprisingly, plaintiff's attorneys favor only the first of these proposals.

1 LIMDISC	5 AUTODISC	7 DEPOGHR	9 EXPSTATE	10 EXPQUAL	11 EXPCASE	14 SETTALK	15 MASTDISC	16 MAGJUD	17 PREADR	19 FIRMOAT
-.1385 (460) P= .003	.0937 (463) P= .044	.2257 (465) P= .000	-.1795 (464) P= .000	-.1331 (464) P= .004	-.0962 (465) P= .038	.1555 (465) P= .001	.1884 (463) P= .000	.0976 (464) P= .036	.1286 (460) P= .006	.0972 (465) P= .036
23 MANDARB	26 MAGMERIT	27 LESSPSC	30 DMSUMJ	31 EXPREQ	32 REJPARTY	33 CONFEE	34 PAYATT	35 TAPEDEP	37 NOTSUIT	38 SRITEO
.1298 (460) P= .005	.1639 (462) P= .000	.0944 (462) P= .043	.3422 (463) P= .000	-.3077 (461) P= .000	-.1579 (461) P= .001	-.2930 (464) P= .000	-.1948 (462) P= .000	.1976 (457) P= .000	-.1491 (464) P= .001	-.2597 (464) P= .000

LENGTH OF TIME TO RESOLVE CASES

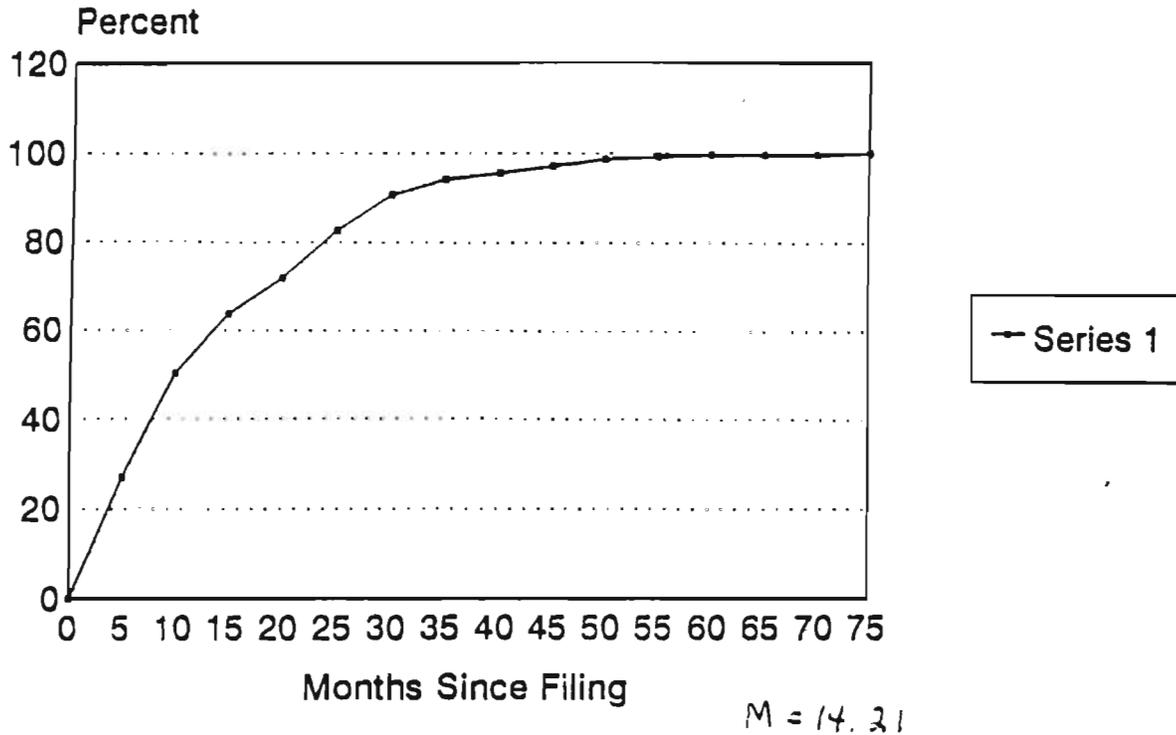
In the following table it can be seen that those cases which went to trial took longer to resolve. Those which received administrative review lasted the fewest total months.

Variable	Mean	Std Dev	Cases
For Entire Population	14.3	12.2	949
trial	21.4	15.0	145
settlement	19.0	13.0	117
summary judgment	16.1	11.4	61
dismissal	11.3	10.5	266
dismissed with prejudice	13.5	10.2	232
administrative review	8.9	10.8	68
other	8.6	7.6	60

Attorneys for cases taking more total months to resolve were more likely to attribute the delay for their case to an overcrowded civil calendar ($r = .22$), the preference given criminal cases ($r = .23$), a failure of the court to engage in effective pretrial management ($r = .14$), and the opposing counsel's delaying tactics ($r = .20$). The length of the case was also associated with a belief that settlement conferences caused excessive cost ($r = .20$).

With few exceptions the attorneys for long cases did not differ in their general recommendations from attorneys for shorter cases. Attorneys with longer cases were more likely to disagree with the idea that there should be greater use of alternative dispute resolution ($r = -.16$). They were also more likely to disagree with the idea that there should be less use of the jury trial ($r = -.14$).

Percent of Cases Resolved by Months Since Filing



GENERAL EVENTS

- 1) Complaint
- 2) Answer
- 3) Minutes: Pre-trial conference
- 4) Pre-trial order
 - non-dispositive motions by (date)
 - dispositive motions by (date)
 - discovery terminates (date)
- 5) Affidavits
- 6) Notice(s): case referred to Magistrate
- 7) Memorandum
- 8) exhibits: filed
- 9) Notice and Motion: by plaintiff to compel defendant to produce documents, answer interrogatories and produce certain American employees for the taking of depositions
- 10) Motion: by defendant for summary judgement

LITIGANT RESPONSES

LITIGANT QUESTIONNAIRE

Sample

From the same 534 cases used for the attorney questionnaire a subset of cases involving contracts, real property, torts, civil rights, and labor were selected for further study. Cases from this subset which took place in the Minneapolis and St. Paul were chosen at random and plaintiffs and defendants were identified from these cases. A total of 176 questionnaires were sent out to parties in the cases. Completed questionnaires were returned by 42 of the parties. Four questionnaires were returned but not completed and 19 were returned as undeliverable mail. The total response rate was 30.26%. Of the returned questionnaire 59.52% were from plaintiffs and 40.48% were returned by defendants.

Materials

The questionnaire was designed to ask plaintiffs and defendants if any of several procedures had been used in the resolution of their case. These procedures included: Negotiation between attorneys, arbitration, a settlement conference, and a trial. For each of the procedures they had experienced they were asked to provide a number of ratings including fairness of the procedure, helpfulness of the procedure, appropriateness of the amount of time used, appropriateness of the amount of money used, satisfaction with their own attorney, control over the process, participation in the process, and several others. Respondents also gave general ratings of how their case was handled and gave their general recommendations about ways to reduce cost and delay.

Litigant responses by type of suit and resolution

With useable data from only 42 of the parties for the cases it is impossible to make many comparisons with the attorneys. Of those who responded 33 reported that their attorneys negotiated in an attempt to resolve their case and 23 reported that the negotiations resulted in the final resolution of their case.

Only seven of the respondents reported that arbitration was used in their case and for three of the parties the arbitration resulted in the final resolution of their case. Fifteen of the respondents participated in a settlement conference and this led to the resolution of their case for seven. Finally, eight of the respondents reported that their case went to trial. Of these five reported that the trial led to the final resolution of their case. The others presumably settled during trial, were dismissed, or are under appeal.

Almost half of the respondents (49%) were from suits involving contracts. No other category had more than 10 respondents. Because of the low response rate in most categories it is impossible to make comparisons based on the type of suit.

	Frequency	Percent	Valid Percent	Cum Percent
contract	20	48.8	48.8	48.8
real property	3	7.3	7.3	56.1
torts	4	9.8	9.8	65.9
civil rights	7	17.1	17.1	82.9
labor	2	4.9	4.9	87.8
anti-trust	4	9.8	9.8	97.6
other	1	2.4	2.4	100.0
	-----	-----	-----	
TOTAL	41	100.0	100.0	

The same difficulty arises when trying to make comparisons based on the way cases were resolved. The cases for most of the respondents were dismissed (24%) or dismissed with prejudice (39%). None of the other categories had a sufficient number of observations to permit meaningful comparisons.

	Frequency	Percent	Valid Percent	Cum Percent
trial	4	9.8	9.8	9.8
settlement	7	17.1	17.1	26.8
summary judgment	2	4.9	4.9	31.7
dismissal	10	24.4	24.4	56.1
dismissed with prej.	16	39.0	39.0	95.1
administrative rev.	1	2.4	2.4	97.6
other	1	2.4	2.4	100.0
	-----	-----	-----	
TOTAL	41	100.0	100.0	

Litigant recommendations

Respondents did differ in the types of recommendations they favored depending on how long their case lasted. Respondents with cases which lasted more total months were more likely to endorse recommendations that there be greater limitations on discovery ($r = .37$), that depositions be limited to six hours ($r = .29$), requiring written reports of the experts qualifications ($r = .28$), requiring the preparation of a detailed discovery/case management plan ($r = .35$), the setting of an early trial date ($r = .27$) and less use of pretrial scheduling conferences ($r = .28$).

Respondents who believed their case was complex were more likely to recommend such things as greater limits on the contingent fee ($r = .39$), less use of the jury trial ($r = .37$). Those from more complex cases were less supportive of requiring notice prior to suit ($r = -.29$).

Plaintiffs and defendants differed in their ratings of how their case was handled. Plaintiffs were much more likely to say their case never should have been litigated.

	Mean	Std Dev	Cases
For Entire Population	4.4	3.8	39
plaintiff	6.3	3.6	24
defendant	1.3	1.0	15

$F(1,37) = 26.79, p < .001$

In general plaintiffs did not differ from defendants in their recommendations.

**CIVIL JUSTICE
RESEARCH SURVEY**

1. GENERAL INFORMATION

a. Please identify your role in the proceedings:

_____ Plaintiff
 _____ Defendant or Third Party Defendant
 _____ Other _____

b. Did an attorney represent you in this case?

_____ Yes _____ No (I represented myself)

c. Please indicate your age. _____

d. Sex: _____ Male _____ Female

e. Are you?

_____ White (Caucasian)
 _____ Black
 _____ Asian
 _____ Hispanic
 _____ American Indian (Native American)
 _____ Other, please specify _____

f. Occupation _____

g. How many years of school have you completed? _____

2. Did the two attorneys negotiate with one another prior to trial in an attempt to resolve your case?

_____ Yes _____ No (go to #3)

a. Approximately how many hours of attorney time were used for negotiation with the other side?

b. The negotiation between attorneys was fair. agree 1 2 3 4 5 6 7 8 9 disagree

c. The negotiation between attorneys was helpful. agree 1 2 3 4 5 6 7 8 9 disagree

d. Adequate time was given to the negotiation between the attorneys. agree 1 2 3 4 5 6 7 8 9 disagree

e. I got my money's worth from the negotiation between the attorneys. agree 1 2 3 4 5 6 7 8 9 disagree

f. I was satisfied with my attorney's performance in negotiation with the attorney for the other side. agree 1 2 3 4 5 6 7 8 9 disagree

g. I had control over the negotiation between attorneys. agree 1 2 3 4 5 6 7 8 9 disagree

h. I participated in the negotiation between attorneys. agree 1 2 3 4 5 6 7 8 9 disagree

i. The negotiation between attorneys was dignified. agree 1 2 3 4 5 6 7 8 9 disagree

j. The negotiation between attorneys was completely explained to me before it took place. agree 1 2 3 4 5 6 7 8 9 disagree

k. The negotiation between attorneys was thorough. agree 1 2 3 4 5 6 7 8 9 disagree

l. The negotiation between attorneys gave me an opportunity to tell my side of the story. agree 1 2 3 4 5 6 7 8 9 disagree

m. All the important facts were brought out in the negotiation between attorneys. agree 1 2 3 4 5 6 7 8 9 disagree

n. As a result of the negotiation between attorneys, my case was resolved more quickly. agree 1 2 3 4 5 6 7 8 9 disagree

o. Did the negotiation between attorneys result in the final resolution of your case?

_____ Yes _____ No

3. Was arbitration used in an attempt to resolve your case?

_____ Yes _____ No (go to #4)

a. Approximately how many hours of attorney time were used for arbitration?

b. The arbitration was fair. agree 1 2 3 4 5 6 7 8 9 disagree

c. The arbitration was helpful. agree 1 2 3 4 5 6 7 8 9 disagree

d. Adequate time was given to the arbitration. agree 1 2 3 4 5 6 7 8 9 disagree

e. I got my money's worth from the arbitration. agree 1 2 3 4 5 6 7 8 9 disagree

- f. I was satisfied with my attorney's performance in the arbitration. agree 1 2 3 4 5 6 7 8 9 disagree
- g. I had control over the arbitration. agree 1 2 3 4 5 6 7 8 9 disagree
- h. I participated in the arbitration. agree 1 2 3 4 5 6 7 8 9 disagree
- i. The arbitration was dignified. agree 1 2 3 4 5 6 7 8 9 disagree
- j. The arbitration procedure was completely explained to me before it took place. agree 1 2 3 4 5 6 7 8 9 disagree
- k. The arbitration was thorough. agree 1 2 3 4 5 6 7 8 9 disagree
- l. The arbitration gave me an opportunity to tell my side of the story. agree 1 2 3 4 5 6 7 8 9 disagree
- m. All the important facts were brought out in the arbitration. agree 1 2 3 4 5 6 7 8 9 disagree
- n. As a result of the arbitration, my case was resolved more quickly. agree 1 2 3 4 5 6 7 8 9 disagree
- o. Did the arbitration result in the final resolution of your case?
_____ Yes _____ No

4. Was a settlement conference held before a judge used in an attempt to resolve your case?

_____ Yes _____ No (go to #5)

- a. Approximately how many hours of attorney time were used for the settlement conference?

- b. The settlement conference was fair. agree 1 2 3 4 5 6 7 8 9 disagree
- c. The settlement conference was helpful. agree 1 2 3 4 5 6 7 8 9 disagree
- d. Adequate time was given to the settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree
- e. I got my money's worth from the settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree
- f. I was satisfied with my attorney's performance in the settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree
- g. I had control over the settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree

- h. I participated in the settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree
- i. The settlement conference was dignified. agree 1 2 3 4 5 6 7 8 9 disagree
- j. The settlement conference was completely explained to me before it took place. agree 1 2 3 4 5 6 7 8 9 disagree
- k. The settlement conference was thorough. agree 1 2 3 4 5 6 7 8 9 disagree
- l. The settlement conference gave me an opportunity to tell my side of the story. agree 1 2 3 4 5 6 7 8 9 disagree
- m. All the important facts were brought out in the settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree
- n. As a result of the settlement conference my case was resolved more quickly. agree 1 2 3 4 5 6 7 8 9 disagree
- o. Did the settlement conference result in the final resolution of your case?
_____ Yes _____ No

5. Was a trial used in an attempt to resolve your case?

_____ Yes _____ No (go to #6)

Was the trial a jury trial?

_____ Yes _____ No

- a. Approximately how many hours of attorney time were used for the trial?

- b. The trial was fair. agree 1 2 3 4 5 6 7 8 9 disagree
- c. The trial was helpful. agree 1 2 3 4 5 6 7 8 9 disagree
- d. Adequate time was given to the trial. agree 1 2 3 4 5 6 7 8 9 disagree
- e. I got my money's worth from the trial. agree 1 2 3 4 5 6 7 8 9 disagree
- f. I was satisfied with my attorney's performance in the trial. agree 1 2 3 4 5 6 7 8 9 disagree
- g. I had control over the trial. agree 1 2 3 4 5 6 7 8 9 disagree
- h. I participated in the trial. agree 1 2 3 4 5 6 7 8 9 disagree

- i. The trial was dignified. agree 1 2 3 4 5 6 7 8 9 disagree
- j. The trial procedure was completely explained to me before it took place. agree 1 2 3 4 5 6 7 8 9 disagree
- k. The trial was thorough. agree 1 2 3 4 5 6 7 8 9 disagree
- l. The trial gave me an opportunity to tell my side of the story. agree 1 2 3 4 5 6 7 8 9 disagree
- m. All the important facts were brought out in the trial. agree 1 2 3 4 5 6 7 8 9 disagree

n. Did the trial result in the final resolution of your case?

_____ Yes _____ No

- 6. The outcome of the case was favorable to me. agree 1 2 3 4 5 6 7 8 9 disagree
- 7. What was nature of the final outcome?
 Monetary \$ _____
 Other _____
 Consent judgment _____
- 8. I would have preferred to have a judge resolve my case. agree 1 2 3 4 5 6 7 8 9 disagree
- 9. I would have preferred to have a jury resolve my case. agree 1 2 3 4 5 6 7 8 9 disagree
- 10. I would have preferred to have my case resolved by arbitration. agree 1 2 3 4 5 6 7 8 9 disagree
- 11. I would have preferred to have my case resolved by a settlement conference. agree 1 2 3 4 5 6 7 8 9 disagree
- 12. I would have preferred to have my case resolved by negotiation between the two attorneys. agree 1 2 3 4 5 6 7 8 9 disagree
- 13. I was satisfied with the final outcome of my case. agree 1 2 3 4 5 6 7 8 9 disagree
- 14. Compared to what I expected when the case was first filed, the final outcome was better than I expected. agree 1 2 3 4 5 6 7 8 9 disagree
- 15. My case was resolved in a reasonable period of time. agree 1 2 3 4 5 6 7 8 9 disagree
- 16. Overall, I was very satisfied with my attorney. agree 1 2 3 4 5 6 7 8 9 disagree
- 17. Overall, I was very satisfied with the court. agree 1 2 3 4 5 6 7 8 9 disagree
- 18. I felt I had control over the outcome of my case. agree 1 2 3 4 5 6 7 8 9 disagree

- 19. Overall, I had control over the way my case was handled. agree 1 2 3 4 5 6 7 8 9 disagree
- 20. I participated as much as I desired in the processing of my case. agree 1 2 3 4 5 6 7 8 9 disagree
- 21. My case was complex. agree 1 2 3 4 5 6 7 8 9 disagree
- 22. The opposing attorney's activities caused unnecessary delays. agree 1 2 3 4 5 6 7 8 9 disagree
- 23. The opposing attorney's activities caused unnecessary expense. agree 1 2 3 4 5 6 7 8 9 disagree
- 24. My own attorney's activities caused unnecessary delays. agree 1 2 3 4 5 6 7 8 9 disagree
- 25. My own attorney's activities caused unnecessary expense. agree 1 2 3 4 5 6 7 8 9 disagree
- 26. I obtained a just result. agree 1 2 3 4 5 6 7 8 9 disagree
- 27. The overall costs of my case were too much. agree 1 2 3 4 5 6 7 8 9 disagree
- 28. The attorney fees for my case were too much. agree 1 2 3 4 5 6 7 8 9 disagree
- 29. The final result was better than I would have obtained without litigation. agree 1 2 3 4 5 6 7 8 9 disagree
- 30. This case should never have been litigated. agree 1 2 3 4 5 6 7 8 9 disagree
- 31. The litigation process was unnecessarily stressful. agree 1 2 3 4 5 6 7 8 9 disagree
- 32. I was apprehensive about giving a deposition. agree 1 2 3 4 5 6 7 8 9 disagree
 Not applicable
- 33. I was apprehensive about testifying at trial. agree 1 2 3 4 5 6 7 8 9 disagree
 Not applicable
- 34. In general attorneys cause unnecessary delays. agree 1 2 3 4 5 6 7 8 9 disagree
- 35. In general attorneys cause unnecessary expense. agree 1 2 3 4 5 6 7 8 9 disagree
- 36. There are many cases that should never have been litigated. agree 1 2 3 4 5 6 7 8 9 disagree
- 37. There are some cases that are too complex for juries. agree 1 2 3 4 5 6 7 8 9 disagree
- 38. The court system costs too much. agree 1 2 3 4 5 6 7 8 9 disagree
- 39. In general I believe there are too many lawyers. agree 1 2 3 4 5 6 7 8 9 disagree

40. In general I believe lawyers are too expensive. agree 1 2 3 4 5 6 7 8 9 disagree
41. In general I believe jury awards are too big. agree 1 2 3 4 5 6 7 8 9 disagree

GENERAL RECOMMENDATIONS

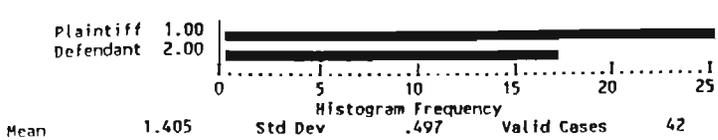
Reformers have proposed a variety of changes in federal procedure. Please indicate your opinion about these proposals using the scale to the right. Circle the number that best reflects the strength of your agreement or disagreement with each statement

- (1) Greater limits on discovery. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor or ___ Don't understand
- (2) Requiring the losing party on a discovery motion to pay the winner's costs and attorney's fees. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (3) More use of sanctions to limit unnecessary discovery. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (4) Much shorter periods for pretrial discover (e.g. 120 days in a complex case) than current practice. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (5) Requiring automatic disclosure, within a short time after service of the answer, of "core" information (names of witnesses, documents bearing on the claim and defense, and damage computations). strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (6) Limiting the number of depositions permitted to ten per side, unless the court otherwise orders. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (7) Restricting each deposition to six hours unless the court otherwise orders. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (8) Limiting the number of interrogatory questions to 15, unless the court otherwise orders. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (9) Requiring disclosure to the opponent of written reports signed by each expert witness containing a complete statement of the expert's opinions and their basis. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (10) Requiring disclosure of written reports signed by each expert setting forth the qualifications of the expert. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand

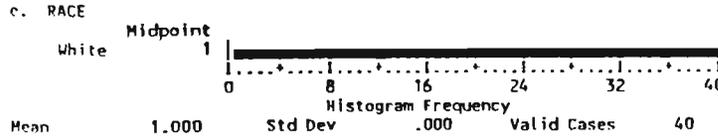
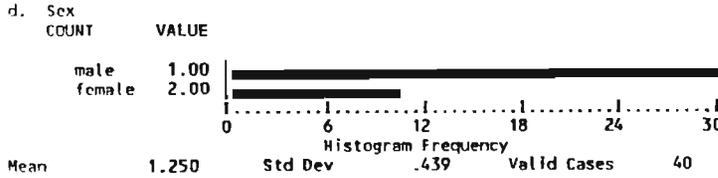
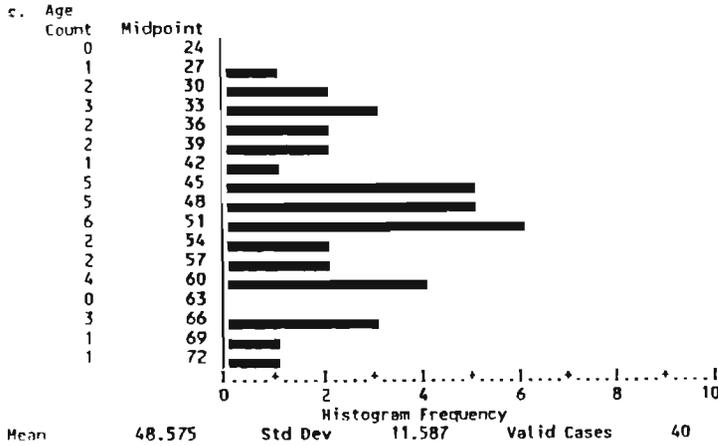
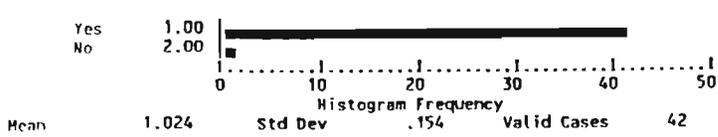
- (11) Requiring disclosure of written reports signed by each expert listing other cases in which the expert has testified. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (12) Requiring the parties to prepare a detailed discover/case management plan early in the litigation. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (13) Greater use of court-appointed discovery masters. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (14) Greater use of court-supervised settlement talks. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (15) Greater use of court-appointed masters to conduct settlement discussions. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (16) Greater use of magistrate judges to conduct settlement conferences. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (17) A pretrial conference that includes discussion of settlement/ADR to be held within sixty days of the service of the answer. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (18) A more active "hands-on" judicial role in managing litigation (setting deadlines, controlling discovery, encouraging settlement, narrowing issues). strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (19) Setting of early firm trial dates. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (20) Greater use of alternative dispute resolution. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (21) More use of early neutral third-party evaluation of cases. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (22) More use of mediation. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (23) Requiring mandatory non-binding arbitration on the Hennepin County model. strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand
- (24) To promote settlement, greater use of non-binding summary jury trials in which lawyers summarize their cases (no witnesses). strongly oppose 1 2 3 4 5 6 7 8 9 strongly favor ___ Don't understand

1. GENERAL INFORMATION

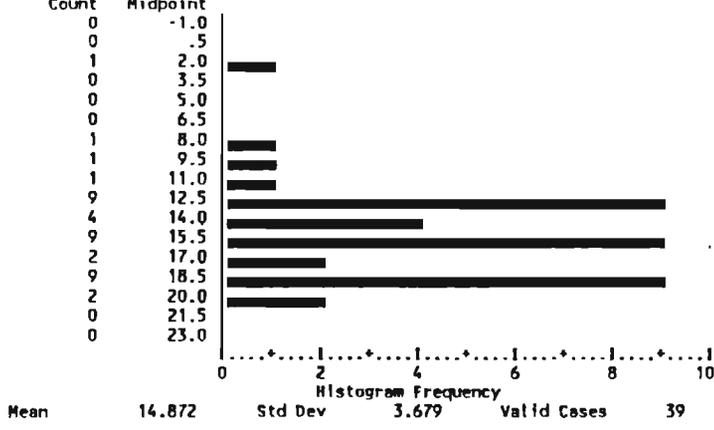
A. ROLE IN PROCEEDINGS



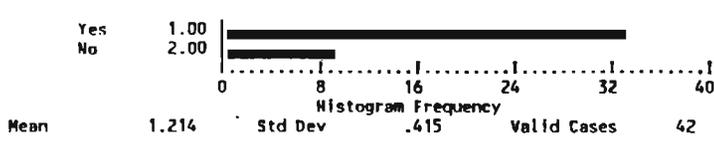
B. Did an attorney represent you in this case?



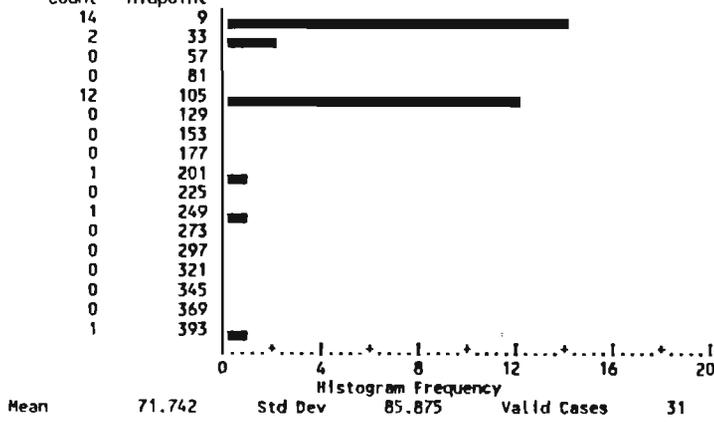
g. YEARS OF SCHOOL COMPLETED



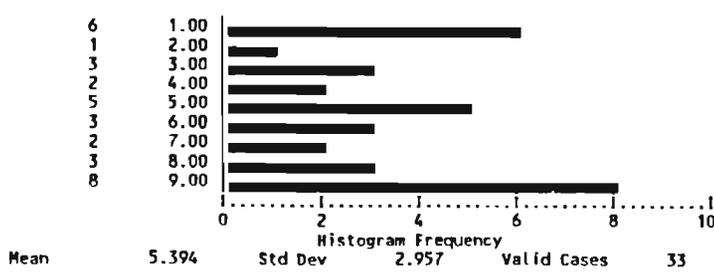
2. Did the attorneys negotiate



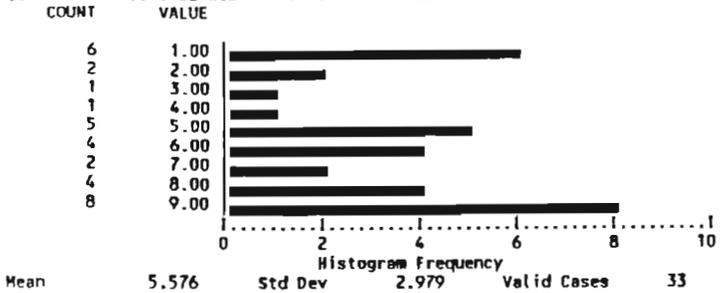
a. HOW MANY ATTORNEY HOURS WERE USED FOR NEGOTIATION



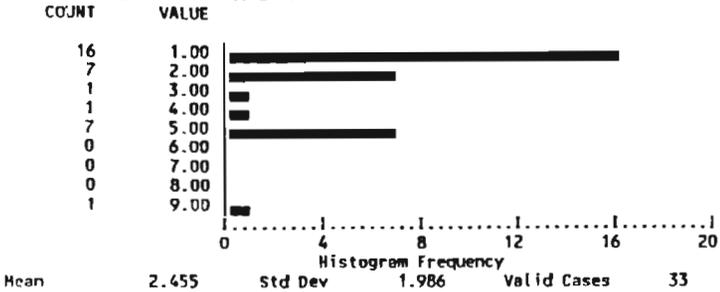
b. NEGOTIATIONS WERE FAIR



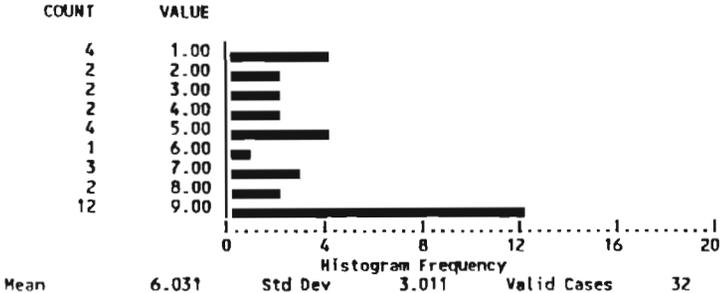
c. NEGOTIATIONS BETWEEN ATTORNEYS WERE HELPFUL



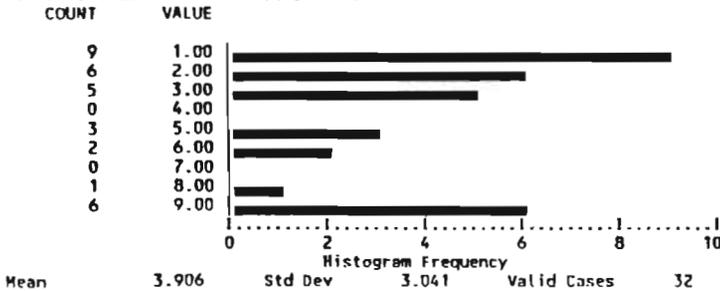
d. ADEQUATE TIME WAS GIVEN TO NEGOTIATIONS



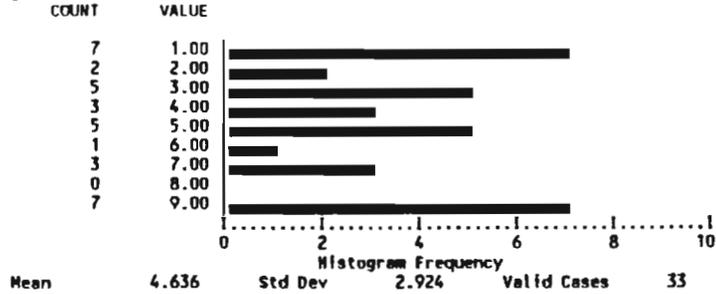
e. GOT MONEY'S WORTH FROM NEGOTIATIONS BETWEEN ATTORNEYS



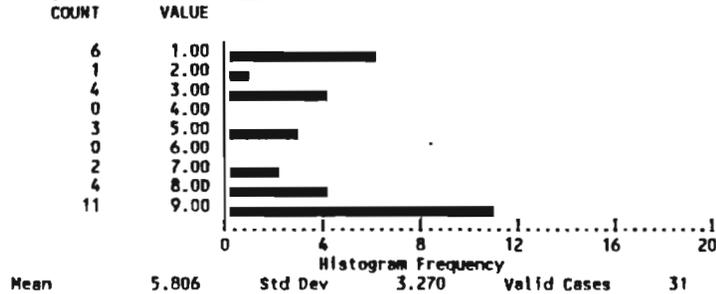
f. SATISFIED WITH MY ATTORNEY'S PERFORMANCE IN NEGOTIATION



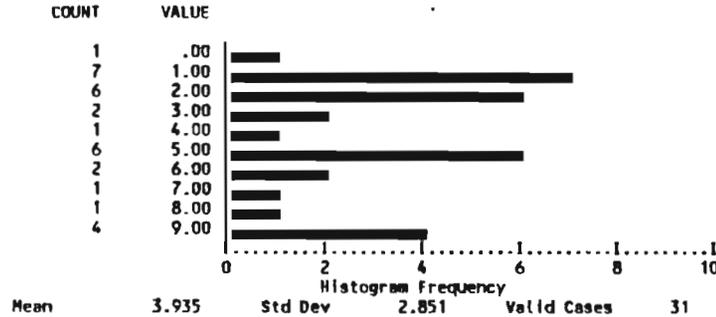
g. I HAD CONTROL OVER NEGOTIATIONS



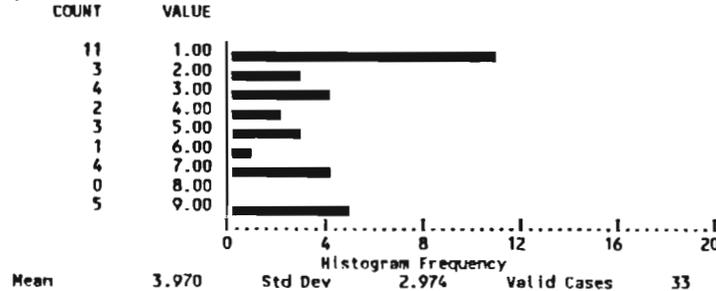
h. I PARTICIPATED IN NEGOTIATIONS



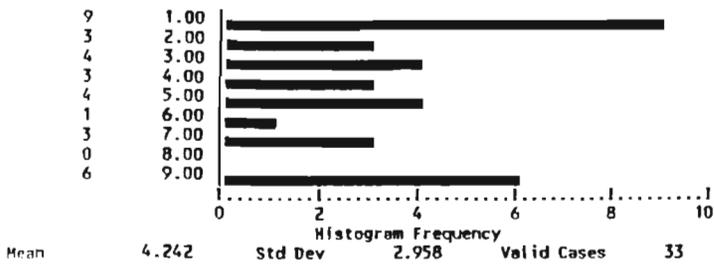
i. NEGOTIATIONS WERE DIGNIFIED



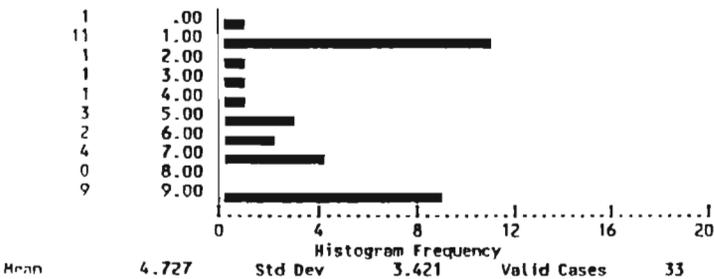
j. NEGOTIATIONS WERE COMPLETELY EXPLAINED



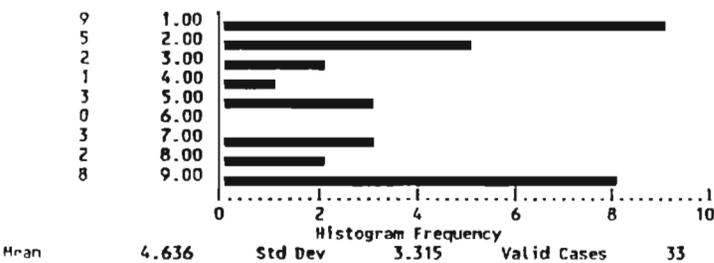
k. NEGOTIATIONS WERE THOROUGH



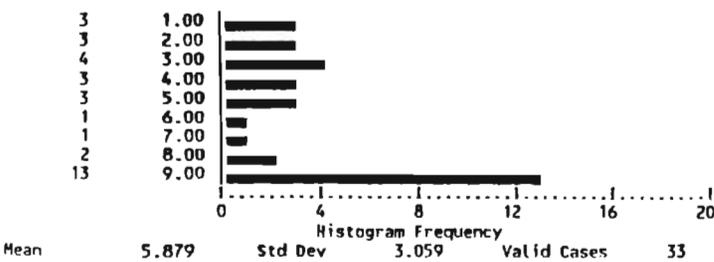
l. NEGOTIATIONS ALLOWED ME TO TELL MY SIDE OF THE STORY



m. ALL THE IMPORTANT FACTS WERE BROUGHT OUT THROUGH NEGOTIATIONS



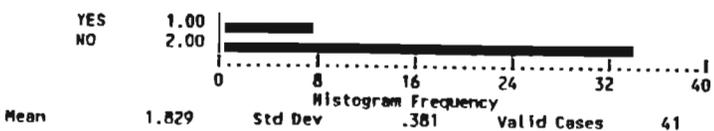
n. AS A RESULT OF NEGOTIATIONS MY CASE WAS RESOLVED MORE QUICKLY



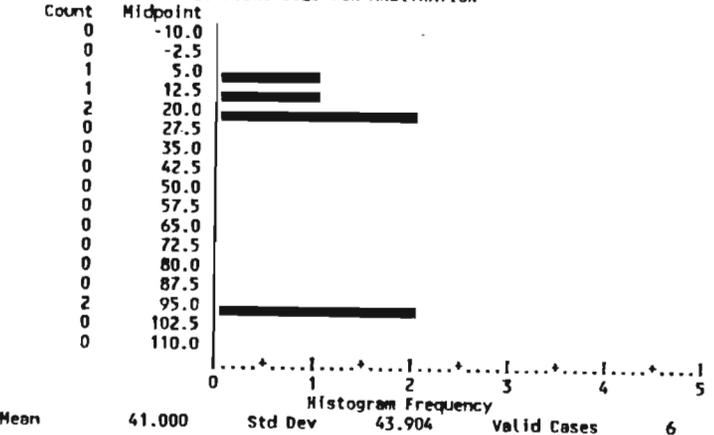
o. NEGOTIATION RESULTED IN FINAL RESOLUTION OF CASE



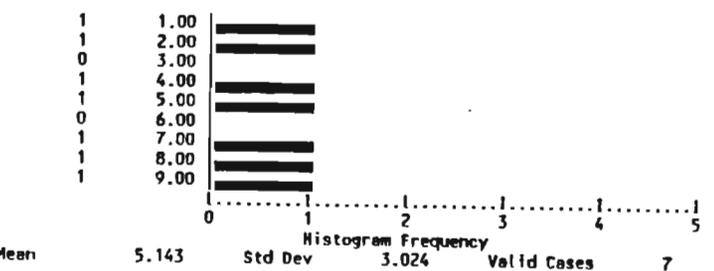
3. WAS ARBITRATION USED IN AN ATTEMPT TO RESOLVE YOUR CASE?

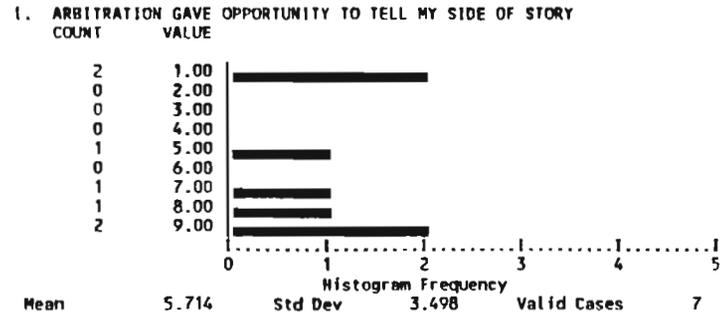
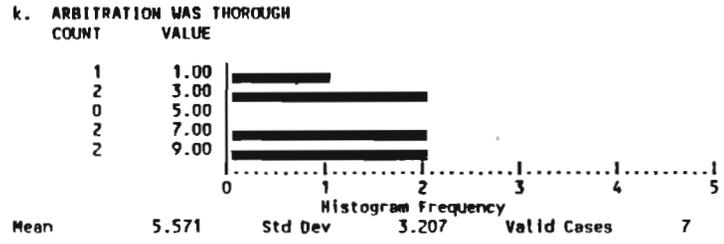
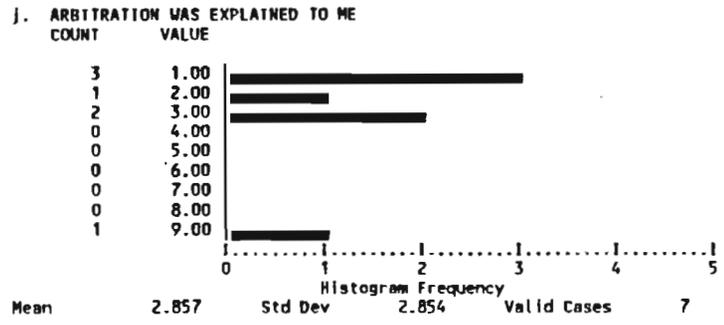
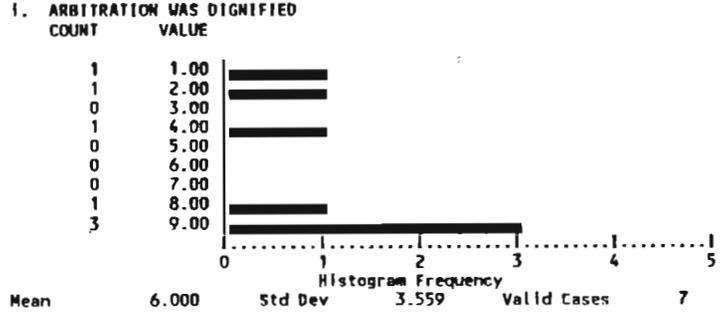
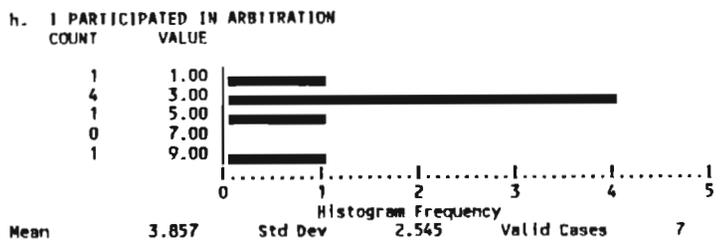
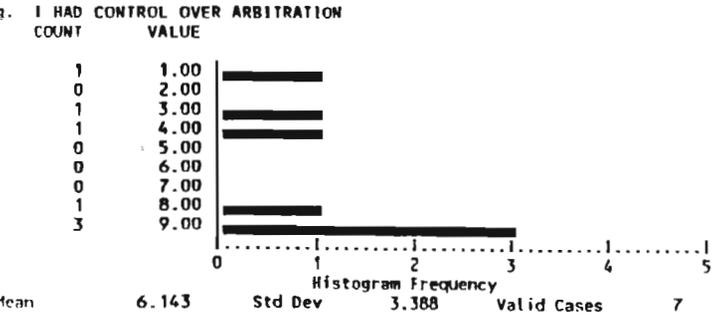
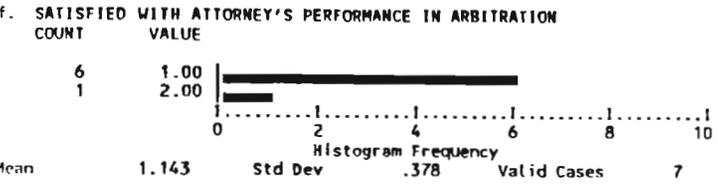
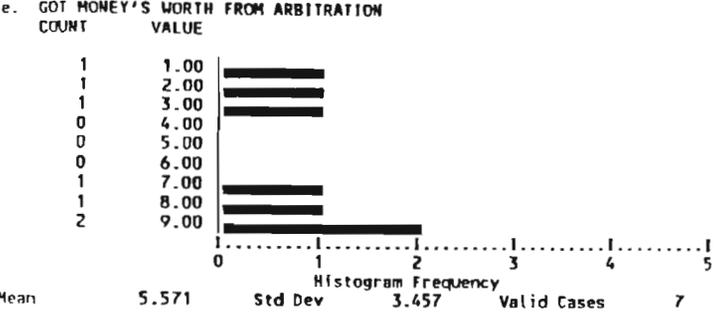
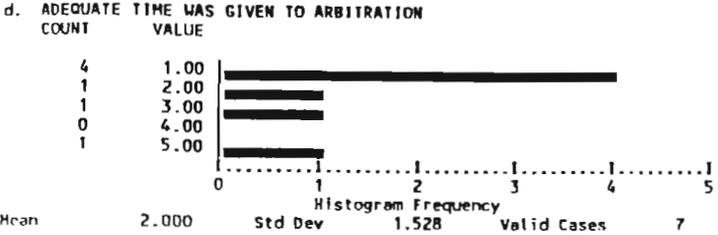
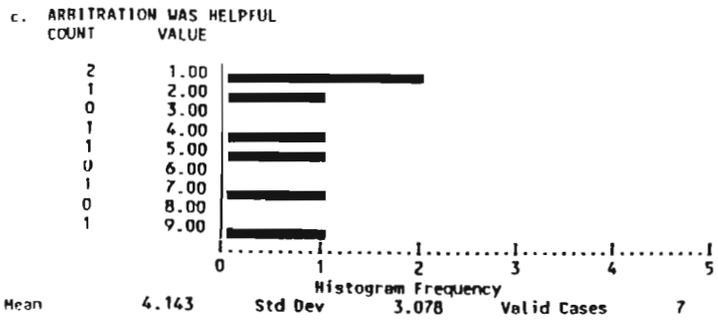


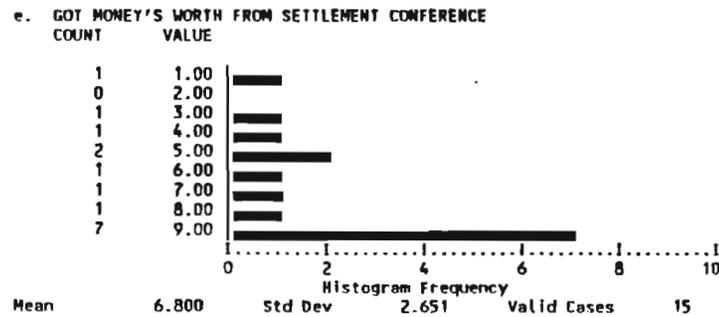
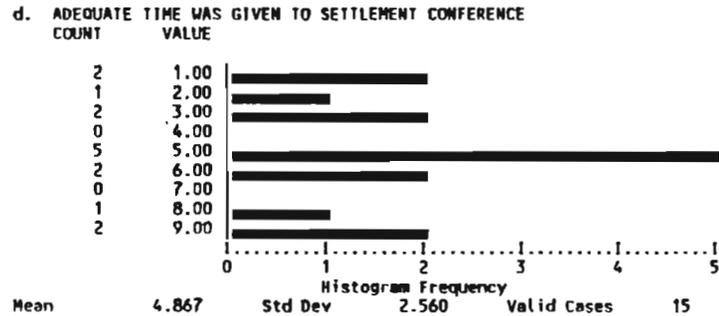
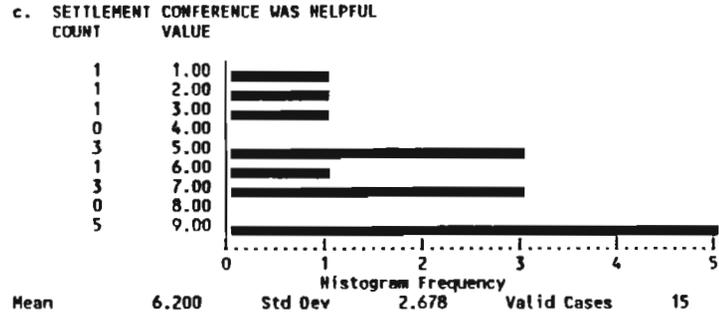
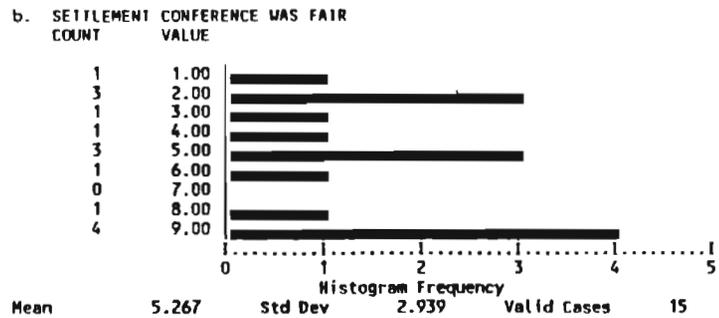
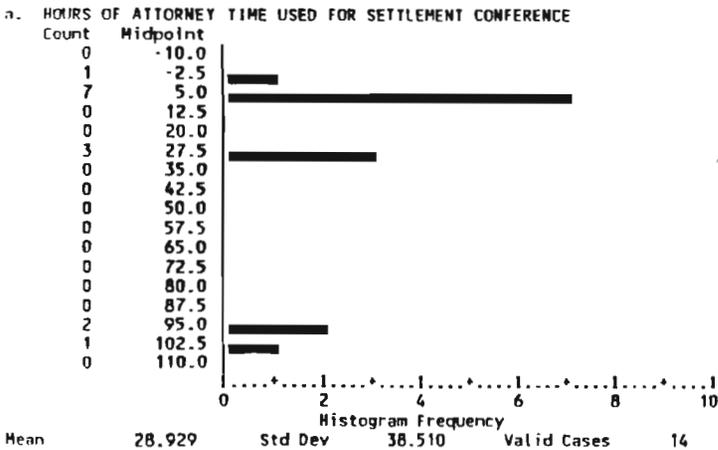
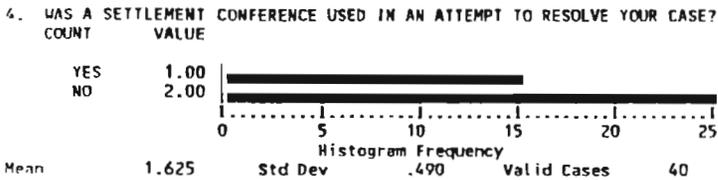
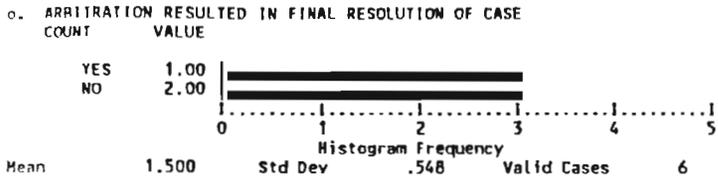
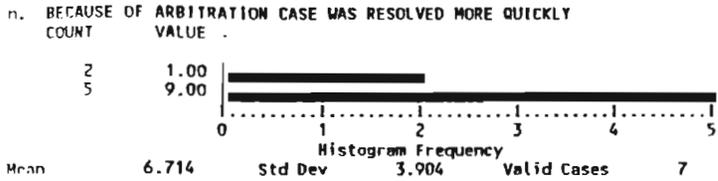
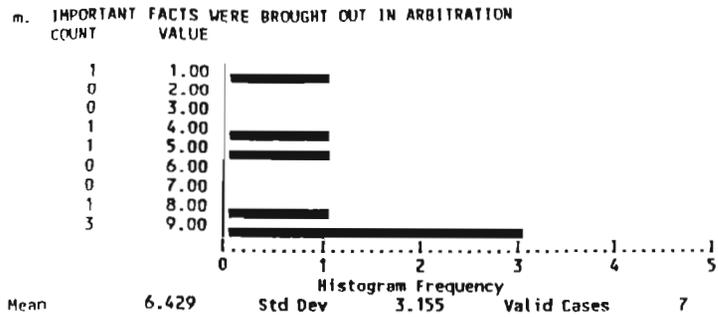
a. HOW MANY ATTORNEY HOURS USED FOR ARBITRATION

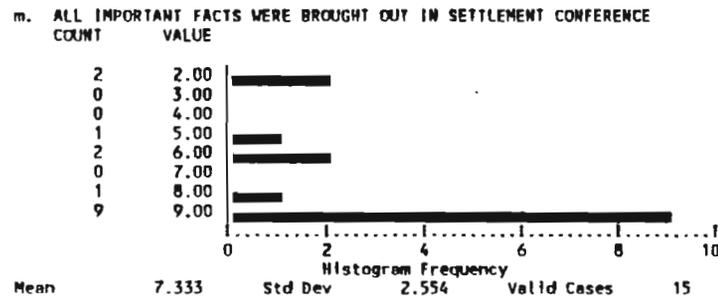
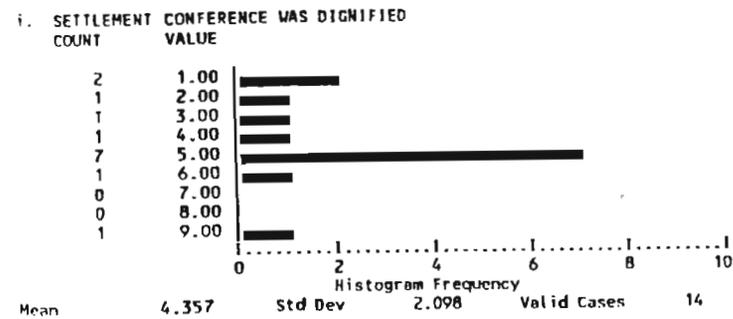
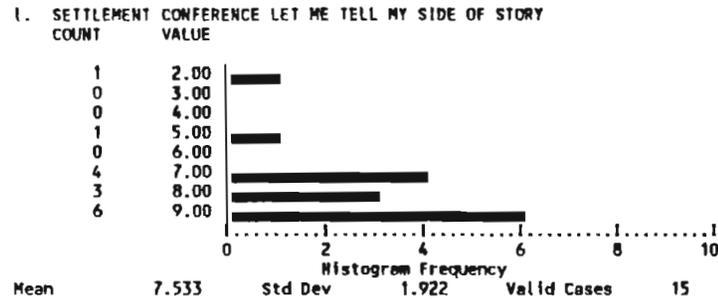
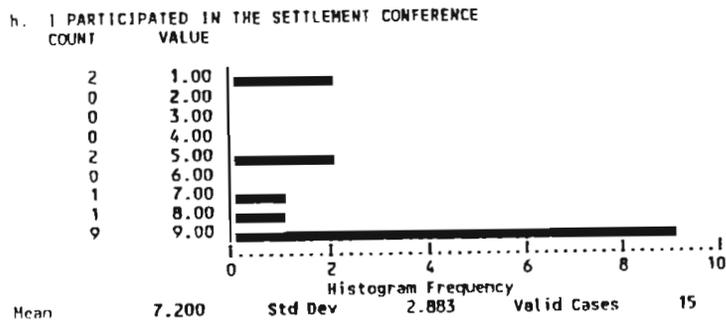
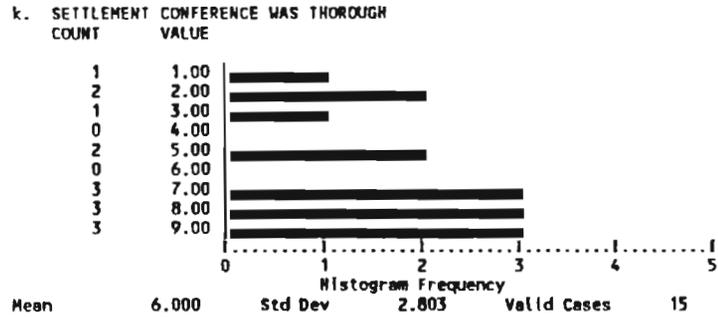
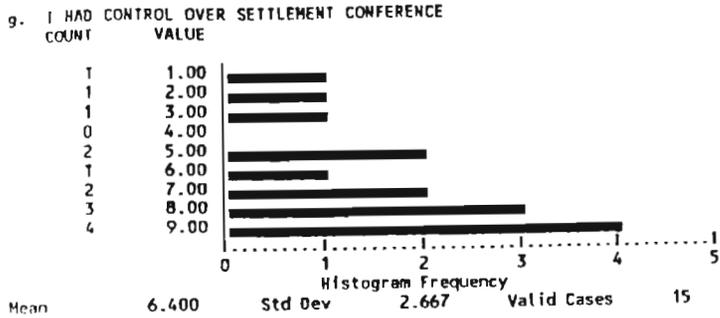
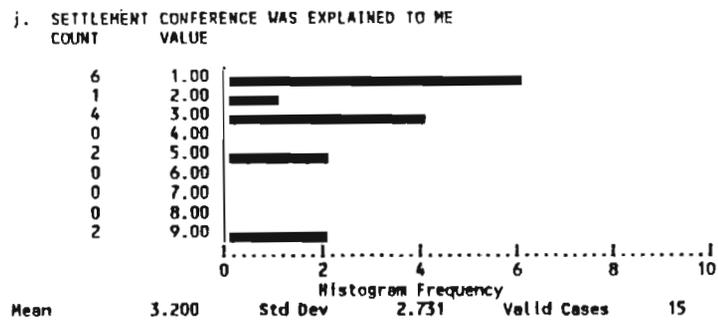
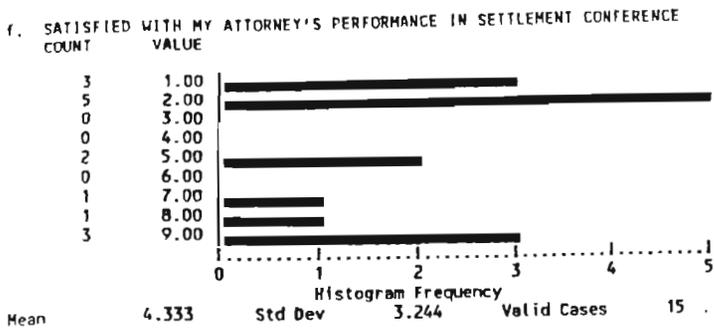


b. ARBITRATION WAS FAIR

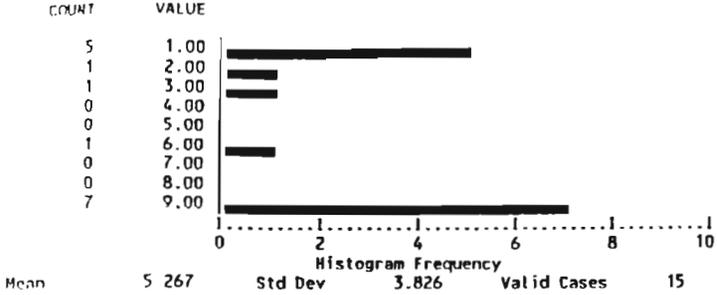




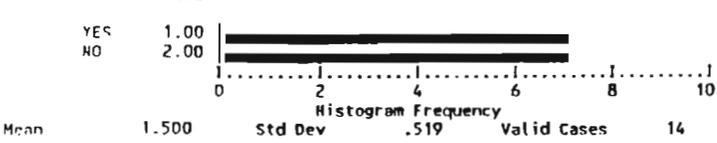




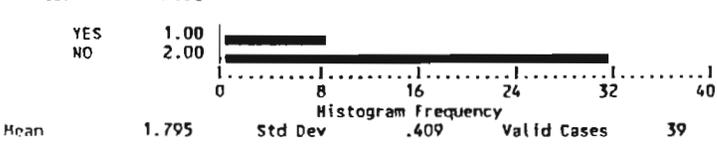
n. AS A RESULT OF THE SETTLEMENT CONFERENCE MY CASE WAS RESOLVED MORE QUICKLY



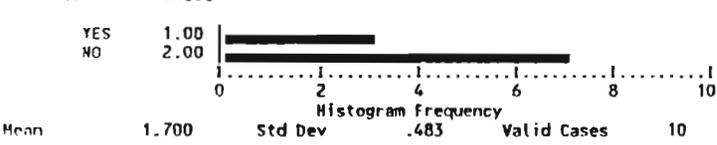
n. SETTLEMENT CONFERENCE RESULTED IN FINAL RESOLUTION OF CASE



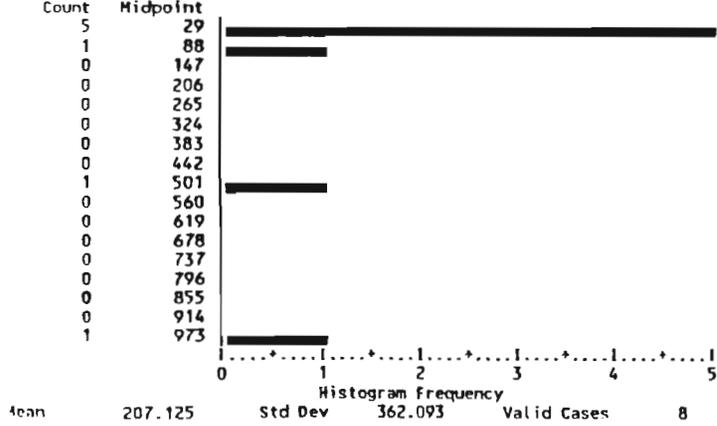
5. WAS A TRIAL USED IN AN ATTEMPT TO RESOLVE YOUR CASE?



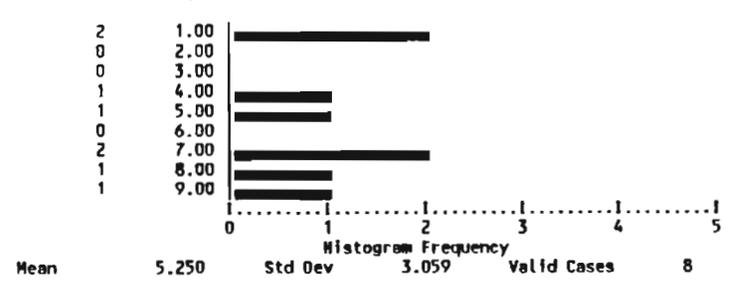
WAS THE TRIAL A JURY TRIAL?



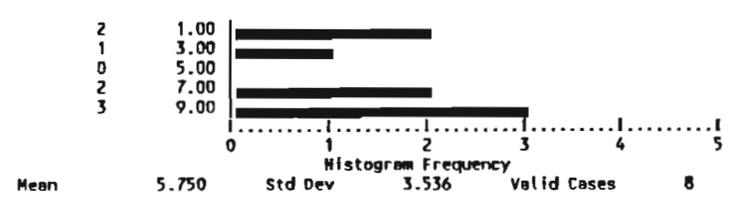
a. HOURS OF ATTORNEY TIME FOR TRIAL



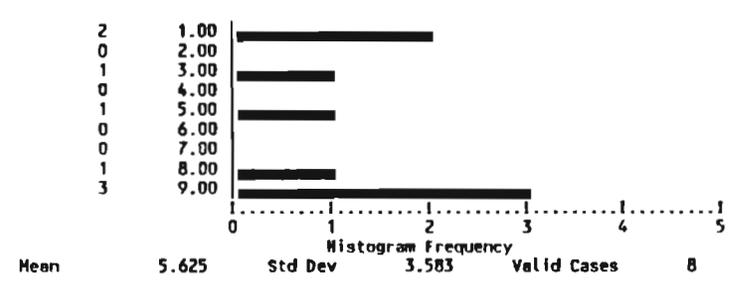
b. THE TRIAL WAS FAIR



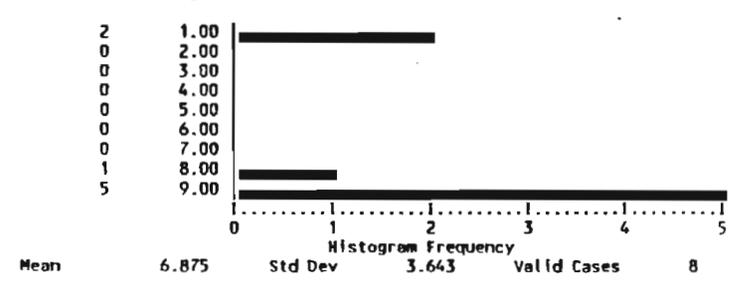
c. THE TRIAL WAS HELPFUL

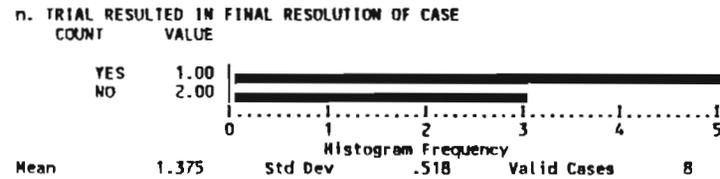
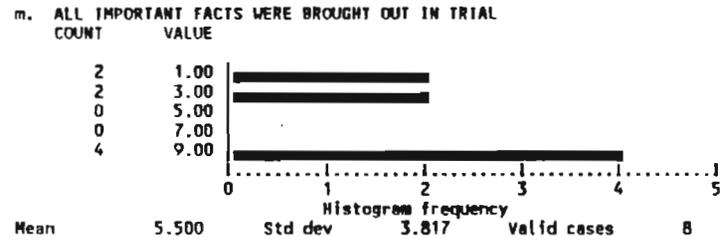
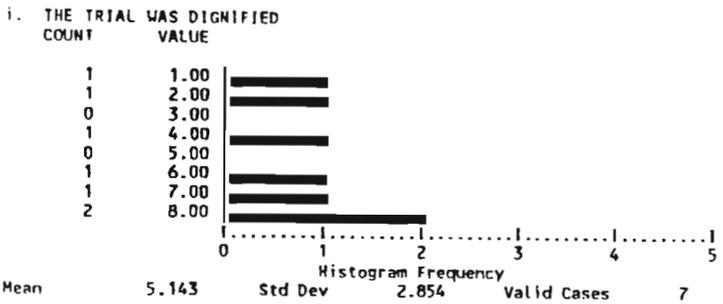
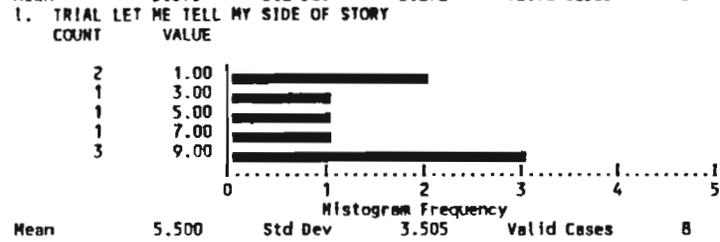
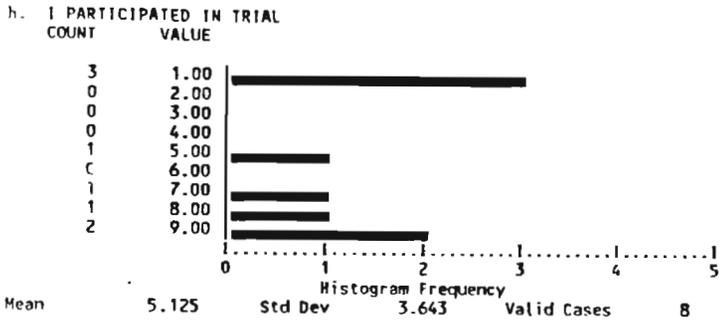
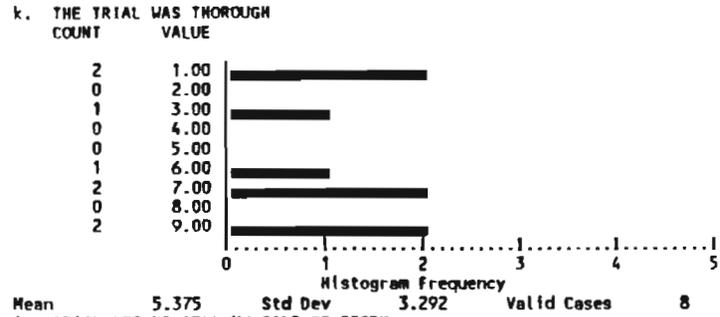
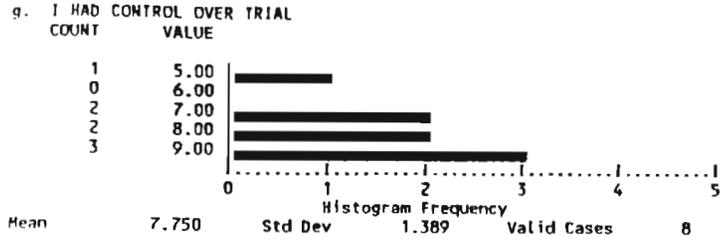
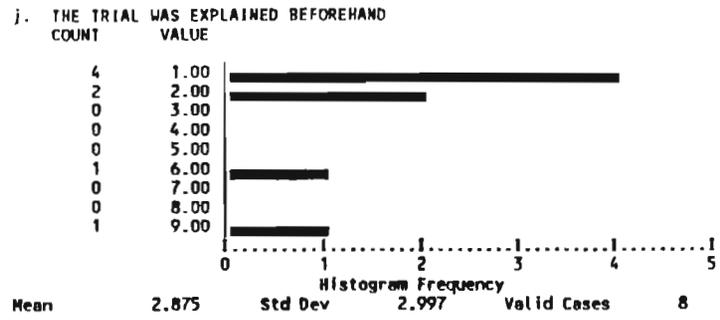
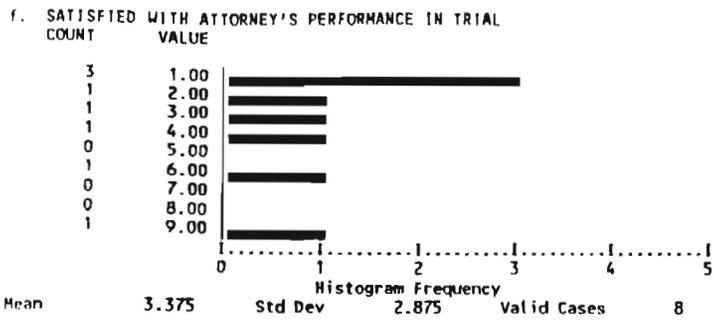


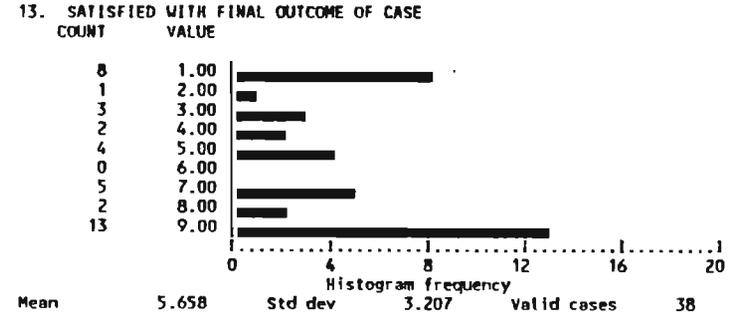
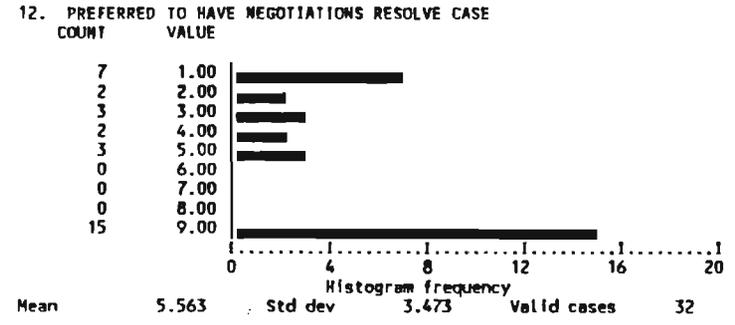
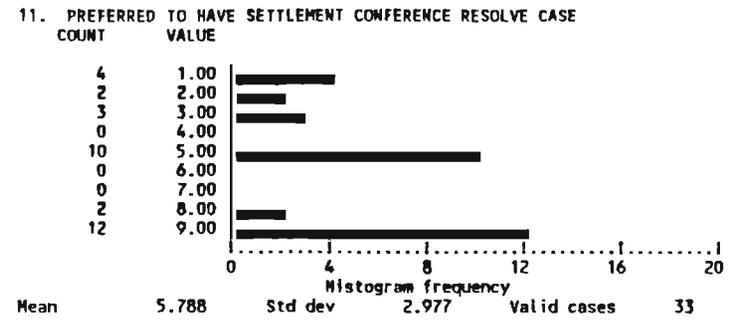
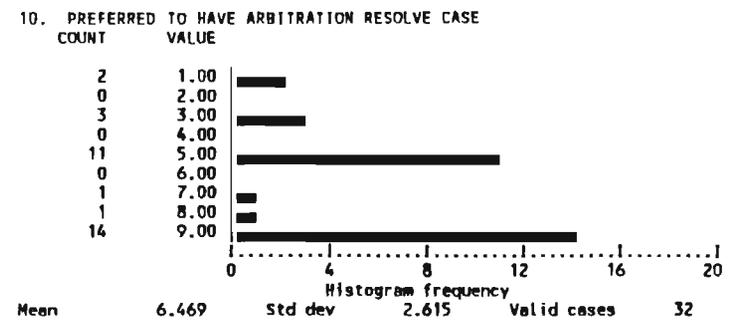
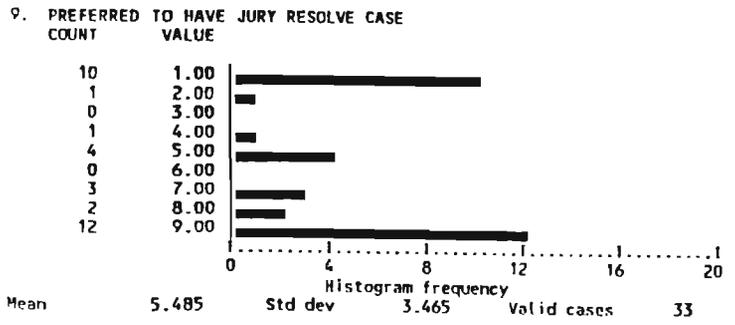
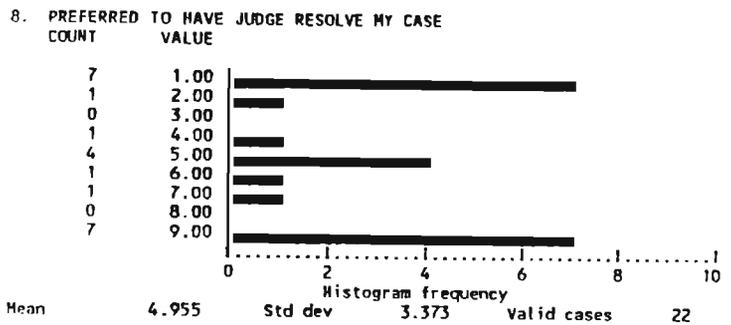
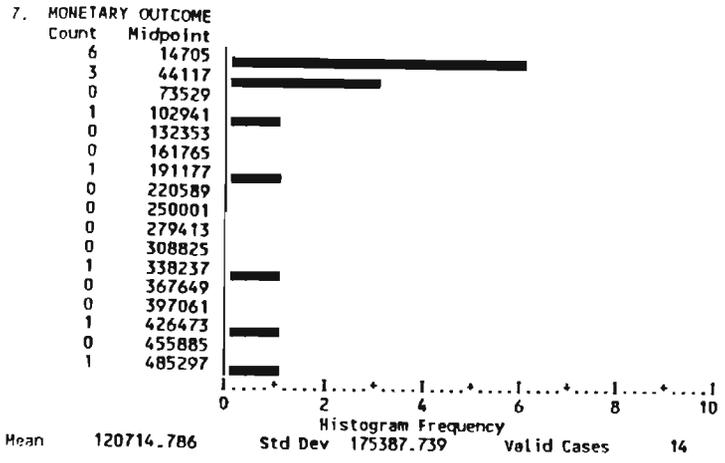
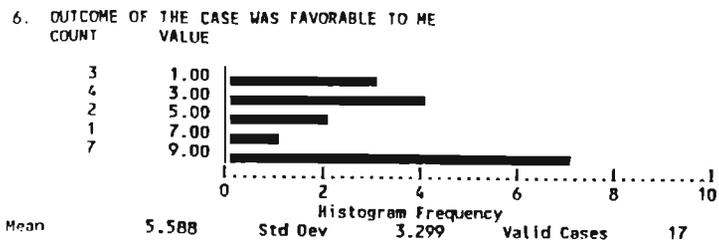
d. ADEQUATE TIME WAS GIVEN TO TRIAL



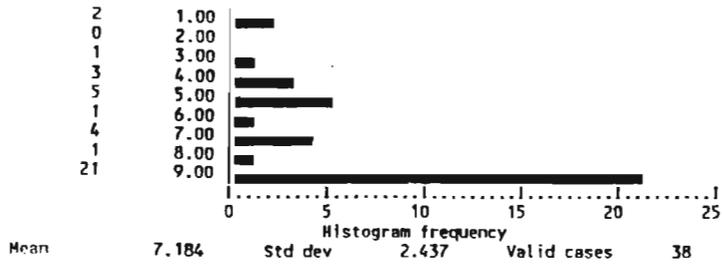
e. GOT MONEY'S WORTH FROM TRIAL



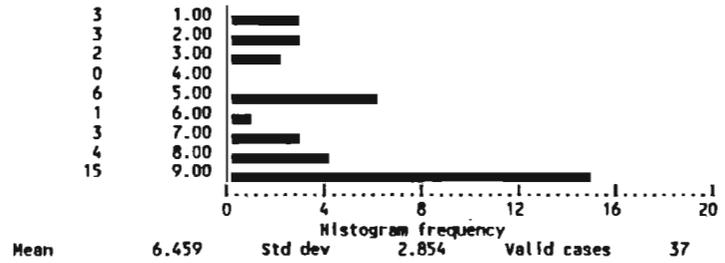




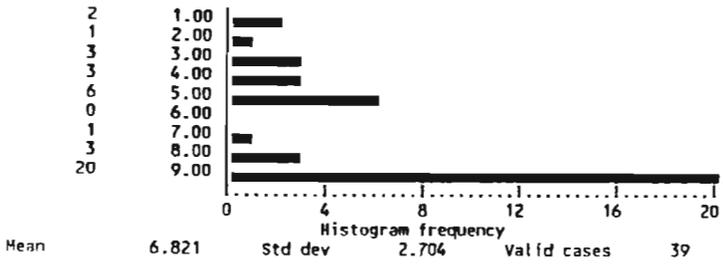
14. FINAL OUTCOME BETTER THAN EXPECTED



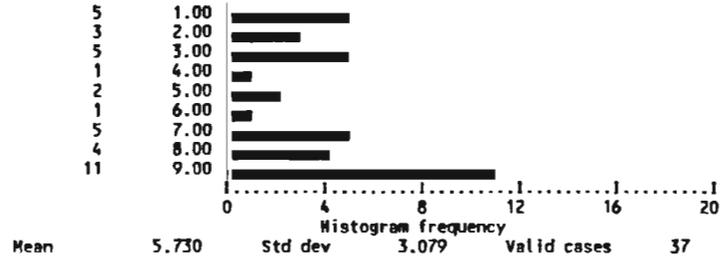
18. I HAD CONTROL OVER OUTCOME OF CASE



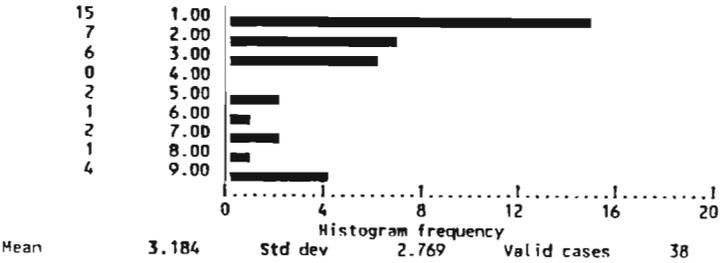
15. CASE RESOLVED IN REASONABLE PERIOD OF TIME



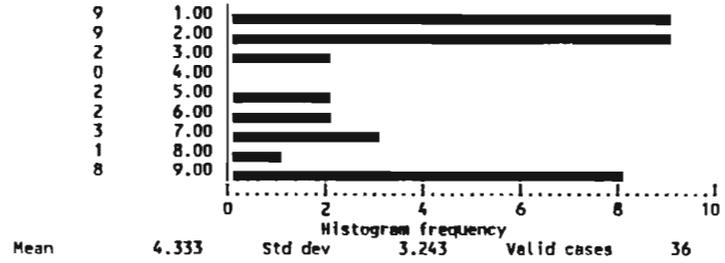
19. I HAD CONTROL OVER HOW CASE WAS HANDLED



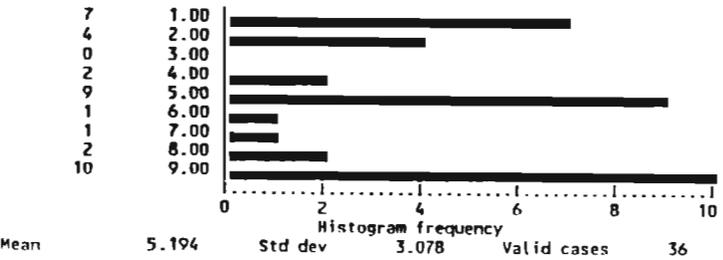
16. OVERALL I WAS SATISFIED WITH MY ATTORNEY



20. PARTICIPATED AS MUCH AS DESIRED IN THE PROCESSING OF CASE



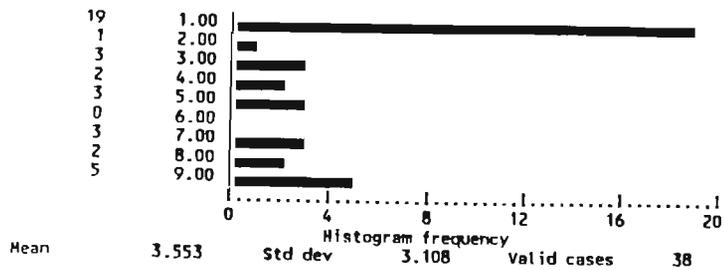
17. OVERALL I WAS SATISFIED WITH COURT



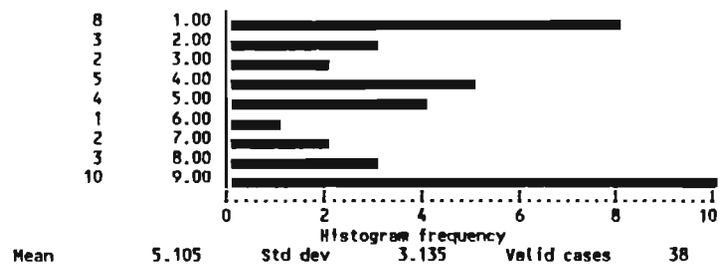
21. CASE WAS COMPLEX



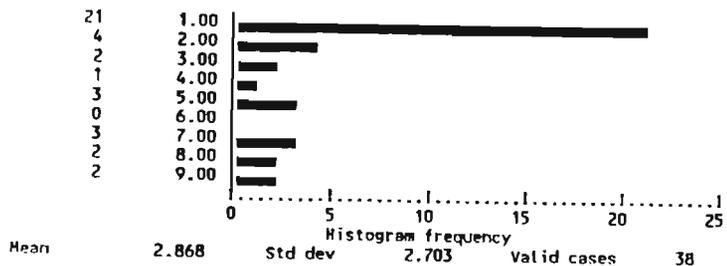
22. OPPOSING ATTORNEY'S ACTIVITIES CAUSED DELAY



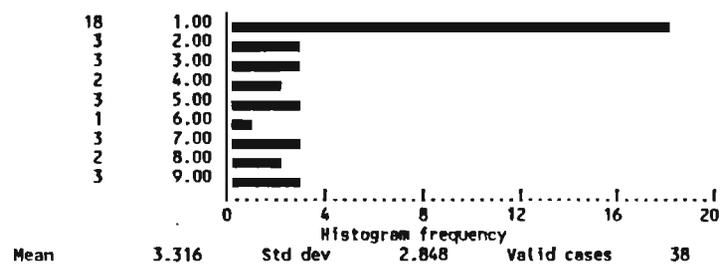
26. I OBTAINED A JUST RESULT



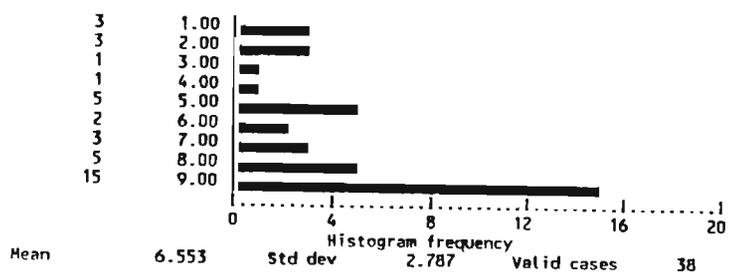
23. OPPOSING ATTORNEY'S ACTIVITIES CAUSED UNNECESSARY EXPENSE



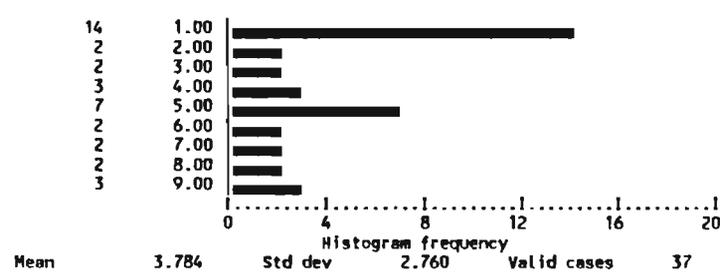
27. OVERALL COSTS OF CASE WERE TOO MUCH



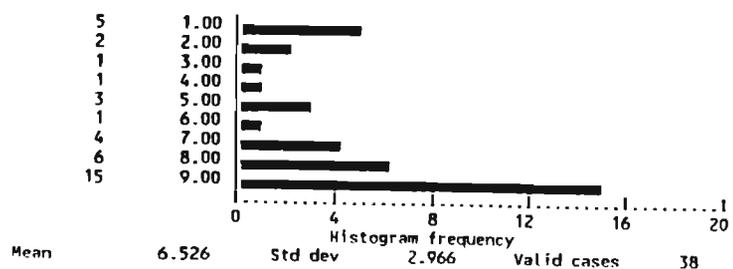
24. OWN ATTORNEY'S ACTIVITIES CAUSED DELAY



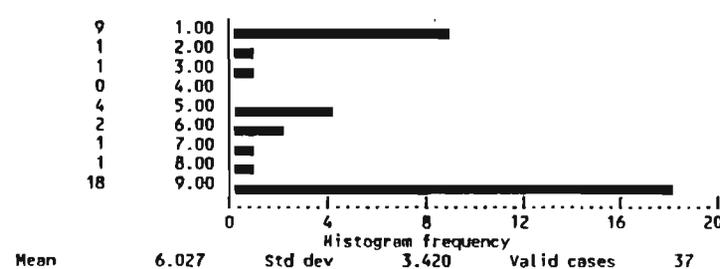
28. ATTORNEY FEES WERE TOO MUCH

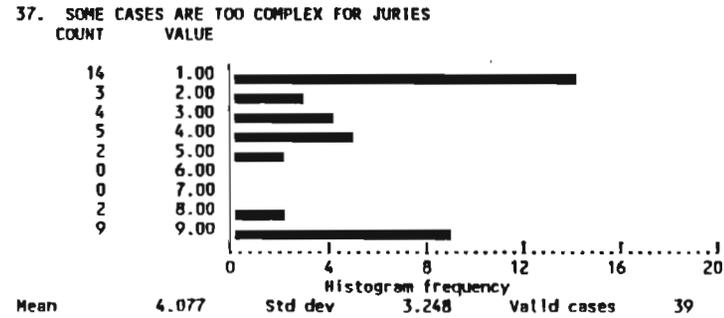
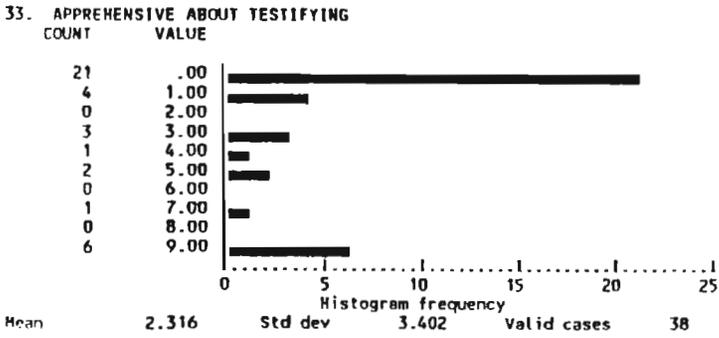
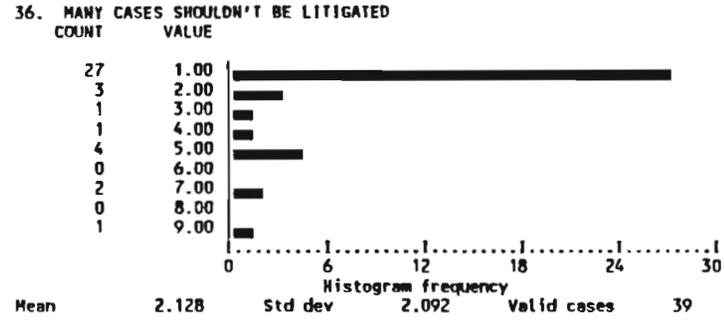
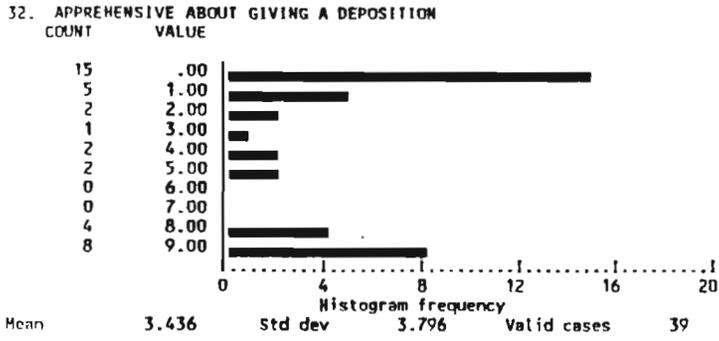
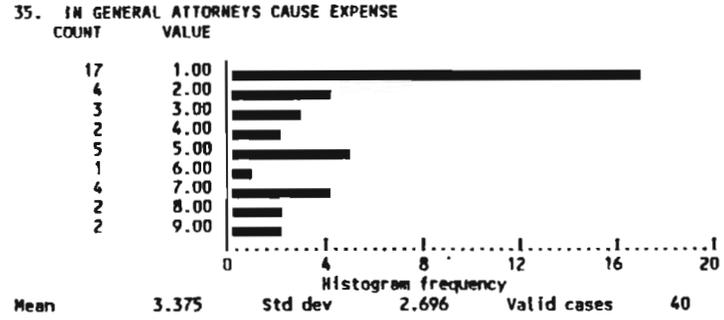
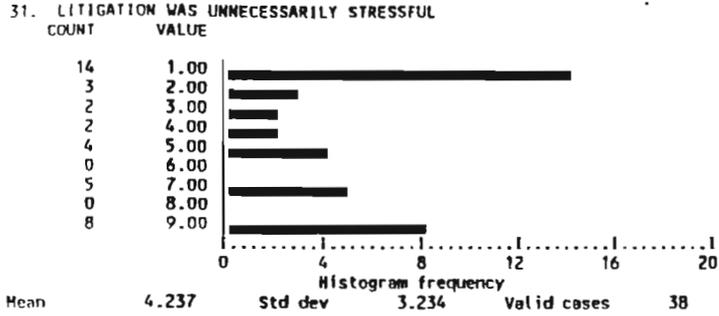
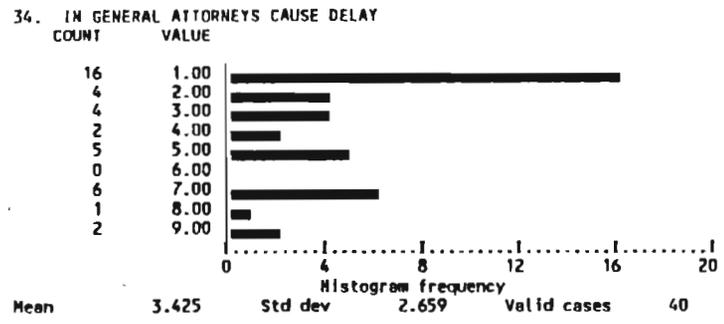
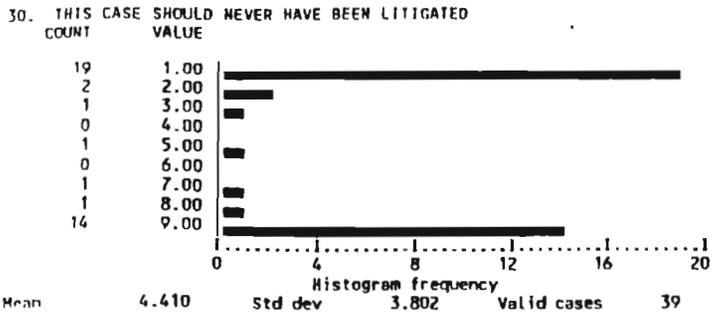


25. OWN ATTORNEY'S ACTIVITIES CAUSED EXPENSE

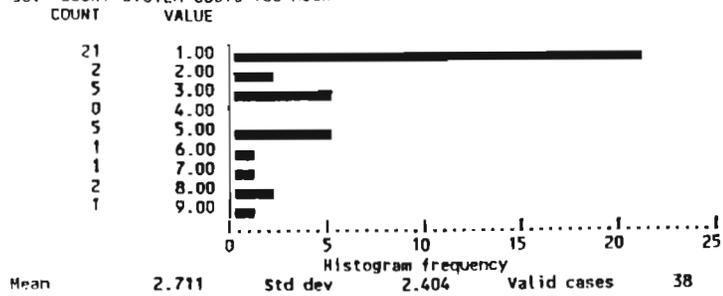


29. RESULT WAS BETTER THAN I WOULD HAVE OBTAINED WITHOUT LITIGATION

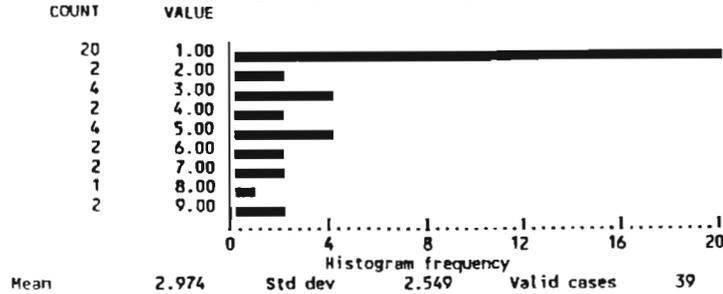




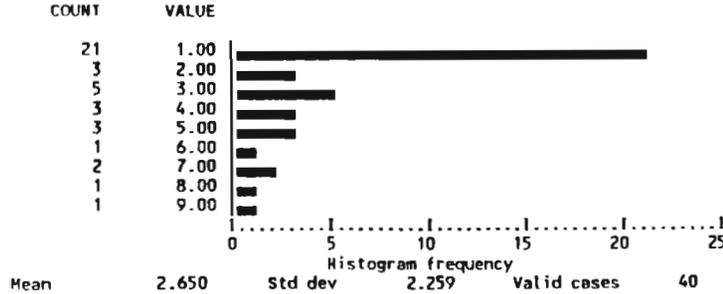
38. COURT SYSTEM COSTS TOO MUCH



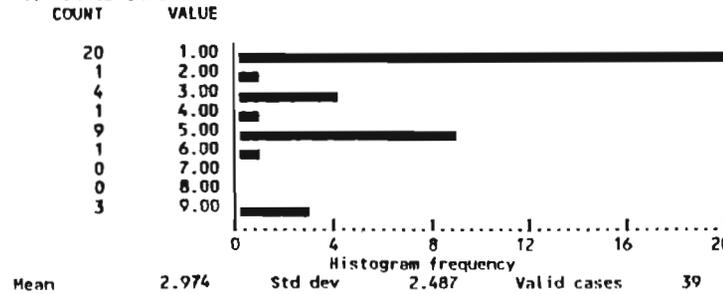
39. IN GENERAL I BELIEVE THERE ARE TOO MANY LAWYERS



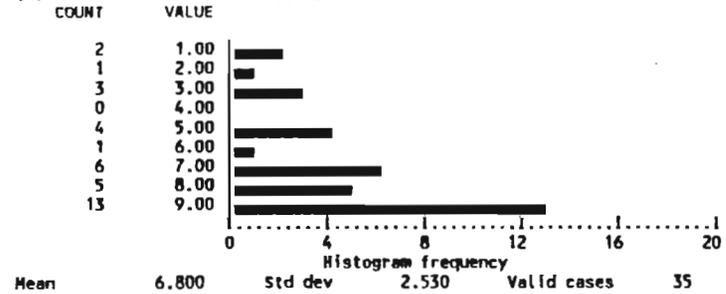
40. IN GENERAL LAWYERS ARE TOO EXPENSIVE



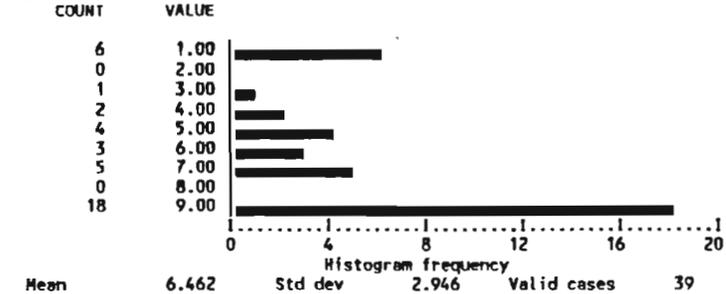
41. IN GENERAL JURY AWARDS ARE TOO HIGH



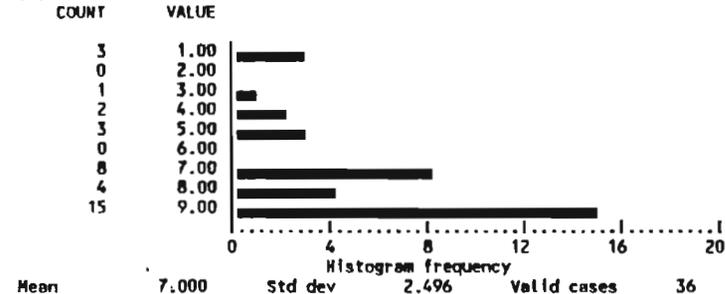
(1). GREATER LIMITS ON DISCOVERY



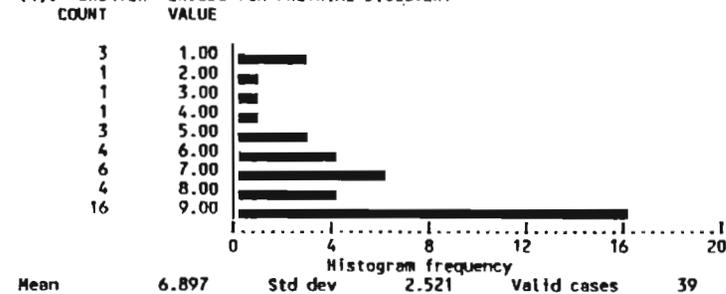
(2). LOSING PARTY ON DISCOVERY MOTION TO PAYS WINNERS COST

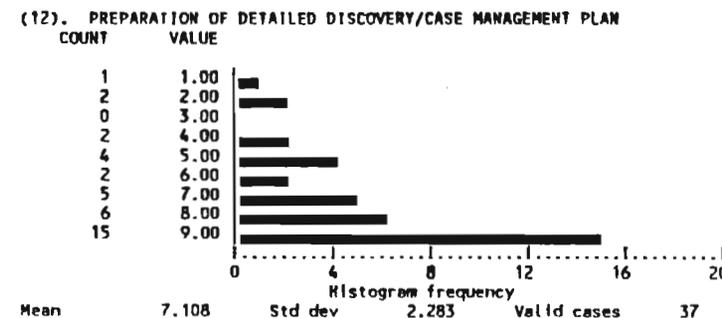
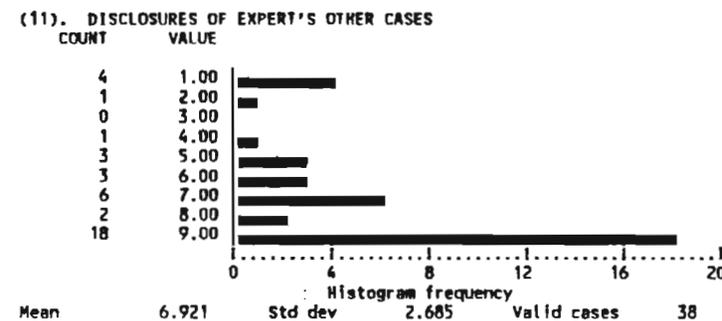
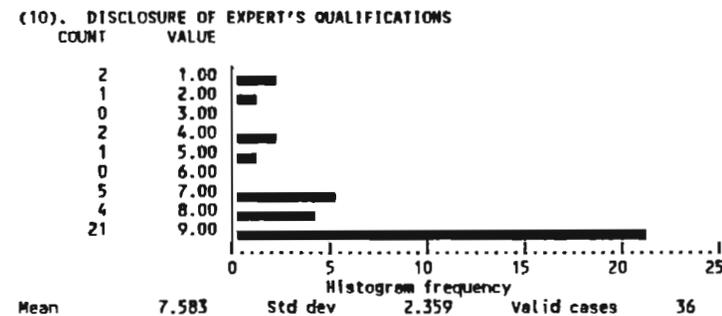
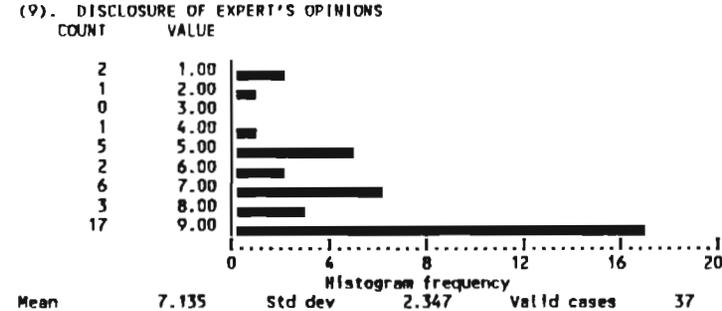
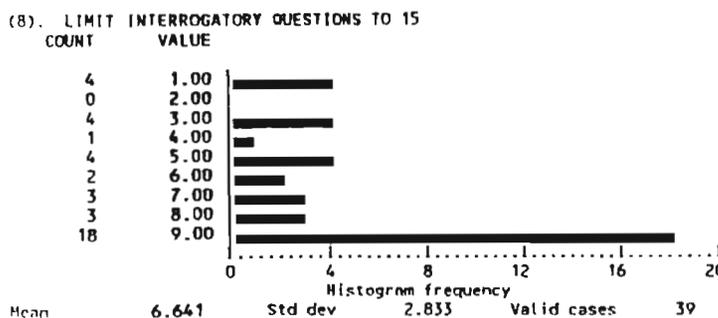
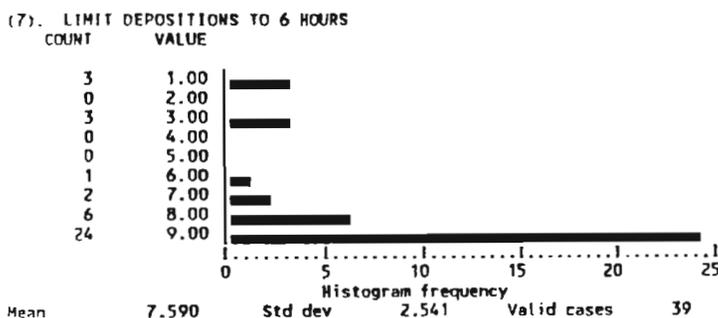
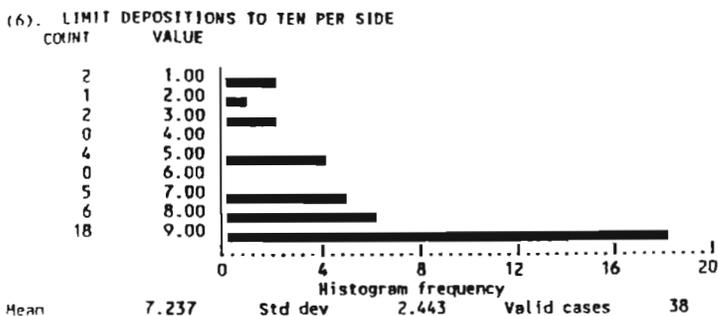
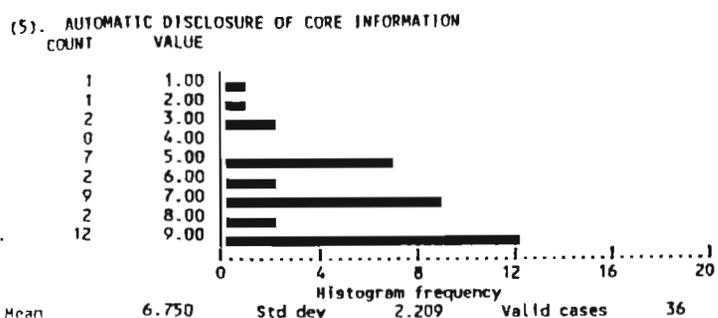


(3). SANCTIONS TO LIMIT UNNECESSARY DISCOVERY

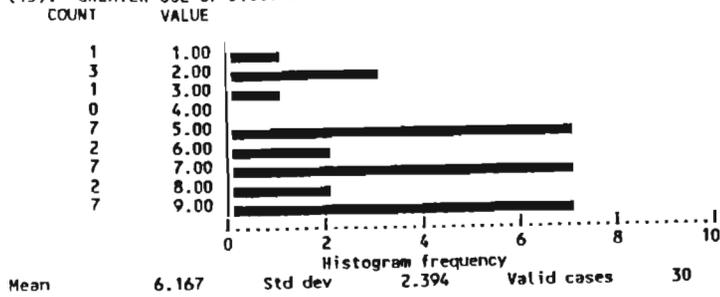


(4). SHORTER PERIODS FOR PRETRIAL DISCOVERY

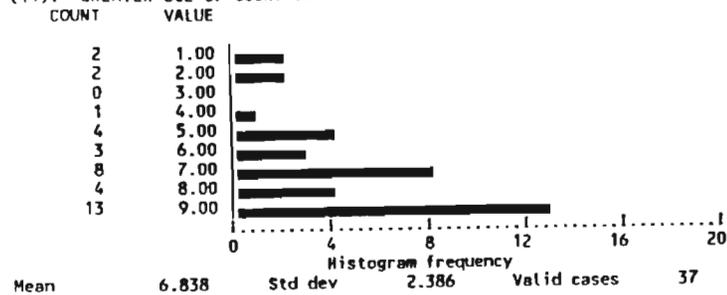




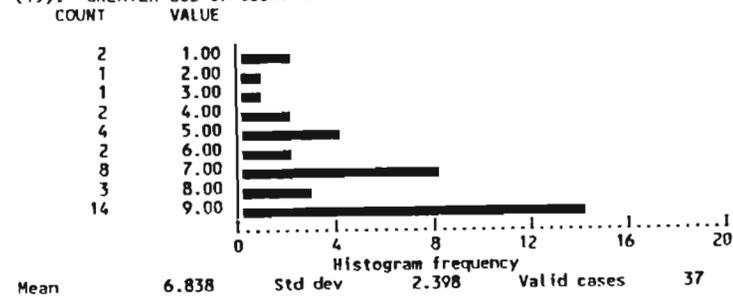
(13). GREATER USE OF DISCOVERY MASTERS



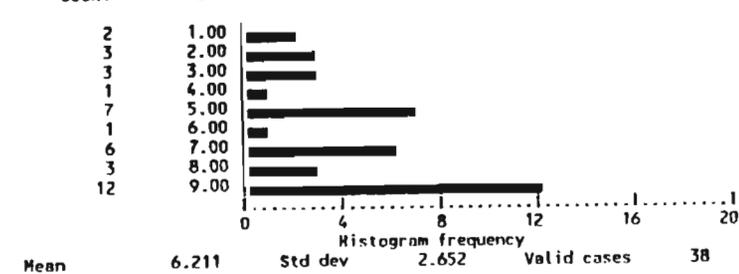
(14). GREATER USE OF COURT-SUPERVISED SETTLEMENT TALKS



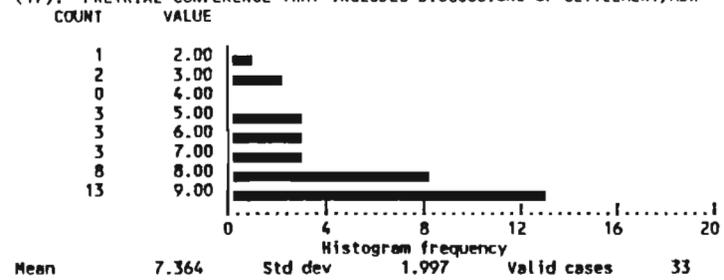
(15). GREATER USE OF COURT APPOINTED MASTERS



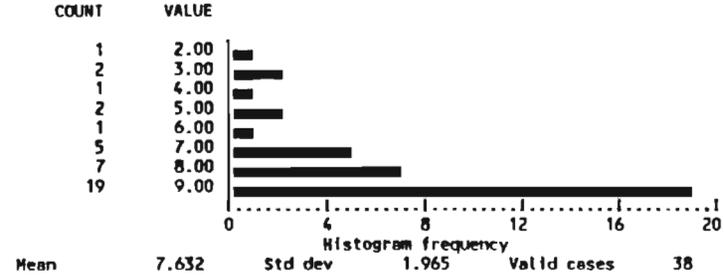
(16). GREATER USE OF MAGISTRATE JUDGES TO CONDUCT SETTLEMENT CONFERENCES



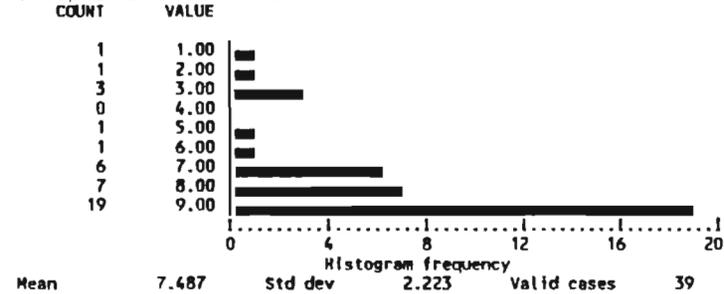
(17). PRETRIAL CONFERENCE THAT INCLUDES DISCUSSIONS OF SETTLEMENT/ADR



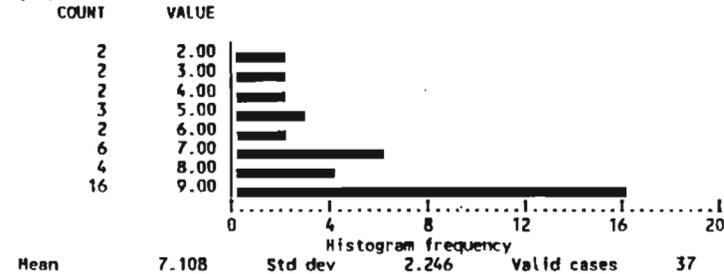
(18). MORE ACTIVE "HANDS-ON" JUDICIAL ROLE



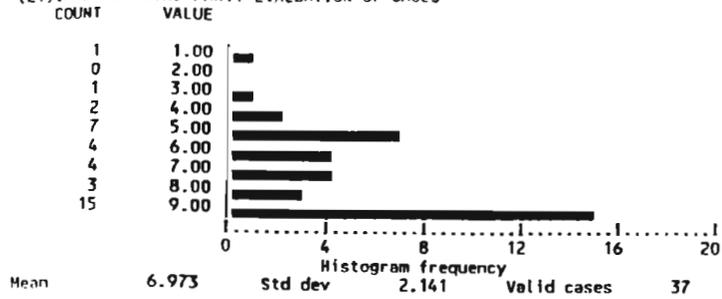
(19). SET EARLY FIRM TRIAL DATES



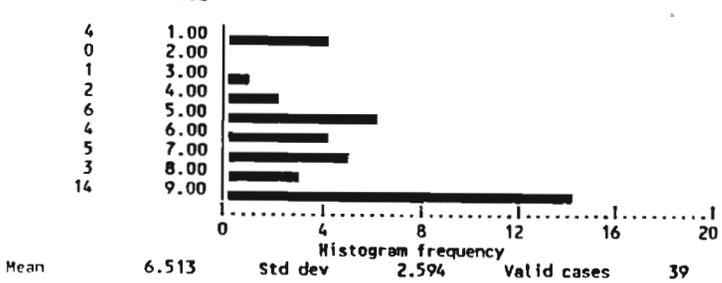
(20). GREATER USE OF ADR



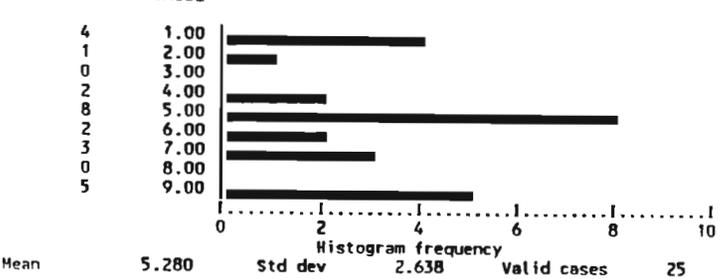
(21). MORE THIRD PARTY EVALUATION OF CASES



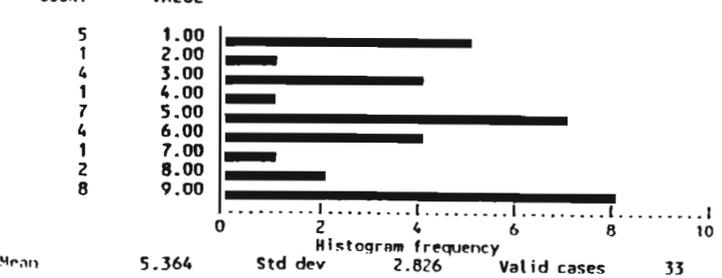
(22). MORE USE OF MEDIATION



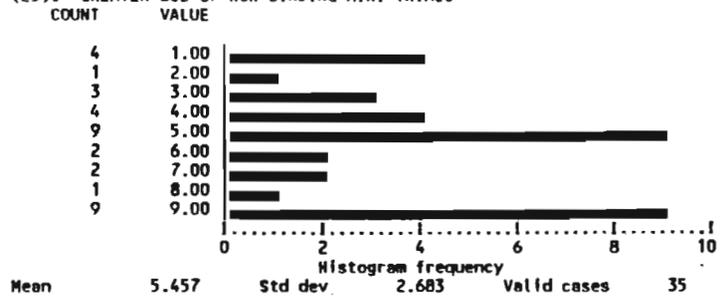
(23). REQUIRING MANDATORY NON-BINDING ARBITRATION ON THE HENNEPIN COUNTY MODEL



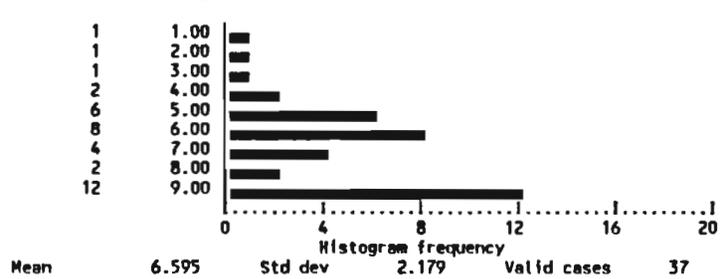
(24). GREATER USE OF NON-BINDING SUMMARY TRIALS



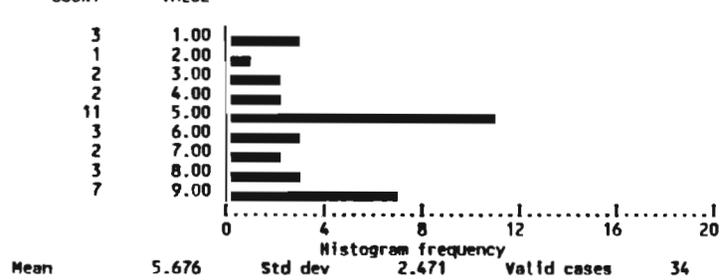
(25). GREATER USE OF NON-BINDING MINI TRIALS



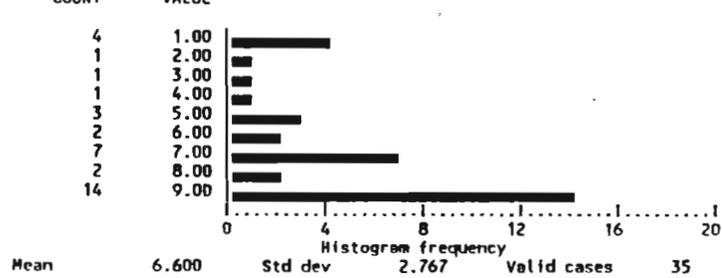
(26). USE OF MAGISTRATE JUDGES TO TRY CASE ON MERITS



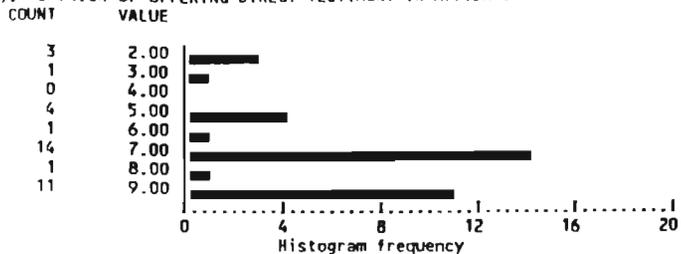
(27). LESS USE OF PRETRIAL SCHEDULING CONFERENCES



(28). PRETRIAL SCHEDULING CONFERENCES BY TELEPHONE

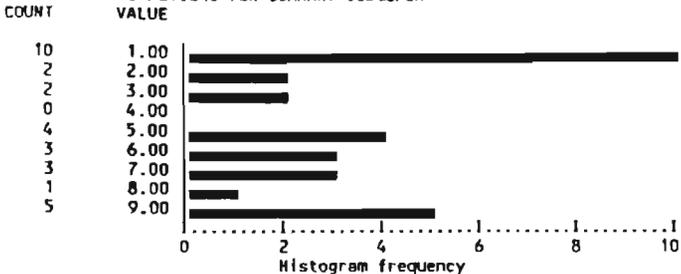


(29). OPINION OF OFFERING DIRECT TESTIMONY IN AFFIDAVIT



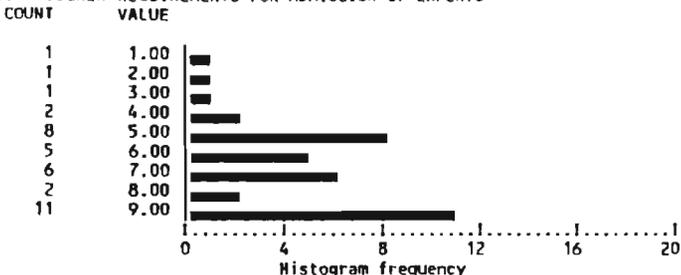
Mean 6.857 Std dev 2.116 Valid cases 35

(30). DISCOURAGE MOTIONS FOR SUMMARY JUDGEMENT



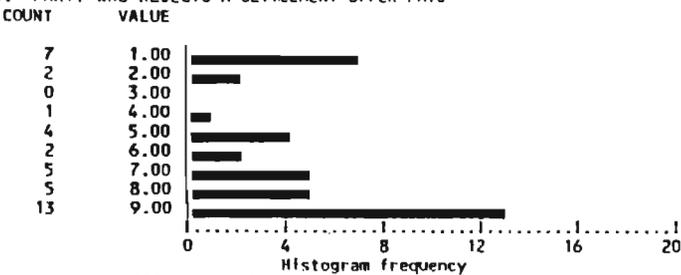
Mean 4.400 Std dev 3.103 Valid cases 30

(31). TOUGHEN REQUIREMENTS FOR ADMISSION OF EXPERTS



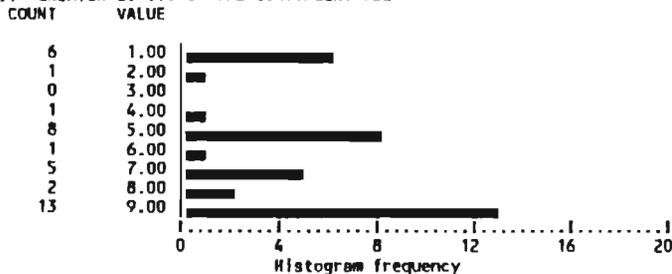
Mean 6.514 Std dev 2.168 Valid cases 37

(32). PARTY WHO REJECTS A SETTLEMENT OFFER PAYS



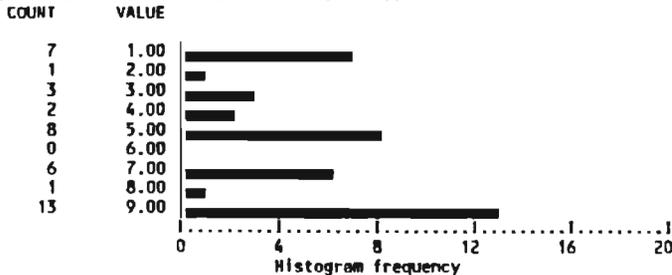
Mean 6.128 Std dev 3.062 Valid cases 39

(33). GREATER LIMITS ON THE CONTINGENT FEE



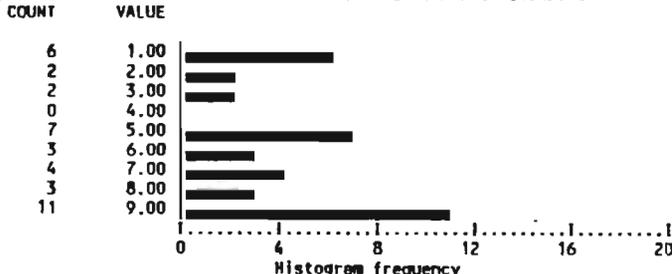
Mean 6.108 Std dev 2.923 Valid cases 37

(34). LOSER PAYS THE WINNERS ATTORNEY'S FEES



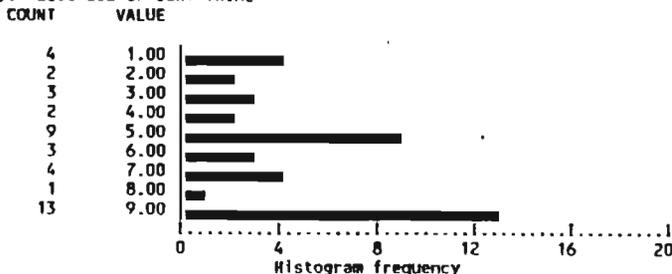
Mean 5.683 Std dev 2.987 Valid cases 41

(35). SUBSTITUTE TAPE OF DEPOSITION FOR STENOGRAPHIC RECORDING



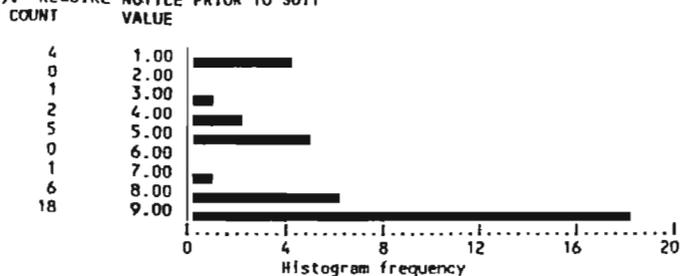
Mean 5.789 Std dev 2.942 Valid cases 38

(36). LESS USE OF JURY TRIAL

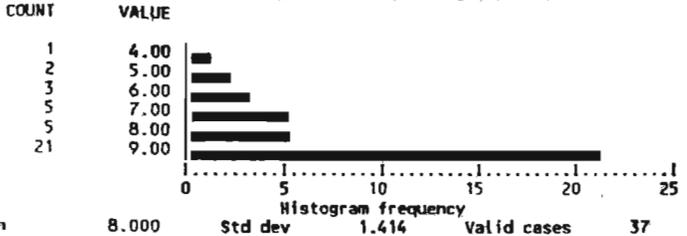


Mean 5.878 Std dev 2.740 Valid cases 41

(37). REQUIRE NOTICE PRIOR TO SUIT



(38). REQUIRE WRITTEN OPINION AFTER SUMMARY JUDGEMENT MOTION



Guidance to Advisory Groups Appointed Under the Civil Justice Reform Act of 1990

SY92 Statistics Supplement

September 1992



Prepared for the District of Minnesota

NOTES:

(Except for the update to 1992 data and this parenthetical, this document is identical to the one entitled "Guidance to Advisory Groups Appointed Under the Civil Justice Reform Act of 1990 SY91 Statistics Supplement, October 1991.")

The pages that follow provide an update to section IIb of the February 28, 1991 "Guidance to Advisory Groups" memorandum, incorporating data for Statistical Year 1992 (the twelve months ended June 30, 1992). The pages have been formatted exactly like the corresponding pages of the original memorandum, and may replace the corresponding pages in the original. There are no changes to the text of the document, except for a few references to the dates covered by the data. Certain discrepancies may be apparent between the original document and this update, as follows:

1. Table 1 (page 12) may show slightly different counts of case filings for recent years (e.g., SY88-90) than were shown in Table 1 of the original document. The variations arise from two sources. First, some cases actually filed in a particular statistical year are not reported to the Administrative Office until after it has officially closed the data files for that year (it is a practical necessity that the A.O. at some point close the files so that it may prepare its annual statistical reports). This can result in increased counts of cases filed in prior years. Second, both filing dates and case-type identifiers are occasionally reported incorrectly when a case is filed, but corrected when the case is terminated. The corrections can result in both increases and decreases in case filing counts.
2. Chart 6 (page 15) in the original document was incorrectly based on a subset of the "Type II" cases (as defined on page 10). It has been replaced in this update with a chart entitled "Chart 6 Corrected," which is based on all Type II cases. In most districts, the difference between the original, incorrect Chart 6 and the new version will be insignificant. In only a few districts is the difference significant.
3. An error was made in constructing Chart 8 in the original document. The text indicating the percentage of cases in the "Other" category lasting 3 years or more was shown as "8.0%," without regard to the actual percentage. The bars shown in the chart, however, were accurate. The error has been corrected in this update.

NOTE: This exhibit has no pages 2-9.

b. Caseload mix and filing trends. The variety of cases making up the caseload in most district courts will be surprising to many who study them for the first time. That variety may be important to advisory groups in assessing the docket and in considering what groups of cases, if any, should be treated differently in management plans. Different types of cases tend to move through the courts in different ways. For example, some are almost always disposed of by default judgment (student loan); some are in the nature of an appeal (bankruptcy); some are a unique subset of another category (asbestos cases in the personal injury category). From readily available data we cannot discern how a specific case moved through the system nor how a future case may move. Some types of cases, however, may move through the system in distinctive ways often enough to warrant your special attention. Do they affect court performance distinctively? Do they consume court resources distinctively?

We have sorted case types into two categories to illustrate the point of distinctive paths. Type I case types are distinctive because within each case type the vast majority of the cases are handled the same way; for example, most Social Security cases are disposed of by summary judgment. Type II case types, in contrast, are disposed of by a greater variety of methods and follow more varied paths to disposition; for example, one contract action may settle, another go to trial, another end in summary judgment, and so on. (See the table in Appendix B for a complete definition of the case types.)

Type I includes the following case types, which over the past ten years account for about 40% of civil filings in all districts:

- student loan collection cases
- cases seeking recovery of overpayment of veterans' benefits
- appeals of Social Security Administration benefit denials
- condition-of-confinement cases brought by state prisoners
- habeas corpus petitions
- appeals from bankruptcy court decisions
- land condemnation cases
- asbestos product liability cases

The advisory group may wish to consider whether, in this district, these categories or any others identified by the group are distinctive enough to warrant special attention in assessing the condition of the docket or in recommending future actions. Careful documentation of analyses and decisions of this kind will contribute significantly to the final report the Judicial Conference must make to Congress.

Type II includes the remainder of the case types, which collectively account for about 60% of national civil filings over the past ten years. Case types with the largest number of national filings were:

- contract actions other than student loan, veterans' benefits, and collection of judgment cases
- personal injury cases other than asbestos
- non-prisoner civil rights cases
- patent and copyright cases
- ERISA cases
- labor law cases
- tax cases

- securities cases
- other actions under federal statutes; e.g., FOIA, RICO, and banking laws

Chart 1 shows the percentage distribution among types of civil cases filed in your district for the past three years.

Chart 1: Distribution of Case Filings, SY90-92
District of Minnesota

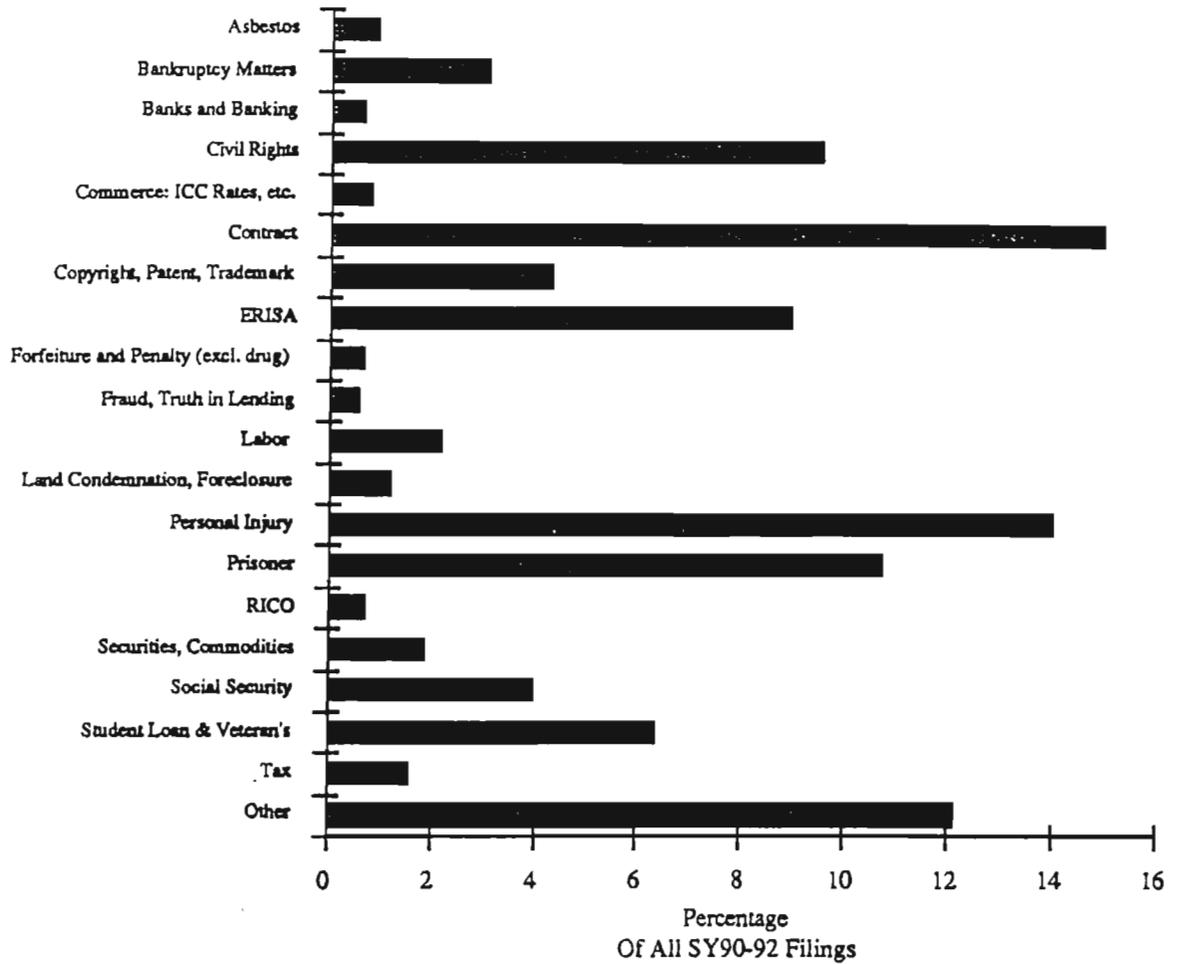


Chart 2 shows the trend of case filings over the past ten years for the Type I and Type II categories. Table 1 shows filing trends for the more detailed taxonomy of case types.

Chart 2: Filings By Broad Category, SY83-92
District of Minnesota

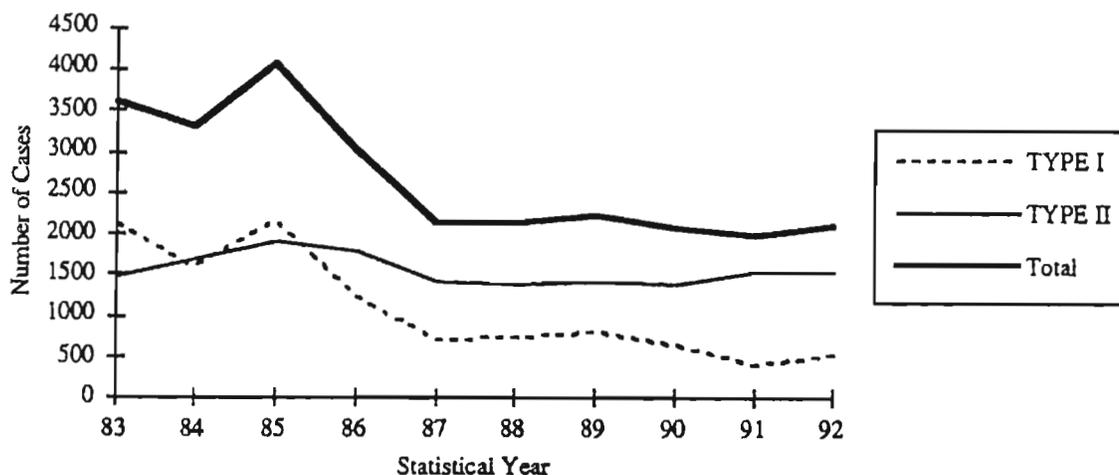
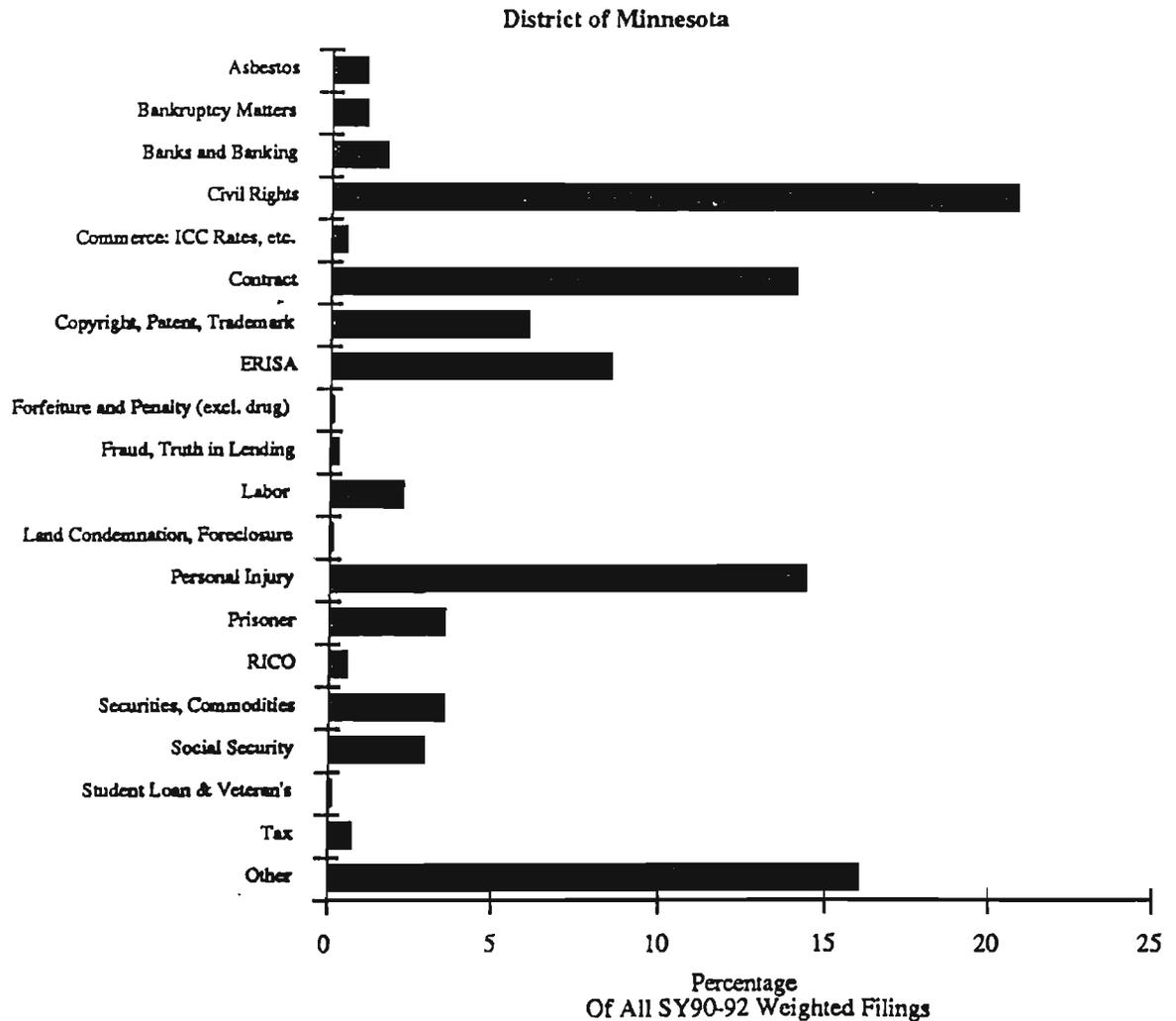


Table 1: Filings by Case Types, SY83-92

District of Minnesota	YEAR									
	83	84	85	86	87	88	89	90	91	92
Asbestos	0	1	0	0	3	9	3	49	3	6
Bankruptcy Matters	41	87	74	78	82	70	76	72	66	51
Banks and Banking	2	4	8	2	10	19	12	4	17	22
Civil Rights	238	252	233	243	149	165	177	159	188	242
Commerce: ICC Rates, etc.	20	14	13	3	11	9	5	23	7	21
Contract	399	362	337	458	365	377	399	292	317	313
Copyright, Patent, Trademark	82	87	89	107	99	94	77	92	77	97
ERISA	81	65	133	170	185	113	179	172	202	179
Forfeiture and Penalty (excl. drug)	20	28	37	28	39	23	46	26	10	6
Fraud, Truth in Lending	14	29	53	25	8	6	13	11	11	14
Labor	75	61	49	73	65	72	51	52	38	46
Land Condemnation, Foreclosure	8	14	13	14	17	22	14	24	17	34
Personal Injury	256	501	651	359	223	217	196	254	350	256
Prisoner	160	141	171	214	262	251	306	263	195	202
RICO	0	0	0	15	20	12	8	19	10	16
Securities, Commodities	87	52	56	80	70	46	56	51	32	33
Social Security	203	351	190	122	140	180	94	91	64	91
Student Loan and Veteran's	1705	1001	1698	799	200	211	309	169	72	150
Tax	37	66	50	35	25	34	33	32	35	31
All Other	187	171	205	185	160	207	170	219	252	274
All Civil Cases	3615	3287	4060	3010	2133	2137	2224	2074	1963	2084

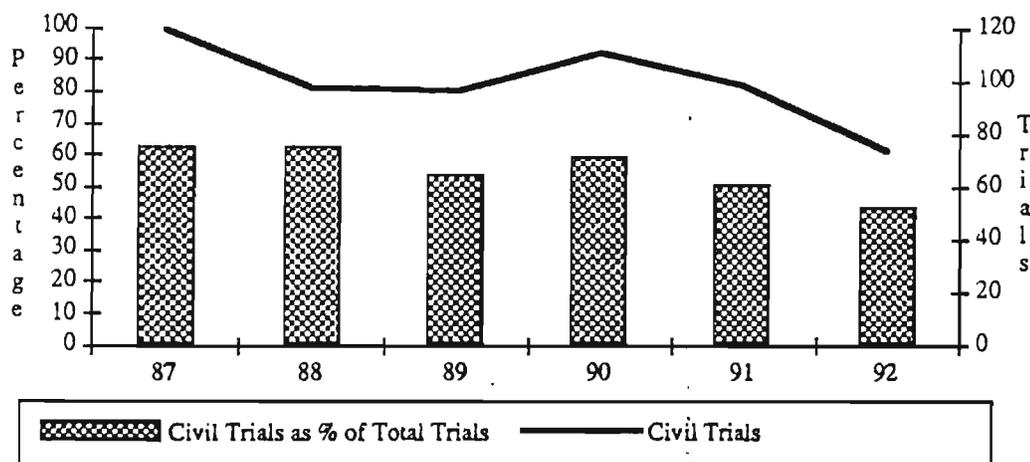
c. Burden. While total number of cases filed is an important figure, it does not provide much information about the work the cases will impose on the court. For this reason, the Judicial Conference uses a system of case weights based on measurements of judge time devoted to different types of cases. Chart 3 employs the current case weights to show the approximate distribution of demands on judge time among the case types accounting for the past three years' filings in this district. The chart does not reflect the demand placed on magistrate judges.

Chart 3: Distribution of Weighted Civil Case Filings, SY90-92



Another indicator of burden is the incidence of civil trials. Chart 4 shows the number of civil trials completed and the percentage of all trials accounted for by civil cases during the last six years.

Chart 4: Number of Civil Trials and Civil Trials as a Percentage of Total Trials, SY87-92
District of Minnesota



d. Time to disposition. This section is intended to assist in assessments of “delay” in civil litigation in this district. We first look at conventional data on the pace of litigation and then suggest some alternative ways of examining data to estimate the time that will be required to dispose of newly filed cases. The *MgmtRep* table shows the median time from filing to disposition for civil cases and for felonies. Time from joinder of issue to trial is also reported for civil cases that reached trial. 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 or three 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, we offer other approaches 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. (The calculation of these measures is explained in Appendix B.)

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. Charts 5 and 6 display calculations we have made for this district using these measures.

Chart 5: Life Expectancy and Indexed Average Lifespan, All Civil Cases SY83-92
District of Minnesota

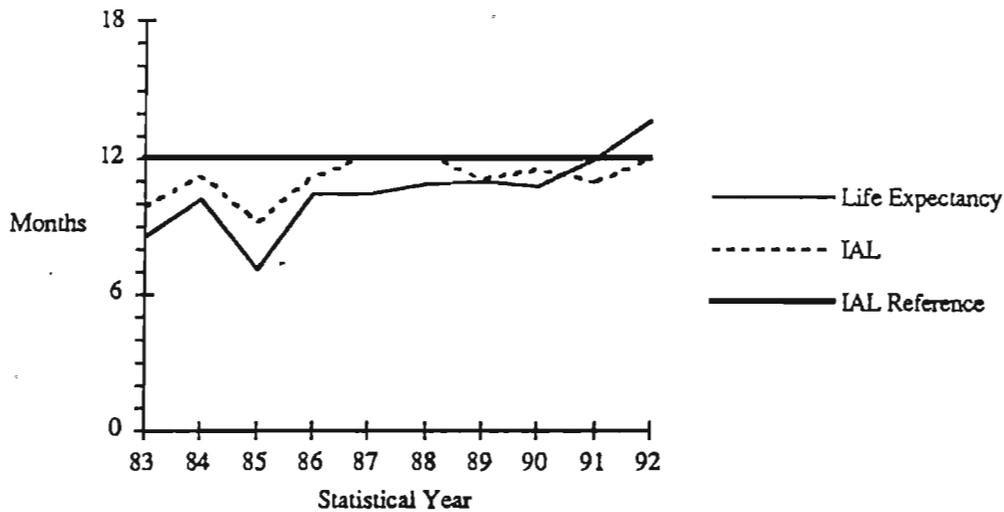
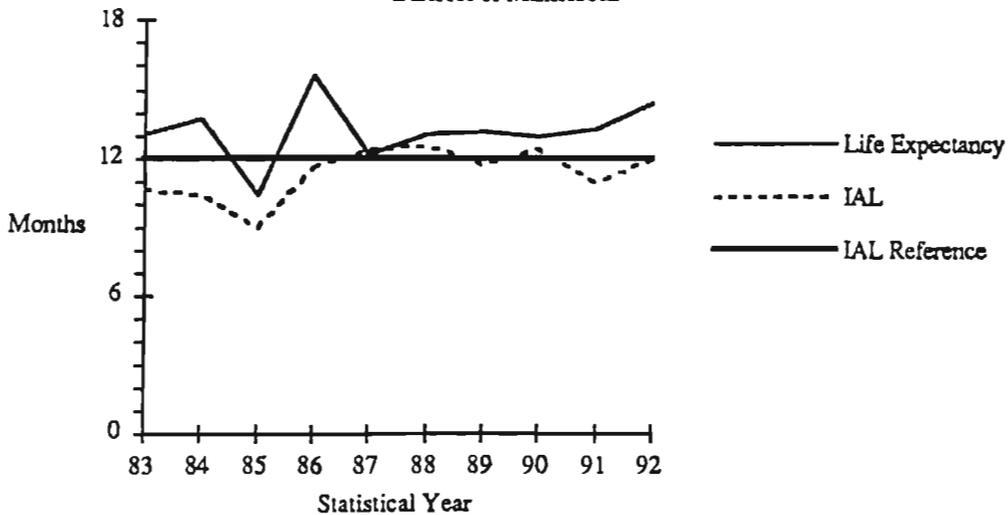


Chart 6: Life Expectancy and Indexed Average Lifespan, Type II Civil Cases SY83-92
District of Minnesota



e. Three-year-old cases. The *MgmtRep* table shows the number and percentage of pending cases that were over three years old at the indicated reporting dates. We have prepared Charts 7 and 8 to provide some additional information on these cases.

Chart 7 shows the distribution of case terminations among a selection of termination stages and shows within each stage the percentage of cases that were three years old or more at termination.

Chart 7: Cases Terminated in SY89-91, By Termination Category and Age

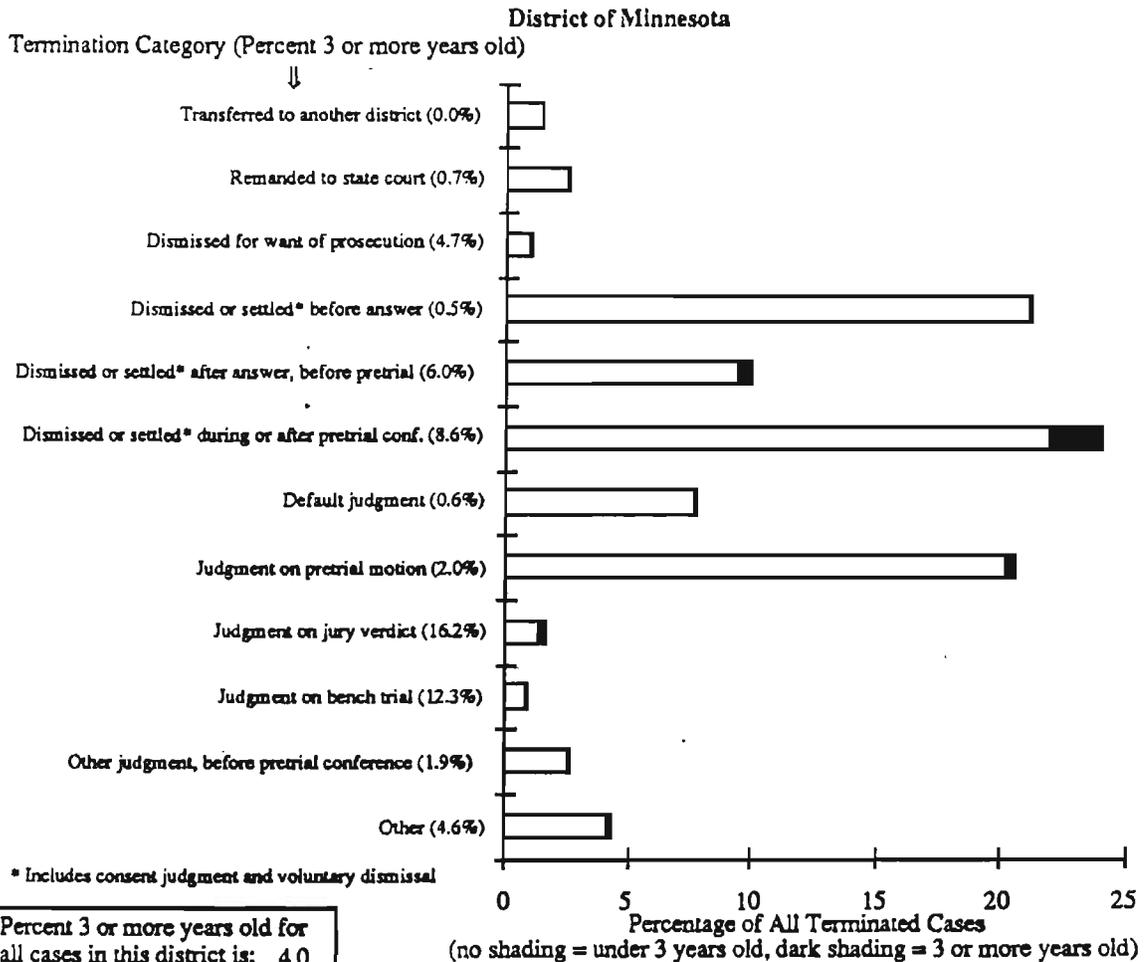
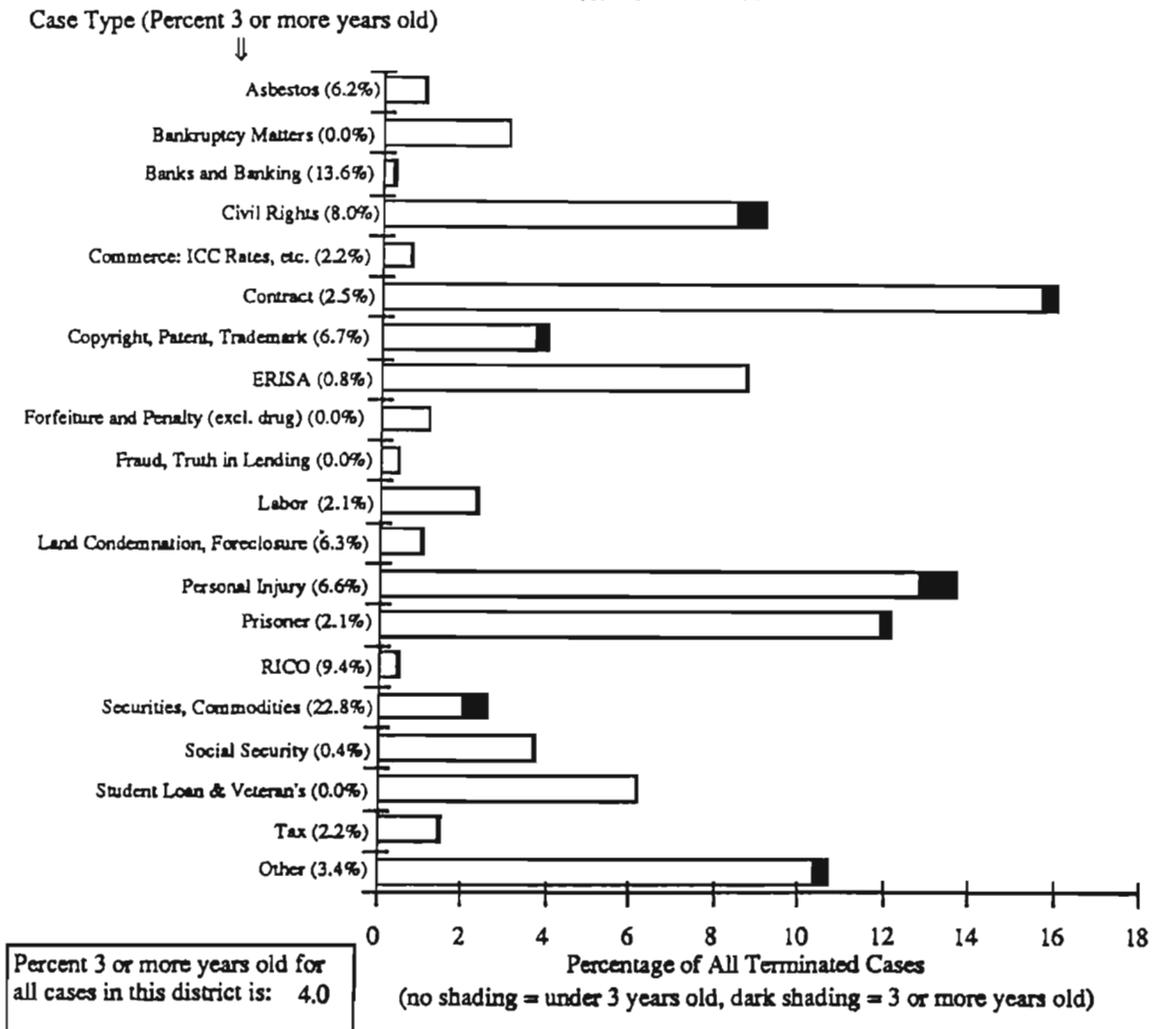


Chart 8 shows the distribution of terminations among the major case types and shows within each type the percentage of cases that were three years old or more at termination.

Chart 8: Cases Terminated in SY90-92, By Case Type and Age

District of Minnesota



f. Vacant judgeships. The judgeship data given in *MgmtRep* permit a calculation of available judge power for each reported year. If the table shows any vacant judgeship months for this district, a simple calculation can be used to assess the impact: Multiply the number of judgeships by 12, subtract the number of vacant judgeship months, divide the result by 12, and then divide the result into the number of judgeships. The result is an adjustment factor that may be multiplied by any of the per-judgeship figures in the *MgmtRep* table to show what the figure would be if computed on a per-available-active-judge basis. For instance, if the district has three judgeships and six vacant judgeship months, the adjustment factor would be 1.2 ($36 - 6 = 30$; $30 / 12 = 2.5$; $3 / 2.5 = 1.2$). If terminations per judgeship are 400, then terminations per available active judge would be 480 (400×1.2). This will overstate the workload of the active judges if

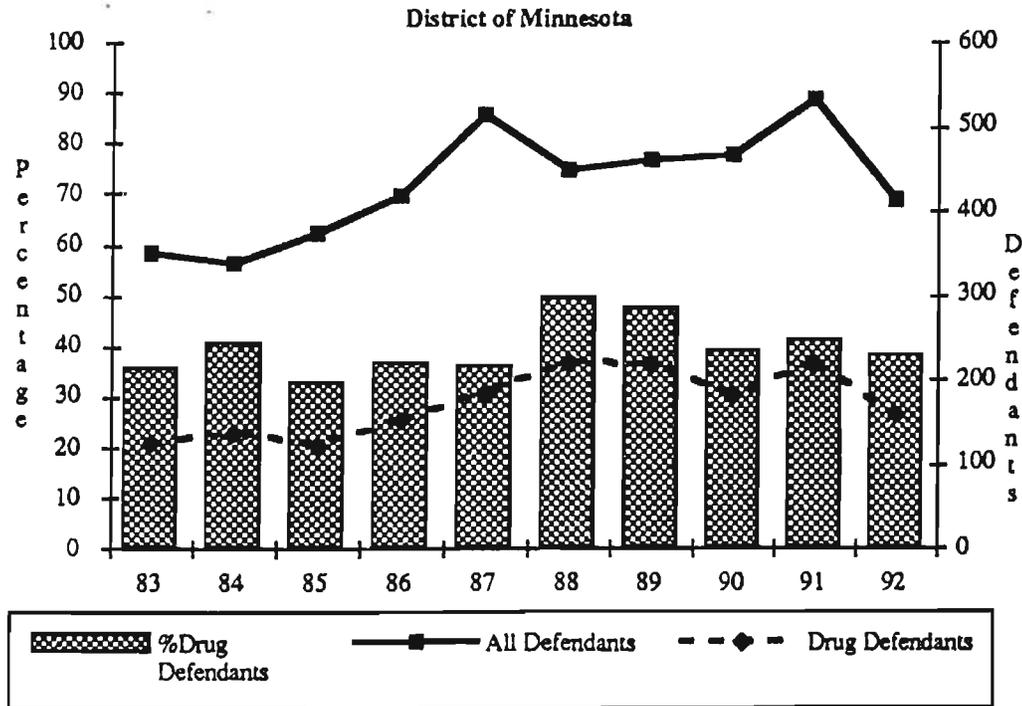
there are senior judges contributing to the work of the district. Because of the varying contributions of senior judges, however, there is no standard by which to take account of their effect on the workload of the active judges.

2. The Criminal Docket

a. The impact of criminal prosecutions. In calling on the advisory group to consider the state of the criminal docket, Congress recognized that the criminal caseload limits the resources available for the court's civil caseload. It is important to recognize that the Speedy Trial Act mandates that criminal proceedings occur within specified time limits, which may interfere with the prompt disposition of civil matters.

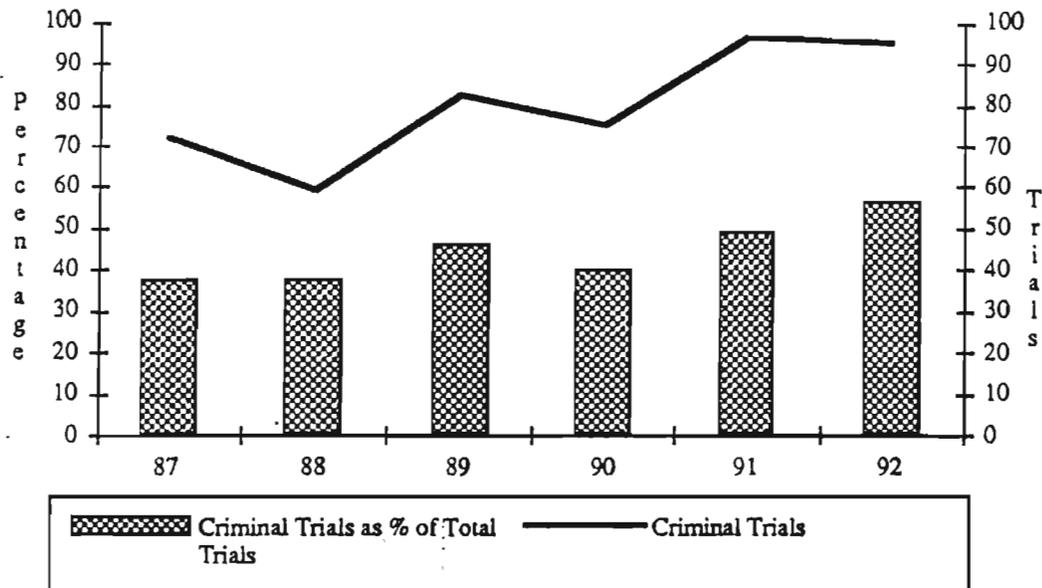
The trend of criminal defendant filings for this district is shown in Chart 9. We have counted criminal defendants rather than cases because early results from the current FJC district court time study indicate that burden of a criminal case is proportional to the number of defendants. Because drug prosecutions have in some districts dramatically increased demands on court resources, we have also shown the number and percentage of defendants in drug cases. A detailed breakdown of criminal filings by offense is shown on the last line of the table reproduced on page 8. A more detailed, five-year breakdown of the district's criminal caseload is available from David Cook of the Administrative Office's Statistics Division (FTS/633-6094).

Chart 9: Criminal Defendant Filings With Number and Percentage Accounted for by Drug Defendants, SY83-92



b. **The demand on resources by criminal trials.** Chart 10 shows the number of criminal trials and the percentage of all trials accounted for by criminal cases during the last six years.

Chart 10: Number of Criminal Trials and Criminal Trials as a Percentage of Total Trials, SY86-91
District of Minnesota



For more information on caseload issues

This section was prepared by John Shapard of the Federal Judicial Center with assistance from David Cook and his staff in the Statistics Division of the Administrative Office of the U.S. Courts. Questions and requests for additional information should be directed to Mr. Shapard at (FTS/202) 633-6326 or Mr. Cook at (FTS/202) 633-6094.

THE FEDERAL JUDICIAL CENTER

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WASHINGTON, D.C. 20002

RESEARCH DIVISION

Writer's Direct Dial Number
(202) 273-4070 Ext. 357

January 25, 1993

Professor Roger Park
University of Minnesota Law School
by Facsimile: 612-626-2011

Dear Professor Park,

Following are tables containing the numerical values represented in certain charts from the SY92 supplement to the "Guidance to Advisory Groups" piece.

Chart 3, Percentage of weighted civil filings by type of case:

Asbestos	1.2
Bankruptcy Matters	1.2
Banks and Banking	1.8
Civil Rights	20.9
Commerce: ICC Rates, etc.	0.6
Contract	14.2
Copyright, Patent, Trademark	6.1
ERISA	8.6
Forfeiture and Penalty (excl. drug)	0.2
Fraud, Truth in Lending	0.3
Labor	2.3
Land Condemnation, Foreclosure	0.2
Personal Injury	14.5
Prisoner	3.6
RICO	0.6
Securities, Commodities	3.6
Social Security	3.0
Student Loan & Veteran's	0.2
Tax	0.8
Other	16.1

Charts 4 and 10, Civil and criminal trials:

SY	Criminal Trials as % of Total Trials	Civil Trials as % of Total Trials	Criminal Trials	Civil Trials
86	29.1	70.9	52	127
87	37.7	62.3	72	119
88	37.8	62.2	59	97
89	46.1	53.9	82	96
90	40.5	59.5	75	110
91	49.5	50.5	96	98

Charts 5 and 6: Life Expectancy and IAL:

SY	Life Expectancy - All Cases	IAL - All Cases	Life Expectancy - Type II Cases	IAL - Type II Cases
83	8.5	9.9	13.0	10.6
84	10.2	11.2	13.7	10.4
85	7.1	9.2	10.4	9.0
86	10.4	11.2	15.6	11.6
87	10.4	12.1	12.2	12.4
88	10.9	12.1	13.0	12.5
89	10.9	11.1	13.1	11.7
90	10.7	11.5	13.0	12.4
91	11.9	10.9	13.3	11.0
92	13.7	11.9	14.4	12.0

Chart 9, Criminal defendant filings:

SY	All Defendants	Drug Defendants	%Drug Defendants
83	351	126	35.9
84	337	138	40.9
85	374	124	33.2
86	418	154	36.8
87	513	186	36.3
88	448	223	49.8
89	459	219	47.7
90	466	184	39.4
91	531	219	41.2
92	412	158	38.3

The chart comparing districts on a number of measures will be faxed immediately following this. Please don't hesitate to call if I might be of further assistance.

Sincerely,

John E. Shapard

APPENDIX E

EXPLANATION OF PROFILES FOR UNITED STATES DISTRICT COURTS

*OVERALL WORKLOAD STATISTICS	Filings	TOTAL NUMBER OF DISTRICT COURT CASES WHICH WERE		Filed during the year, including transfers	
	Terminations	(Exclusive of all misdemeanor criminal cases)		Terminated during the year	
	Pending			Pending at the end of the year	
	Percent Change in Total Filings - Current Year	Over Last Year	Percentage change in total filings - current year over previous		
Over Earlier Years		Percentage change in total filings - current year over two, three, four and five years ago			
Number of Judgeships	Authorized Judgeships (Does not include senior judges)				
Vacant Judgeship Months	Number of months during profile year that an authorized judgeship was not filled				
*ACTIONS PER JUDGESHIP	FILINGS	Total	ALL FIGURES IN THIS SECTION ARE OBTAINED BY DIVIDING THE TOTAL STATISTICS FOR THE COURT BY THE NUMBER OF AUTHORIZED JUDGESHIPS.		Total civil and criminal felony cases filed
		Civil	Excludes all misdemeanor criminal cases		Includes all civil cases filed
		Criminal Felony			Includes all criminal felony cases filed whether by indictment, information, or transfer
	Pending Cases			Total pending cases at the end of the year	
	Weighted Filings*			This figure is a mathematical adjustment of filings which gives heavier count to cases known to be of a more difficult and time consuming nature	
	Terminations			Includes all terminated cases, civil & criminal felony, tried and not tried, disposed of during the year	
	Trials Completed			Total trials completed by judges, including evidentiary trials, hearings on temporary restraining orders and preliminary injunctions	
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	For all criminal felony defendants and all civil cases except land condemnation, prisoner petitions, recovery of overpayments, enforcement of judgments, and deportation reviews terminated during the year whether by trial or other disposition. For all criminal felony defendants time is computed from the filing date to either the sentencing date or the dismissal/acquittal date including excludable delays reported under the Speedy Trial Act. When the District had less than 10 terminations the median case was not computed.		
		Civil**			
	From Issue to Trial (Civil Only)		For civil cases, except land condemnation, going to a trial during profile years, this figure shows the time interval in months for the middle (median) case. Time is computed from the date the answer or response is filed to the date trial begins.		
OTHER	Number (and %) of Civil Cases Over 3 Years Old		Total number of civil cases pending three years or more as of the end of the year and the percentage these same cases represent of total civil pending caseload.		
	Average Number of Felony Defendants Filed per Case		The average number of defendants for each felony case filed (excludes transfers).		
	Jurors	Average Present for Jury Selection	Average number of petit jurors reporting to court for jury selection.		
Percent Not Selected, or Challenged		Percent of petit jurors not selected, serving or challenged on jury selection days.			

*See Page 167.

NATURE OF SUIT AND OFFENSE CATEGORIES

CASE CLASS	CIVIL	A - Social Security B - Recovery of Overpayments and Enforcement of Judgments C - Prisoner Petitions D - Forfeitures and Penalties and Tax Suits	E - Real Property F - Labor Suits G - Contracts H - Torts	I - Copyright, Patent, and Trademark J - Civil Rights K - Antitrust	L - All Other Civil Cases
	CRIMINAL FELONY (Excludes transfers.)	A-Immigration B-Embezzlement C-Weapons and Firearms D-Escape	E-Burglary and Larceny F-Marihuana and Controlled Substances G-Narcotics H-Forgery and Counterfeiting	I-Fraud J-Homicide and Assault K-Robbery	L - All Other Criminal Felony Cases

WHAT THE DISTRICT'S NUMERICAL STANDINGS MEAN: These show where an individual district court stands in relation to other district courts in the circuit and in the country. All "workload" statistics are ranked in descending order (highest value receives rank of 1) and all other statistics are ranked in ascending order (lowest value is ranked first). In some categories fewer than 94 courts are ranked because the information was not available for all districts.

VERTICAL ROW OF NUMBERS IN RIGHT MARGIN

**Civil median excludes all recovery/enforcement cases. See page 167.

U.S. DISTRICT COURT -- JUDICIAL WORKLOAD PROFILE

MINNESOTA		TWELVE MONTH PERIOD ENDED SEPTEMBER 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1992	1991	1990	1989	1988	1987			
OVERALL WORKLOAD STATISTICS	Filings*	2,474	2,224	2,313	2,538	2,474	2,469			
	Terminations	2,327	2,124	2,372	2,536	2,471	2,803			
	Pending	2,344	2,197	2,096	2,223	2,246	2,249			
	Percent Change In Total Filings Current Year	Over Last Year. . . .	11.2		7.0	-2.5	.0	.2	[30] [48]	[1] [4]
Number of Judgeships		7	7	7	7	7	7			
Vacant Judgeship Months**		4.5	.0	.0	.0	.0	10.2			
ACTIONS PER JUDGESHIP	FILINGS	Total	353	318	330	363	353	353	[68]	[8]
		Civil	315	273	288	318	318	311	[64]	[7]
		Criminal Felony	38	45	42	45	35	42	[71]	[9]
	Pending Cases		335	314	299	318	321	321	[64]	[7]
	Weighted Filings**		417	372	364	364	369	364	[40]	[1]
	Terminations		332	303	339	362	353	400	[73]	[8]
	Trials Completed		20	27	28	25	22	26	[82]	[10]
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	6.1	5.4	5.5	5.1	5.1	4.4	[52]	[7]
		Civil**	10	9	8	10	9	12	[56]	[5]
	From Issue to Trial (Civil Only)		25	22	20	20	21	20	[79]	[8]
OTHER	Number (and %) of Civil Cases Over 3 Years Old		95 4.4	92 4.6	98 5.1	101 4.9	100 4.8	88 4.2	[38]	[6]
	Average Number of Felony Defendants Filed per Case		1.5	1.6	1.5	1.6	1.5	1.6		
	Jurors	Avg. Present for Jury Selection**	36.79	39.75	36.22	40.96	38.98	37.65	[57]	[5]
		Percent Not Selected or Challenged**	27.7	29.5	27.6	34.0	38.6	35.4	[36]	[4]

FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS
SHOWN BELOW -- OPEN FOLDOUT AT BACK COVER

1992 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2204	107	179	269	83	45	243	327	318	101	276	22	234
Criminal*	264	3	23	35	8	10	22	48	7	52	6	25	25

* Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.
**See Page 167.

U.S. DISTRICT COURT -- JUDICIAL WORKLOAD PROFILE

MINNESOTA		TWELVE MONTH PERIOD ENDED JUNE 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT		
		1991	1990	1989	1988	1987	1986			
OVERALL WORKLOAD STATISTICS	Filings*	2,262	2,395	2,547	2,469	2,499	3,295			
	Terminations	2,206	2,475	2,541	2,466	2,876	3,261			
	Pending	2,107	2,141	2,249	2,243	2,238	2,615			
	Percent Change In Total Filings Current Year	Over Last Year . . .	-5.6						59	8
	Over Earlier Years . . .	-11.2			-8.4	-9.5	-31.4	84	9	
	Number of Judgeships	7	7	7	7	7	7			
	Vacant Judgeship Months	.0	.0	.0	.0	10.2	12.5			
ACTIONS PER JUDGESHIP	FILINGS	Total	323	342	364	353	357	471	70	9
		Civil	277	298	322	315	309	430	66	8
		Criminal Felony	46	44	42	38	48	41	48	4
		Pending Cases	301	306	321	320	320	374	74	8
		Weighted Filings**	376	368	364	371	370	440	40	1
		Terminations	315	354	363	352	411	466	69	8
		Trials Completed	28	26	24	22	27	25	54	8
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.2	5.7	4.9	5.0	4.3	3.9	28	4
		Civil**	8	9	9	9	12	8	19	3
		From Issue to Trial (Civil Only)	22	20	20	24	18	17	75	9
OTHER	Number (and %) of Civil Cases Over 3 Years Old		101 5.3	100 5.0	115 5.5	90 4.3	76 3.7	95 3.8	36	8
	Average Number of Felony Defendants Filed per Case		1.7	1.5	1.6	1.6	1.5	1.5		
	Jurors	Avg. Present for Jury Selection	37.11	37.42	41.13	38.98	37.65	35.74	60	5
		Percent Not Selected or Challenged	28.3	30.3	33.8	38.6	35.4	37.7	43	3

**FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS
SHOWN BELOW -- OPEN FOLDOUT AT BACK COVER**

1991 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1942	63	79	244	76	31	235	323	391	76	184	12	228
Criminal*	306	6	19	26	9	11	36	70	3	70	8	28	20

* Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.
 **See Page 167.

U.S. DISTRICT COURT
JUDICIAL WORKLOAD PROFILE

MINNESOTA

		TWELVE MONTH PERIOD ENDED JUNE 30									
		1986	1985	1984	1983	1982	1981	NUMERICAL STANDING WITHIN			
								U.S.	Circuit		
OVERALL WORKLOAD STATISTICS	Filings*	3,295	4,317	3,530	3,852	3,530	1,886				
	Terminations	3,261	4,615	3,233	3,678	3,206	1,806				
	Pending	2,615	2,581	2,878	2,582	2,408	2,084				
	Percent Change in Total Filings - Current Year	Over Last Year ▶		-23.7					91	10	
		Over Earlier Years ▶			-6.7	-14.5	-6.7	74.7	11	4	
	Number of Judgeships		7	7	6	6	6	6			
Vacant Judgeship Months		12.5	11.6	.0	.0	4.5	2.0				
ACTIONS PER JUDGESHIP	FILINGS	Total	471	617	588	642	588	314	50	7	
		Civil	430	579	549	603	550	273	48	7	
		Criminal Felony	41	38	39	39	38	41	51	6	
	Pending Cases		374	369	480	430	401	347	66	7	
	Weighted Filings**		440	480	509	459	502	359	45	7	
	Terminations		466	659	539	613	534	301	59	7	
	Trials Completed		25	25	25	29	28	28	75	8	
	MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	3.9	3.7	3.8	3.9	4.1	3.9	2.2	6
Civil			4	4	6	3	4	11	2	1	
From Issue to Trial (Civil Only)			17	18	15	13	18	21	57	8	
OTHER	Number (and %) of Civil Cases Over 3 Years Old		95 3.8	82 3.3	76 2.8	82 3.3	77 3.4	142 7.3	29	9	
	Triable Defendants** in Pending Criminal Cases (Number and %)		89 (42.6)	66 (41.0)	81 (45.5)	57 (37.7)	118 (62.1)	59 (37.8)			
	Jurors**	Present for Jury Selection		35.74	42.41	56.71	48.20	-	-	68	9
		% Not Selected Serving, or Challenged		37.7	39.6	57.0	41.3	-	-	71	9

FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS SHOWN BELOW — OPEN FOLDOUT AT BACK COVER

1986 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	3011	121	807	223	64	38	244	464	413	110	244	13	270
Criminal*	271	3	20	2	23	12	21	18	54	16	58	25	19

* Filings in the "Overall Workload Statistics" section include criminal felony transfers, while filings "by nature of offense" do not.
** See Page 167.

U.S. DISTRICT COURT
JUDICIAL WORKLOAD PROFILE

MINNESOTA

TWELVE MONTH PERIOD ENDED JUNE 30

**NUMERICAL
STANDING
WITHIN
U.S. Circuit**

2 1
3 1

OVERALL
WORKLOAD
STATISTICS

	1982	1981	1980	1979	1978	1977
Filings*	3,530	1,886	1,786	1,546	1,401	1,506
Terminations	3,206	1,806	1,571	1,537	1,370	1,539
Pending	2,408	2,084	2,004	1,793	1,784	1,753
Percent Change in Total Filings Current Year	Over Last Year ▶	87.2				
	Over Earlier Years ▶		97.6	128.3	152.0	134.4
Number of Judgeships	6	6	6	6	4	4
Vacant Judgeship Months	4.5	2.0	15.8	15.4	2.9	.0

ACTIONS
PER
JUDGESHIP

FILINGS	Total	588	314	298	258	350	377
	Civil	550	273	266	221	285	303
	Criminal	38	41	32	37	65	74
Pending Cases	401	347	334	299	446	438	
Weighted Filings**	502	359	291	289	375	399	
Terminations	534	301	262	256	343	385	
Trials Completed	28	28	26	21	42	45	

MEDIAN
TIMES
(MONTHS)

From Filing to Disposition	Criminal	5.4	4.1	3.7	4.0	3.3	4.0
	Civil	4	11	11	10	12	12
From Issue to Trial (Civil Only)	18	21	25	25	18	16	

OTHER

Number (and %) of Civil Cases Over 3 Years Old	77 3.4	142 7.3	195 10.4	195 11.7	169 10.3	141 8.6
Triable Defendants** in Pending Criminal Cases (Number and %)	118 62.1	59 37.8	44 31.7	39 31.5	49 38.6	57 39.6
Juror Usage Index	16.88	14.78	17.17	18.67	17.77	17.62
% of Jurors Not Serving	40.4	28.6	38.9	40.1	39.3	39.6

FOR NATIONAL PROFILE AND EXPLANATION OF NATURE OF SUIT AND OFFENSE CLASSIFICATIONS SHOWN BELOW—OPEN FOLDOUT AT BACK COVER

1982 CIVIL AND CRIMINAL FILINGS BY NATURE OF SUIT AND OFFENSE

Type of Case	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	3297	112	1424	144	61	51	122	340	331	73	422	22	195
Criminal*	225	3	17	4	49	3	9	10	26	10	35	42	17

*Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.

**See Page 131.

United States District Courts — National Judicial Workload Profile

		ALL DISTRICT COURTS						
		1992	1991	1990	1989	1988	1987	
OVERALL WORKLOAD STATISTICS	1							
	Filings	265,612	244,790	251,156	257,259	269,982	265,234	
	Terminations	263,034	250,615	245,014	255,473	266,595	262,605	
	Pending	262,805	260,095	273,301	267,440	269,646	266,006	
	Percent Change in Total Filings - Current Year	Over Last Year ▶ 8.5		Over Earlier Years ▶ 5.8	3.2	-1.6	0.1	
Number of Judgeships		649	649	575	575	575	575	
Vacant Judgeship Months		1313.4	1227.6	540.1	374.1	485.2	483.4	
ACTIONS PER JUDGESHIP	FILINGS	Total	409	377	437	447	470	461
		Civil	355	325	381	393	419	411
		Criminal Felony	54	52	56	54	51	50
	Pending Cases		405	401	475	465	469	463
	Weighted Filings		416	384	452	454	469	454
	Terminations		405	386	426	444	464	457
	Trials Completed		32	31	35	35	34	34
	MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.9	5.8	5.4	5.2	4.5
Civil			9	10	9	9	9	9
From Issue to Trial (Civil Only)		15	15	14	13	14	14	
OTHER	Number (and %) of Civil Cases Over 3 Years Old		17,249 7.7	21,252 9.4	25,672 10.6	23,137 9.7	21,918 8.9	20,043 8.2
	Average Number of Felony Defendants Filed per Case		1.6	1.5	1.5	1.5	1.6	1.5
	Jurors	Avg. Present for Jury Selection	37.64	37.43	35.60	36.07	32.70	31.14
		Percent Not Selected or Challenged	34.1	34.3	33.9	35.4	33.7	32.1

1992 CIVIL AND FELONY FILINGS BY NATURE OF SUIT AND OFFENSE			
TOTAL CIVIL	230,509	TOTAL CRIMINAL FELONY ¹	34,277
A-Social Security.....	8,958	A-Immigration.....	1,883
B-Recovery of Overpayments and Enforcement of Judgment.....	16,008	B-Embezzlement.....	1,487
C-Prisoner Petitions.....	48,423	C-Weapons and Firearms.....	3,782
D-Forfeitures and Penalties and Tax Suits.....	7,825	D-Escape.....	576
E-Real Property.....	9,978	E-Burglary and Larceny.....	1,678
F-Labor Suits.....	16,394	F-Marihuana and Controlled Substances.....	5,118
G-Contracts.....	33,428	G-Narcotics.....	6,768
H-Torts.....	36,179	H-Forgery and Counterfeiting.....	1,022
I-Copyright, Patent, and Trademark.....	5,830	I-Fraud.....	6,354
J-Civil Rights.....	24,233	J-Homicide and Assault.....	595
K-Annuity.....	502	K-Robbery.....	1,925
L-All Other Civil.....	20,755	L-All Other Criminal Felony Cases.....	3,113

¹ Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.

United States District Courts – National Judicial Workload Profile

		ALL DISTRICT COURTS						
		1991	1990	1989	1988	1987	1986	
OVERALL WORKLOAD STATISTICS	Filings ¹	241,420	251,113	263,896	269,174	268,023	282,074	
	Terminations	240,952	243,512	262,806	265,916	265,727	292,092	
	Pending	274,010	273,542*	265,035	268,070	264,953	262,637	
	Percent Change in Total Filings – Current Year	Over Last Year ▶	-3.9					
		Over Earlier Years ▶		-8.5	-10.3	-9.9	-14.4	
	Number of Judgeships		649	575	575	575	575	575
	Vacant Judgeship Months	988.7	540.1	374.1	485.2	483.4	657.9	
ACTIONS PER JUDGESHIP	FILINGS	Total	372	437	459	467	466	491
		Civil	320	379	406	417	416	444
		Criminal Felony	52	58	53	51	50	47
	Pending Cases		422	476*	461	466	461	457
	Weighted Filings		386	448	466	467	461	461
	Terminations		371	423	457	462	462	508
	Trials Completed		31	36	35	35	35	35
	MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.7	5.3	5.0	4.3	4.1
Civil			9	9	9	9	9	9
From Issue to Trial (Civil Only)			15	14	14	14	14	14
OTHER	Number (and %) of Civil Cases Over 3 Years Old		28,421 11.8	25,207 10.4	22,391 9.2	21,487 8.8	19,782 8.1	19,252 7.9
	Average Number of Felony Defendants Filed per Case		1.6	1.4	1.4	1.4	1.4	1.4
	Jurors	Present for Jury Selection	36.79	35.84	35.89	32.7	31.1	32.0
		% Not Selected, Serving, or Challenged	34.0	34.2	35.8	33.7	32.1	-

1990 CIVIL AND FELONY FILINGS BY NATURE OF SUIT AND OFFENSE			
TOTAL CIVIL	207,742	TOTAL CRIMINAL FELONY ¹	32,928
A-Social Security	7,692	A-Immigration	2,020
B-Recovery of Overpayments and Enforcement of Judgments	7,933	B-Embezzlement	1,805
C-Prisoner Petitions	42,462	C-Weapons and Firearms	2,872
D-Forfeitures and Penalties and Tax Suits	8,227	D-Escape	732
E-Real Property	9,794	E-Burglary and Larceny	1,769
F-Labor Suits	14,686	F-Marihuana and Controlled Substances	3,769
G-Contracts	34,485	G-Narcotics	7,575
H-Torts	37,309	H-Forgery and Counterfeiting	998
I-Copyright, Patent, and Trademark	5,235	I-Fraud	6,218
J-Civil Rights	19,340	J-Homicide and Assault	599
K-Annuity	681	K-Robbery	1,577
L-All Other Civil	19,898	L-All Other Criminal Felony Cases	3,194

¹Filings in the "Overall Workload Statistics" section include criminal felony transfers, while filings "by nature of offense" do not.

United States District Courts — National Judicial Workload Profile

		ALL DISTRICT COURTS						
		1986	1985	1984	1983	1982	1981	
OVERALL WORKLOAD STATISTICS	Filings ¹	282,074	299,164	285,563	266,440	228,489	201,387	
	Terminations	292,092	293,545	266,304	238,675	210,878	198,172	
	Pending	262,637	272,636	267,020	247,708	219,872	202,283	
	Percent Change in Total Filings — Current Year	Over Last Year ▶	-5.7					
		Over Earlier Years ▶			-1.2	5.9	23.5	-40.1
	Number of Judgeships		575	575	515	515	515	516
	Vacant Judgeship Months		657.9	889.8	246.8	287.8	424.9	414.5
ACTIONS PER JUDGESHIP	FILINGS	Total	491	520	554	517	444	390
		Civil	444	476	508	470	400	350
		Criminal Felony	47	44	46	47	44	40
	Pending Cases	457	474	518	481	427	392	
	Weighted Filings	461	453	496	473	417	390	
	Terminations	508	511	517	463	409	384	
	Trials Completed	35	36	40	41	42	41	
	MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony ²	9.3	9.3	9.3	9.3	9.3
Civil			7	7	7	7	7	9
From Issue to Trial (Civil Only)		14	14	14	14	14	14	
OTHER	Number (and %) of Civil Cases Over 3 Years Old	18,235 (7.6)	16,726 (6.6)	15,646 (6.3)	14,554 (6.4)	13,979 (7.0)	15,275 (8.4)	
	Triable Defendants in Pending Criminal Felony Cases Number (and %)	14,171 (44.1)	12,301 (42.9)	10,656 (41.7)	9,996 (42.3)	8,618 (39.7)	7,882 (39.2)	
	Jurors	Present for Jury Selection	32.0	32.0	32.3	32.4	—	—
		% Not Selected, Serving, or Challenged	34.3	34.8	36.3	37.4	—	—

1986 CIVIL AND FELONY FILINGS BY NATURE OF SUIT AND OFFENSE			
TOTAL CIVIL	254,828	TOTAL CRIMINAL FELONY ¹	26,300
A - Social Security	14,407	A - Immigration	1,765
B - Recovery of Overpayments and Enforcement of Judgments	40,824	B - Embezzlement	1,570
C - Prisoner Petitions	33,765	C - Auto Theft	338
D - Forfeitures and Penalties and Tax Suits	6,259	D - Weapons and Firearms	1,846
E - Real Property	10,674	E - Escape	647
F - Labor Suits	12,839	F - Burglary and Larceny	2,002
G - Contracts	47,528	G - Marijuana and Controlled Substances	2,148
H - Torts	42,326	H - Narcotics	4,430
I - Copyright, Patent, and Trademark	5,643	I - Forgery and Counterfeiting	1,970
J - Civil Rights	20,128	J - Fraud	5,497
K - Antitrust	877	K - Homicide, Robbery, and Assault	1,827
L - All Other Civil	19,558	L - All Other Criminal Felony	2,262

¹Filings in the "Overall Workload Statistics" section include criminal felony transfers, while filings "by nature of offense" do not.

²Revised figures for 1981 through 1984.

United States District Courts—National Judicial Workload Profile

		ALL DISTRICT COURTS						
		1982	1981	1980	1979	1978	1977	
OVERALL WORKLOAD STATISTICS	Filings*	228,489	201,387	188,487	177,647	166,447	163,492	
	Terminations	210,878	198,172	180,245	167,814	154,974	152,865	
	Pending	219,872	202,283	199,019	191,091	181,217	169,744	
	Percent Change in Total Filings – Current Year	Over Last Year ▶	13.5					
		Over Earlier Years ▶		21.2	28.6	37.3	39.8	
	Number of Judgeships	515	516	516	516	399	398	
	Vacant Judgeship Months	424.9	414.5	956.2	1,021.0	272.4	234.4	
ACTIONS PER JUDGESHIP	FILINGS	Total	444	390	365	344	417	411
		Civil	400	350	327	299	348	328
		Criminal	44	40	38	45	69	83
	Pending Cases	427	392	386	370	454	426	
	Weighted Filings	417	390	353	344	428	422	
	Terminations	409	384	349	325	388	384	
	Trials Completed	42	41	38	36	47	47	
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal	4.9	3.8	3.7	3.7	3.2	3.7
		Civil	7	9	8	9	10	9
	From Issue to Trial (Civil Only)		14	14	15	14	13	12
OTHER	Number (and %) of Civil Cases Over 3 Years Old		13,979 (7.0)	15,275 (8.4)	20,592 (11.7)	19,089 (11.5)	16,054 (10.2)	11,835 (7.9)
	Triable Defendants in Pending Criminal Cases Number (and %)		8,618 (39.7)	7,882 (39.2)	7,812 (40.8)	7,176 (37.6)	8,708 (42.7)	10,684 (46.5)
	Juror Usage Index		17.91	18.23	18.83	19.60	19.51	19.55
	% of Jurors Not Serving		38.4	38.9	39.1	40.8	39.5	39.6

1982 CIVIL AND CRIMINAL FILINGS BY NATURE OF SUIT AND OFFENSE

Type of Case	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	206,193	12,812	30,048	29,303	7,566	8,812	10,227	37,228	34,218	4,585	17,038	1,066	13,290
Criminal*	21,351	1,731	1,712	354	1,719	793	2,024	1,577	1,622	2,097	3,693	2,033	1,996

*Filings in the "Overall Workload Statistics" section include criminal transfers, while filings "by nature of offense" do not.



memorandum

DATE: February 4, 1993
TO: Dewey Heising, Administrative Office of the U.S. Courts
FROM: John Shapard, Federal Judicial Center
SUBJECT: Effect of sentencing guidelines, drug cases, and multi-defendant cases on judicial workload

In response to your request, I examined data from our current time study to address the above-mentioned subjects.

1. The time study includes about 1840 defendants for which a judge spent time on sentencing pursuant to the sentencing guidelines but not on pre-guideline sentencing, and 567 for which the only time spent on sentencing concerned pre-guideline sentencing (other cases involved sentencing under both regimes, or no sentencing time). For the guidelines cases, the average judge time consumed overall is 285 minutes per defendant, of which 66 minutes were expended specifically on sentencing matters. For pre-guidelines cases, the overall average judge time was 238 minutes, of which 41 minutes were spent on sentencing.
2. Based on estimated time demands of criminal cases (case weights) derived from the current time study, and on criminal cases filed during the twelve months ended 6/30/92, it can be estimated that the criminal caseload currently accounts for about 146 district judge-years of time. Drug cases account for 49%, or 72 judge-years (and firearms offenses, which are often drug-related, account for another 8%, or 12 judge-years).
3. I was incorrect in my recollection that the judge time consumed by a case was—all else being equal—proportional to the number of defendants in the case. Considering all types of cases, the average time consumed is about 347 minutes per defendant in multi-defendant cases, but only 178 minutes per defendant in single-defendant cases. Focusing specifically on the dominant type of drug offense (cocaine distribution), the average is 447 minutes per defendant in multi-defendant cases, and 232 minutes per defendant in single-defendant cases.

cc: William W Schwarzer
William B. Eldridge

APPENDIX G

District of Minnesota

**Years 1988, 1989 and 1990
Criminal Case Load**

**Source: Court Records, provided by the Clerk of Courts
Office and the Records of the United States Attorney's
Office, District of Minnesota**

**Prepared for: Civil Justice Reform Advisory Committee
Prepared By: United States Attorney's Office**

August 1991

The following information is based upon records from the Clerk of Courts Office and the United States Attorney's Office, District of Minnesota.

The court records for all the Federal District Judges for the District of Minnesota were examined. The data provided by those records was used to put this study together. The Clerk of Courts Office provided court records for the years 1988, 1989 and 1990, these three years were the focus of this study.

The number of cases and the total number of hours was tallied to give the committee a better idea of the length of certain trials under a certain charge. Included in this report are graphs showing criminal cases and hours for 1988, 1989 and 1990, and the civil cases and hours for that same time period. The cases and hours are also broken down by the criminal charge for the individual years.

The pages numbered 2 through 5 are the criminal trials broken down by total number of trials, total number of hours per charge, the Judge and the year. Pages 4 and 5, as indicated are for the year 1990 and due to the length of certain trials the cases have been footnoted for the convenience of the committee.

Criminal Trials
Number of Cases and Hours
1988

Judge	Case/Type	Hours	# of Cases
Devitt	Controlled Substance	73.0	4
	Fraud	104.0	3
	Firearms	6.0	2
	Other	33.0	3
Alsop	Controlled Substance	137.0	6
	Fraud	43.0	1
	Other	64.0	4
MacLaughlin	Controlled Substance	36.0	2
	Fraud	170.0	3
	Other	44.0	2
Murphy	Controlled Substance	82.5	5
Renner	Other	2.5	2
Magnuson	Controlled Substance	174.0	5
	Bank Robbery	12.0	1
	Fraud	46.0	1
	Other	42.5	3
Rosenbaum	Controlled Substance	63.5	4
	Bank Robbery	34.0	3
	Other	66.0	3
Doty	Controlled Substance	102.5	7
	Bank Robbery	25.5	1
	Other	55.5	3
Heaney	Controlled Substance	28.5	2
Totals		1445.0	70

Criminal Trials
Number of Cases and Hours
1989

Judge	Case/Type	Hours	# of Cases
Devitt	Controlled Substance	50.0	4
	Fraud	25.5	1
	Bank Robbery	13.0	2
	Other	127.0	8
Alsop	Controlled Substance	27.0	1
	Fraud	41.0	1
	Bank Robbery	28.5	2
MacLaughlin	Controlled Substance	92.0	3
	Fraud	1.0	1
	Other	43.5	5
Murphy	Controlled Substance	22.5	3
	Fraud	63.0	1
	Bank Robbery	10.5	1
	Firearms	17.0	2
	Other	11.0	2
Renner	Controlled Substance	1.0	1
	Other	16.0	1
Magnuson	Controlled Substance	48.0	4
	Fraud	13.0	1
	Bank Robbery	38.5	2
	Other	82.0	3
Rosenbaum	Controlled Substance	92.5	4
	Fraud	18.0	1
	Other	16.5	1
Doty	Controlled Substance	144.5	6
	Fraud	9.5	2
	Firearms	58.5	4
	Other	47.5	2
Totals		1158.0	67

Criminal Trials
Number of Cases and Hours
1990

Judge	Case/Type	Hours	# of Cases
Devitt	Controlled Substance	105.5	8
	Fraud	40.0	4
	Bank Robbery	31.5	2
	Firearms	18.5	2
	Other	8.0	1
Alsop	Controlled Substance	66.5	5
	Fraud	26.5	1
	Murder	14.5	1
	Assault	18.5	1
	Other	15.0	1
MacLaughlin	Controlled Substance	76.5	2
	Fraud	31.0	4
	Firearms	6.0	1
	Embezzlement	15.5	1
Murphy	Controlled Substance	100.5	3
	1 Fraud	425.0	1
	Firearms	11.0	1
Renner	Fraud	68.0	2
	Firearms	8.5	1
Magnuson	Fraud	60.5	2
	Firearms	16.0	1
	Other	5.0	1
Rosenbaum	Controlled Substance	45.5	3
	2 Fraud	228.0	2
	Firearms	12.0	1
	Other	10.5	1
Doty	3 Controlled Substance	188.5	3
	Fraud	47.5	1
	Firearms	25.5	2
	Sexual Abuse/ Assault	18.0	1
	Other	5.0	1
Totals		1748.0	61

1United States v. Endotronics 425.0 hours

2United States v. Ferris Alexander 213.5 hours, United States v. Lamboy 14.5 hours

3United States v. Ralph Duke 86.5 hours, United States v. Ailport 59.5 hours, United States v. Love 43.0 hours

APPENDIX H

1992 % OF TOTAL CIVIL FILINGS BY NATURE OF SUIT

U.S. MN

3.9	4.9	Social Security
6.9	8.1	Recovery of Overpayments & Enforcement of Judgment
21.0	12.2	Prisoner Petitions
3.4	3.7	Forfeitures & Penalties & Tax Suits
4.3	2.0	Real Property
7.1	11.0	Labor Suits
14.5	14.8	Contracts
16.6	14.4	Torts
2.5	4.6	Copyright, Patent, & Trademark
10.5	12.5	Civil Rights
0.2	1.0	Antitrust
9.0	10.6	All other Civil

APPENDIX I

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