

U.S. Judges in N.J. Moving Cases on Time

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By Allyson Lee Moore

Despite occasional grouching by some federal practitioners that clogged civil dockets are denying their clients justice, a new report shows that most of New Jersey's district court judges are moving motions and deciding bench trials swiftly.

The calendars of two U.S. District Court judges -- Stanley Brotman and Harold Ackerman -- constitute about two-thirds of the motions districtwide that have been pending for six months or longer as of Sept. 30. As for non-jury trials, only two have been awaiting a ruling for more than six months during the same period, and both of those are on Ackerman's plate.

For the most part though, Ackerman has been mired in criminal jury trials, recently wrapping up one four-month trial and almost immediately launching into another. In the case of Brotman, who is on senior status but has not reduced his caseload, the disproportionate number of old motions is most likely caused by his trial and administrative responsibilities in the Virgin Islands, where he is the acting chief judge.

And though roughly half of the district's 23 judges and magistrates acknowledge having a few old motions on their books, another 10 judges were able to report that they had none.

"That's wonderful," says U.S. District Court Chief Judge John Gerry. "I think that any case that has taken a judge six months to decide is a matter of concern, but I think that in almost all of these cases there are legitimate reasons for the delays. And, I'm satisfied that the judges are working hard."

Joel Siegal, president of the Association of the Federal Bar of New Jersey, agrees. "In light of the terrible pressures of the criminal calendar and the number of judges available, the New Jersey federal court is moving matters very quickly," says Siegal, a partner with Hellring Lindeman Goldstein & Siegal in Newark.

"It doesn't mean we can't do better," Siegal notes, "but we're doing OK."

Civil Justice Reform Act

The productivity reports, compiled and verified by U.S. District Court Clerk William Walsh last month, are the first in a series of public disclosures required by the Civil Justice Reform Act of 1990.

The act, a congressional attempt to deal with costly and lengthy civil litigation, requires each federal judge in the country to list a case-by-case inventory of motions pending longer than six months, bench trials concluded and awaiting an opinion for longer than six months, and cases pending longer than three years. Chief Deputy Clerk Ronald Nau expects a report on case backlog to be released before the end of the year.

The act also requires each district court to implement a plan to reduce expenses and delays. Because districts that submit plans before the end of the year may be eligible for additional resources, New Jersey has volunteered to submit its plan early and is applying the finishing touches.

As of Sept. 30, according to the Oct. 15 report, 76 motions in the district had been pending for longer than six months. Brotman's calendar was the longest, with 42 motions. Ackerman was next with eight motions, followed by U.S. District Judge John Lifland with five.

Most of the judges and magistrates had fewer than four old motions on their calendars, but the following had none: U.S. District Judges Maryanne Trump Barry, William Bassler, Stanley Chesier, Alfred Lechner Jr., Joseph Rodriguez, H. Lee Sarokin, and Anne Thompson, and U.S. Magistrates Ronald Hedges, John Hughes, and Freda Wolfson.

The delays were attributed by the judges to a myriad of causes, including the complexity of the cases, heavy caseloads, and the need for supporting papers. The oldest matter, a motion for summary judgment in a prisoner's rights case, had been pending before Lifland for 23 months. In the case, *Ghana v. Fauver*, 89-00324, Emory Ghana claimed that prison guards had used unnecessary force against him while he was at New Jersey State Prison in Trenton.

Lifland did not return telephone messages left at his chambers. But a

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clerk, who requested anonymity, says that the matter was resolved on Oct. 15, when Lifland granted summary judgment for the defendants.

And though the report shows Brotman with the most motions older than six months, the judge says that his record is good. In fact, Brotman says that 15 of his 42 motions have since been cleared, and 13 of the remaining

District of the Virgin Islands, Brotman is required to spend about 60 percent of his time in the district managing 1,300 cases. And though Brotman went on senior status last year and is entitled to reduce his caseload, Gerry says that the judge is still handling a full load in New Jersey and also is handling a caseload and managing all of the courts in the islands.

The district bench has three vacancies. Joseph Irenas and Mary Parell are awaiting confirmation, and no nomination has been made for the third spot. Chief Judge John Gerry says he's 'desperately waiting' for help to spread the burden.

27 are part of three complex cases that are undergoing active settlement negotiations.

"So, we're holding back on some of these that could be resolved by settlement agreements," Brotman says. "But once we take away those, hopefully, I'll be able to catch up on the other 14 outstanding motions."

Unlike his colleagues, however, Brotman is juggling two full-time jobs: one in Camden and one in the Caribbean. As acting chief judge of the

"He simply hasn't had enough time to keep up, and the fair thing to do would be to relieve him of most of his matters," Gerry says. "But we just haven't had enough hands on board to do it. If we had our new judges, he would probably have those cases in shape."

New Judgeships Still Vacant

Indeed, the same act that requires reporting of pending motions, bench

trials, and 3-year-old cases is part of the federal Judicial Improvements Act of 1990 that granted New Jersey three additional judgeships. None of those judges have arrived yet, however.

President Bush has nominated Mary Parell, vice president and general counsel of Prudential Property and Casualty Insurance Co. in Holdmel, and Joseph Irenas, a partner with Newark's McCarter & English, but neither has been confirmed by the U.S. Senate.

"We're desperately waiting for the Senate to give them a hearing date and for the president to nominate the last judge, who I believe will come to Camden," Gerry says. "Once that happens, we'll be able to start spreading the load."

Similarly, Ackerman, in second place with eight motions, and the only judge with old bench trials, has been tied down with back-to-back major criminal trials. He recently completed a jury trial in an organized crime case, *U.S. v. Louis "Streaky" Gatto and Alan Grecco*, 89-250, that lasted 18 weeks. Gatto and Grecco were found guilty of a RICO conspiracy to commit murder, extortion, and illegal gambling and were each sentenced to 65 years in prison. Now, Ackerman is in his fourth week of jury selection for a death penalty case, *U.S. v. Bilal Pretlow*, 93-328, which is also expected to last several weeks.

Ackerman has declined comment, but chief deputy clerk Nau and others say that the judge's schedule speaks for itself. "Judge Ackerman has a few more items than his colleagues, especially when you consider the criminal cases he's been on," Nau says.

Adds Gerry: "These huge cases make it terribly difficult for him to keep his head above water." ■