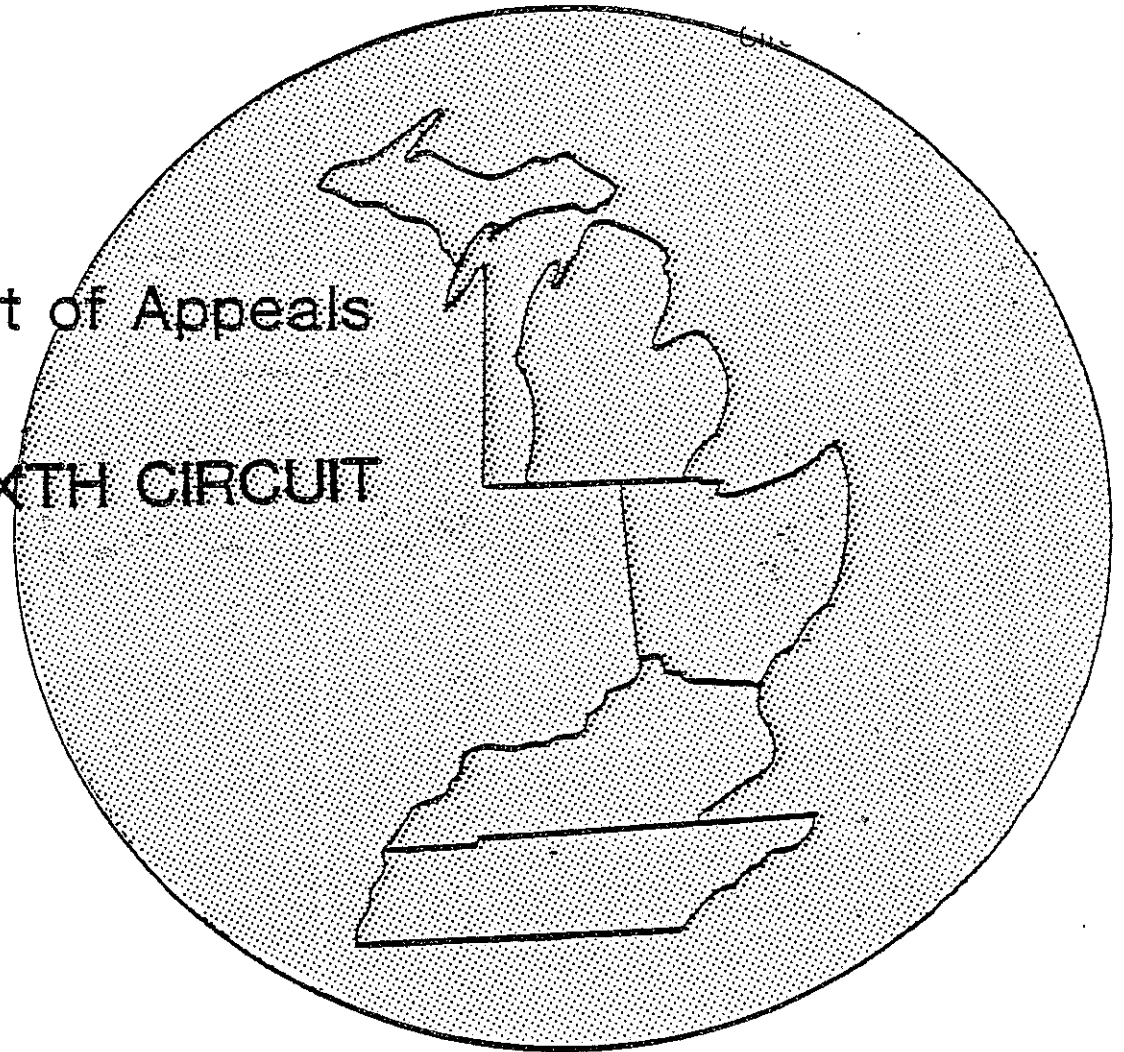


ANNUAL REPORT

U. S. Court of Appeals

SIXTH CIRCUIT



1982

George Edwards
Chief Judge

John P. Hehman
Clerk

CHIEF JUDGE

GEORGE EDWARDS
CINCINNATI, OHIO 45202

CIRCUIT JUDGES

PIERCE LIVELY
DANVILLE, KENTUCKY 40422

ALBERT J. ENGEL
GRAND RAPIDS, MICHIGAN 49502

DAMON J. KEITH
DETROIT, MICHIGAN 48226

GILBERT S. MERRITT
NASHVILLE, TENNESSEE 37203

CORNELIA G. KENNEDY
DETROIT, MICHIGAN 48226

BOYCE F. MARTIN, JR.
LOUISVILLE, KENTUCKY 40202

NATHANIEL R. JONES
CINCINNATI, OHIO 45202

LEROY J. CONTIE, JR.
AKRON, OHIO 44308

ROBERT B. KRUPANSKY
CLEVELAND, OHIO 44114

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

CHAMBERS OF THE COURT

CINCINNATI, OHIO 45202

July 15, 1982

SENIOR JUDGES

LESTER L. CECIL
DAYTON, OHIO 45402

PAUL C. WEICK
AKRON, OHIO 44313

HARRY PHILLIPS
NASHVILLE, TENNESSEE 37203

ANTHONY J. CELEBREZZE
CLEVELAND, OHIO 44114

JOHN W. PECK
CINCINNATI, OHIO 45202

BAILEY BROWN
MEMPHIS, TENNESSEE 38103

The following reports on the U. S. Court of Appeals for the Sixth Circuit during the twelve-month period beginning July 1, 1981, and ending June 30, 1982.

The past twelve months have been a period of change for the United States Court of Appeals for the Sixth Circuit.

One area of change was the membership of the Court. Two of our judges assumed senior status. Judge Paul Weick became a senior circuit judge at the close of business, December 31, 1981. Judge Bailey Brown became a senior circuit judge on June 16, 1982. Also in this year, the Court of Appeals welcomed two new members in March, 1982. U. S. District Judge Leroy Contie was appointed to the vacancy created when Judge Celebrezze assumed senior status on October 1, 1980, and U. S. District Judge Robert Krupansky filled the vacancy created when Judge Weick took senior status. It is expected that the President will soon make an appointment to the vacancy created when Judge Brown took senior status. It is interesting to note that the Court operated with its full complement of eleven active judges in only three full months of this past year.

Despite the fact that the Court operated at less than full strength for most of the year, and even though new filings increased by seven percent, the Court's productivity did not suffer. To the contrary, for the first time since 1970, the number of case dispositions in this twelve month reporting period has exceeded the number of cases filed. This means that for the first time since 1970, the backlog of pending cases has decreased.

This could not have been accomplished without the hard work and dedication of the active circuit judges as well as the industry and sacrifice of our senior judges and the district judges of this circuit who have answered the Court of Appeals' call for assistance.

Hearing participations by senior and visiting judges were at record levels during the past twelve months. Twenty-nine district judges in this circuit participated in hearings during that period. In addition, the Court received assistance from judges from the Second, Seventh, and Eleventh Circuits, from the U. S. Court of Customs and Patent Appeals, from the U. S. Court of Claims, and from the U. S. District Court for the Western District of Pennsylvania. The Court was also honored with the return to its bench of retired Justice Potter Stewart. This was the first court with which Justice Stewart sat following his retirement.

For the first time in the history of the Court, the number of regularly scheduled hearings exceeded 1,000. The Court actually scheduled hearings in 1,140 cases. It is expected that even with the seven percent increase in filings in these past twelve months, the Sixth Circuit's ratio of hearings to new case filings will be the highest among the federal circuit courts for the second consecutive year. Last year's ratio of 43.9 percent exceeded the national average by one-third. It is expected that this year's ratio of 41.2 percent will exceed the national average by a similar margin.

Acting on the recommendation of the Court's docket control committee chaired by Judge Lively, the Court has adopted a new hearing schedule which now provides for hearings in Cincinnati twenty-eight weeks out of the year and, in calendar year 1983, thirty-two weeks. The Sixth Circuit has traditionally met as a full court five times a year for three-week periods beginning in October and ending in June. In recent years, the Court has sat for additional weeks in July, August, and September in an effort to keep pace with the filings. The new schedule solidifies the Court's commitment to year-round hearings.

Departing from the tradition of having all of its active judges participating in each three-week session, in January, 1982, the Court began an experiment by splitting its complement of active judges in half with each half sitting for seven, two-week sessions. Consequently, each active judge will sit for fourteen weeks of regularly scheduled hearings and the entire Court will be in session twenty-eight weeks of the year. In 1983, there will be sixteen weeks of sittings by each active judge and thirty-two weeks of sessions by the entire Court. An advantage of the schedule is that the Court can logistically accommodate a greater number of visiting judges during the sessions. This means that, with the support of the senior circuit judges and visiting judges, the Court can operate (as it has on occasion in the last six months) as a ten-judge court even though only half of the active judges are sitting during a particular session.

This new schedule also eliminates the need for judges to make additional trips to Cincinnati to review its summary docket. Under the previous schedule, the Chief Judge would designate panels to

convene in Cincinnati between regularly scheduled court sessions to consider cases recommended by the Court's central legal staff for summary disposition pursuant to Sixth Circuit Rule 9. In accordance with the Court's practice of having a conference on cases to be decided on their merits, panels would meet in conference and discuss these cases. The new schedule provides for every hearing panel to consider two of these summary disposition cases. These cases are conferenced, together with the usual five cases assigned to each panel for oral argument, immediately following oral arguments before the panel.

The Court has also begun implementation of Sixth Circuit Rule 19 providing for dispositions in open court. In order to utilize judicial time more effectively and to reduce the burden of unnecessary paperwork, appropriate cases may be decided from the bench if the decision as to outcome of the case is unanimous and each judge of the panel agrees that no jurisprudential purpose would be served by a written opinion. An audio recording of the oral arguments and dispositions from the bench, if any, is now made in all cases. Copies of the recordings are available from the Clerk's office should counsel need a copy.

The Court has also instituted an experimental program seeking to encourage settlements in non-criminal cases. Two staff lawyers review all such cases as they are filed and initiate confidential contact with counsel to determine if settlement is feasible. Settlement conferences may be held with counsel to further develop whatever opportunities exist.

In February, 1982, the Court issued amended local rules. A copy of these rules are now provided free of charge to counsel once the case file is established in the Court of Appeals. Rule 11 of the amended rules is an innovative and cost-saving procedure for compiling the joint appendix. The rule sets forth the procedure and manner for filing the joint appendix after briefs are completed. The purpose of the joint appendix is to facilitate the efforts of each judge in studying the briefs in a meaningful way. The new rule was adopted in part because the former procedure often resulted in producing an appendix with unnecessary documents or with insufficient documents necessitating a complete revision of the appendix.

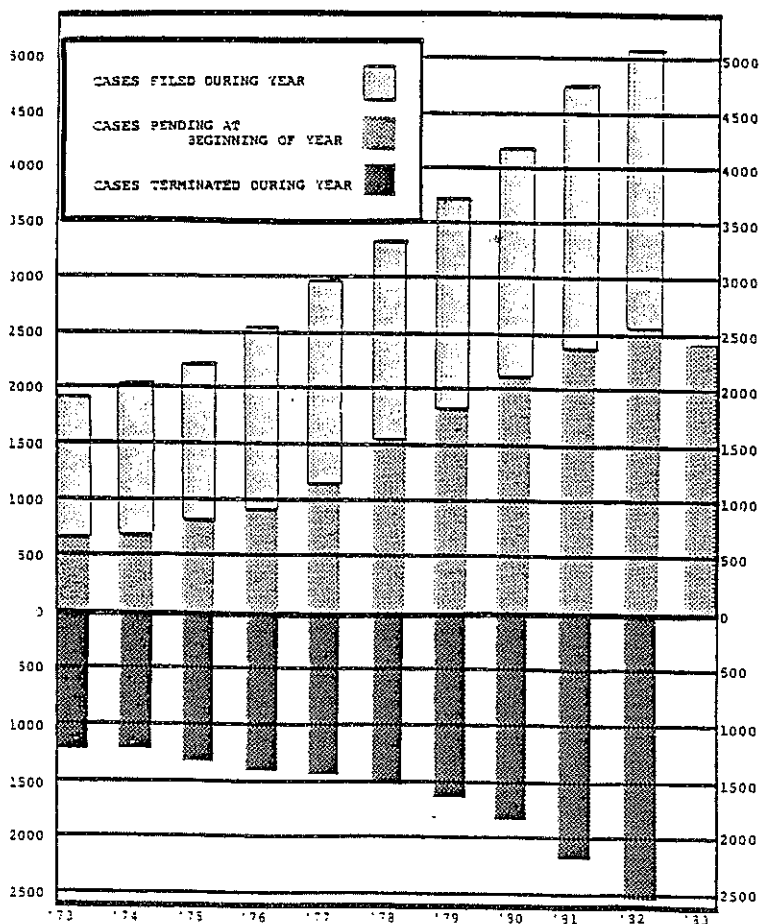
STATUS OF DOCKET

The below chart shows filings, dispositions and pending cases for the past ten-year period. You will notice that dispositions rose 16.5% in the past year and exceeded filings. The last time dispositions exceeded filings was in 1970.

FILINGS, DISPOSITIONS, AND PENDING CASES
FOR THE TWELVE MONTH PERIOD JULY - JUNE
1973 through 1982

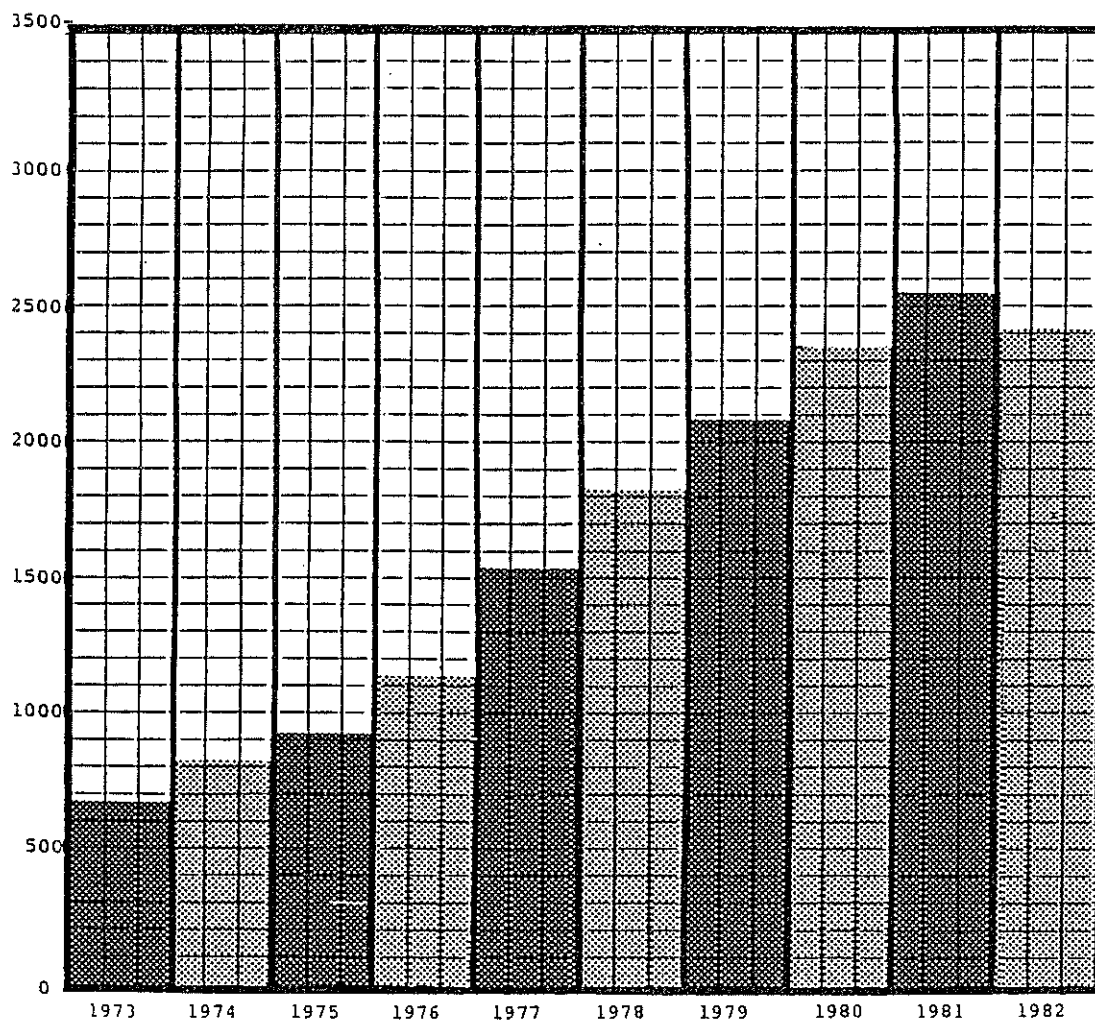
	73	74	75	76	77	78	79	80	81	82
FILINGS	1261	1335	1436	1628	1827	1795	1889	2103	2376	2541
Annual Increase in Filings		5.9%	7.6%	11.5%	12.2%	-1.8%	5.2%	11.3%	13%	7%
DISPOSITIONS	1239	1207	1320	1396	1425	1503	1633	1832	2189	2551
Annual Increase in Dispositions		-2.6%	9.4%	5.8%	2.1%	5.5%	8.6%	12.2%	19.5%	16.5%
PENDING CASES AS OF JUNE 30	675	803	913	1145	1547	1839	2095	2366	2553	2418
Annual Increase in Pending Cases		19%	13.7%	25.4%	35.1%	18.9%	13.9%	12.9%	7.9%	-5.3%

The next chart illustrates the enormous growth in the docket over the past ten years. As the chart shows, filings have increased dramatically. Filings combined with cases pending at the beginning of each year illustrate that the workload has increased at an astounding rate to the point where the workload has doubled since 1976. Over this same period, dispositions have increased steadily. However, beginning in 1980 there was a substantial increase in the number of dispositions and this has continued through this reporting period.



PENDING CASES

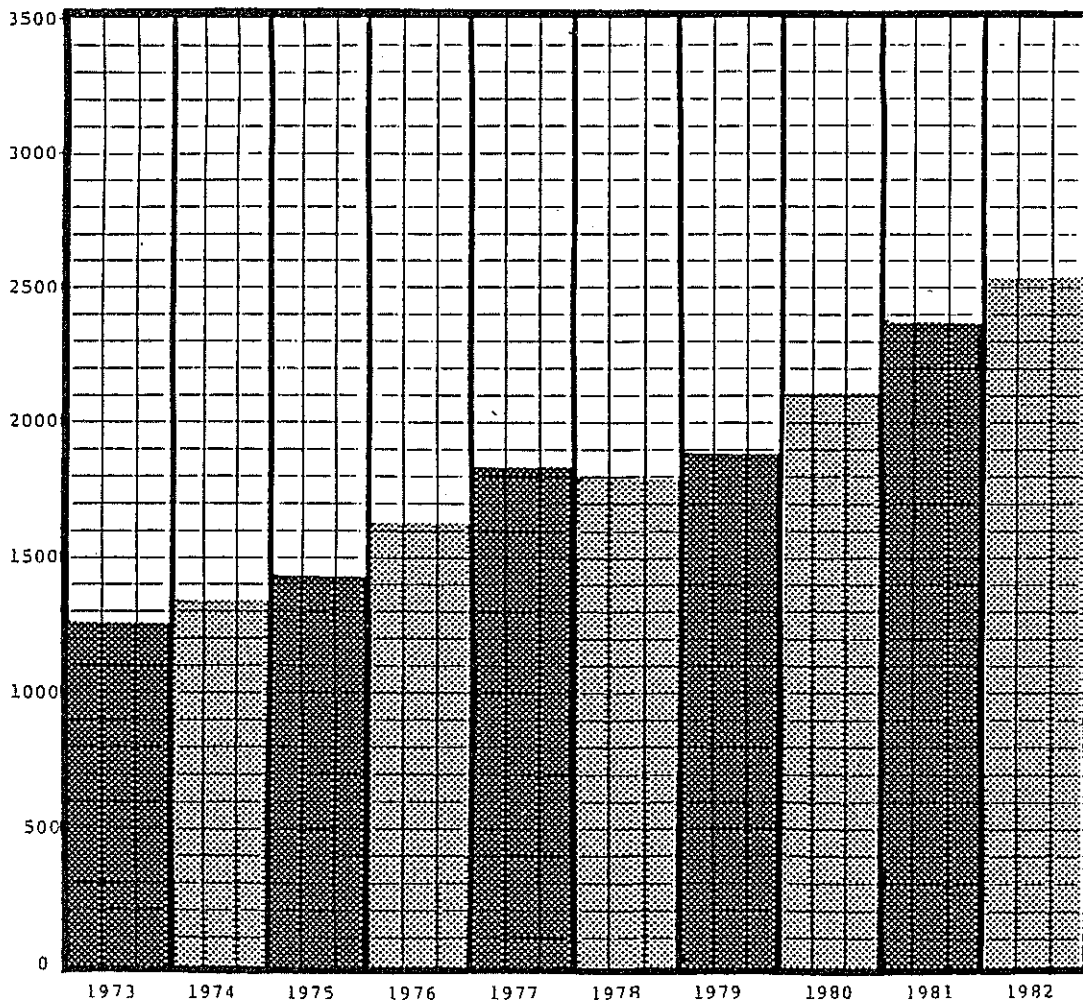
Pending cases have increased steadily over the past ten-year period until this year. As the graph below illustrates, this substantial rise in the pending caseload has been turned around and as of June 30, 1982, the number of pending cases has dropped by 135 cases when compared with June 30, 1981.



Pending cases as of June 30, 19--

FILINGS

Over the past ten years, the number of filings has more than doubled. In 1982, there are almost 1300 more cases filed than ten years earlier. Over half of that increase has occurred since 1979.



Filings as of June 30, 19--

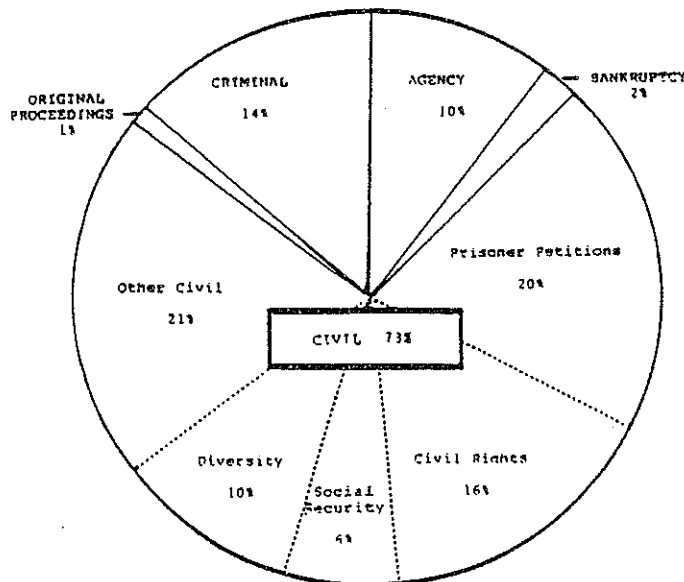
FILINGS BY CASE TYPE

Criminal case filings have remained steady in the last eight years as the below table indicates. Prisoner petitions have increased dramatically over the same period with a slight decrease in 1982. Bankruptcy and civil rights appeals are up substantially over last year.

FILINGS BY CASE TYPE
FOR THE TWELVE MONTH PERIOD JULY - JUNE
1975 through 1982

	75	76	77	78	79	80	81	82
AGENCY	145	216	267	181	235	238	283	255
BANKRUPTCY	5	21	28	26	20	21	44	52
CIVIL	913	981	1132	1112	1246	1476	1665	1866
Prisoner Petitions	250	229	235	279	417	420	546	517
Civil Rights	158	171	177	216	219	272	304	396
Social Security	72	91	161	89	143	142	150	165
Diversity	148	148	147	167	165	212	254	261
Other Civil	285	342	412	361	302	430	411	527
ORIGINAL PROCEEDINGS	26	27	29	20	34	21	33	21
CRIMINAL	347	383	371	456	354	347	351	347
TOTAL CASES FILED	1436	1628	1827	1795	1889	2103	2376	2541

This chart illustrates how the 1982 filings are broken down into the various types of cases. As can be seen, 73% of the court's filings are civil cases. Criminal cases and prisoner petitions account for 34% of the docket.

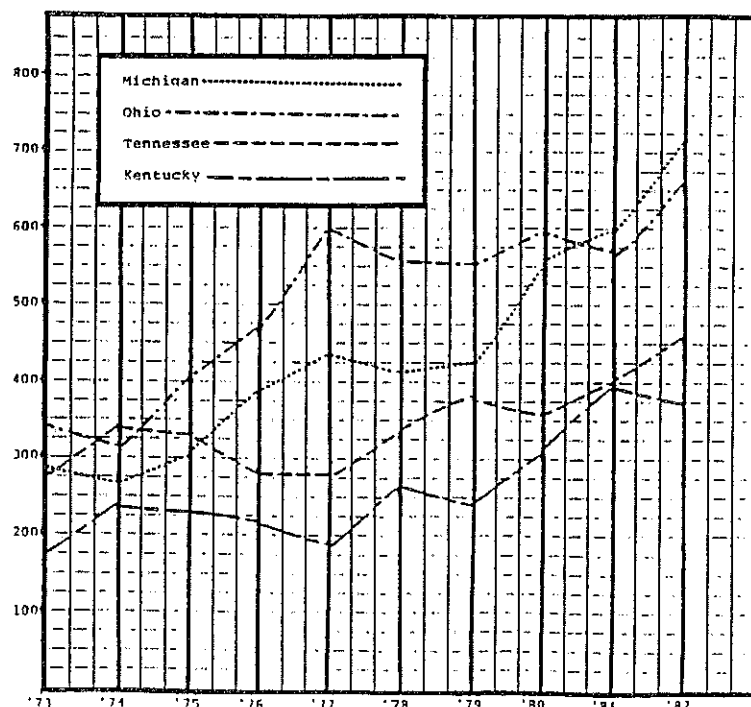


SOURCE OF FILINGS

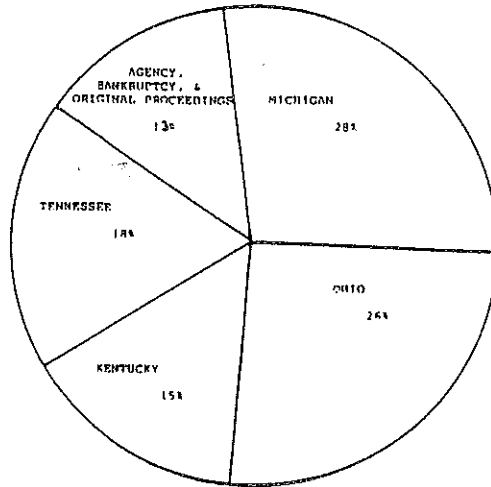
The following table and accompanying chart shows the sources of new case filings. Beginning in 1981, the State of Michigan represented the largest source of new case filings in the circuit.

SOURCE OF FILINGS
FOR TWELVE-MONTH PERIOD JULY - JUNE
1973 through 1982

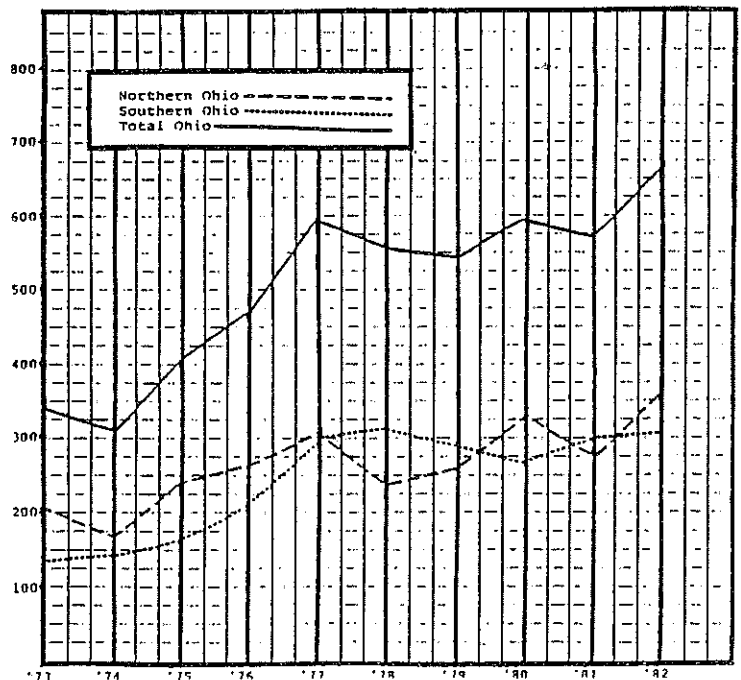
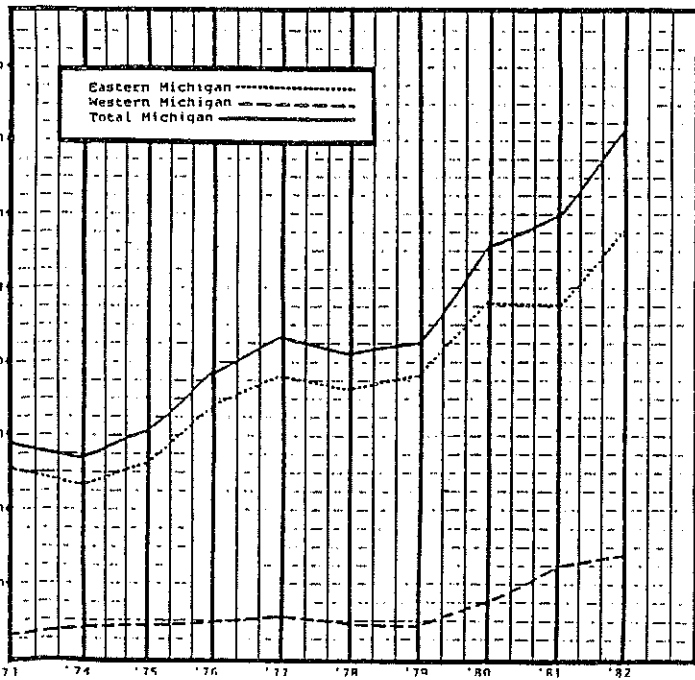
	73	74	75	76	77	78	79	80	81	82
Northern Ohio	203	172	243	264	304	241	265	327	284	359
Southern Ohio	143	145	163	207	295	316	289	271	303	303
TOTAL OHIO	346	317	406	471	599	557	554	598	587	662
Eastern Kentucky	80	131	124	113	107	138	107	118	190	174
Western Kentucky	96	110	102	109	84	128	133	184	213	200
TOTAL KENTUCKY	176	241	226	222	191	266	240	302	403	374
Eastern Michigan	259	231	261	340	383	364	378	482	496	578
Western Michigan	32	39	41	48	52	48	47	75	124	139
TOTAL MICHIGAN	291	270	302	388	435	412	425	557	620	717
Eastern Tennessee	105	128	124	84	78	108	113	147	144	164
Middle Tennessee	80	99	85	75	97	90	118	78	113	152
Western Tennessee	98	119	122	124	103	135	150	141	149	144
TOTAL TENNESSEE	283	346	331	283	278	333	381	366	406	460
AGENCY	149	143	145	216	267	181	235	238	283	255
ORIGINAL PROCEEDINGS	16	18	26	27	29	20	34	21	33	21
BANKRUPTCY	-	-	-	21	28	26	20	21	44	52
TOTAL	1261	1335	1436	1628	1827	1795	1889	2103	2376	2541

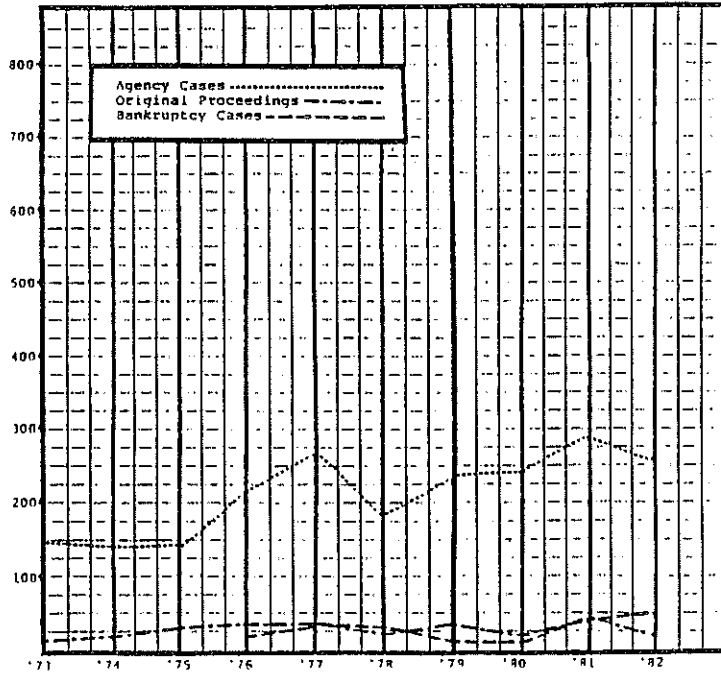
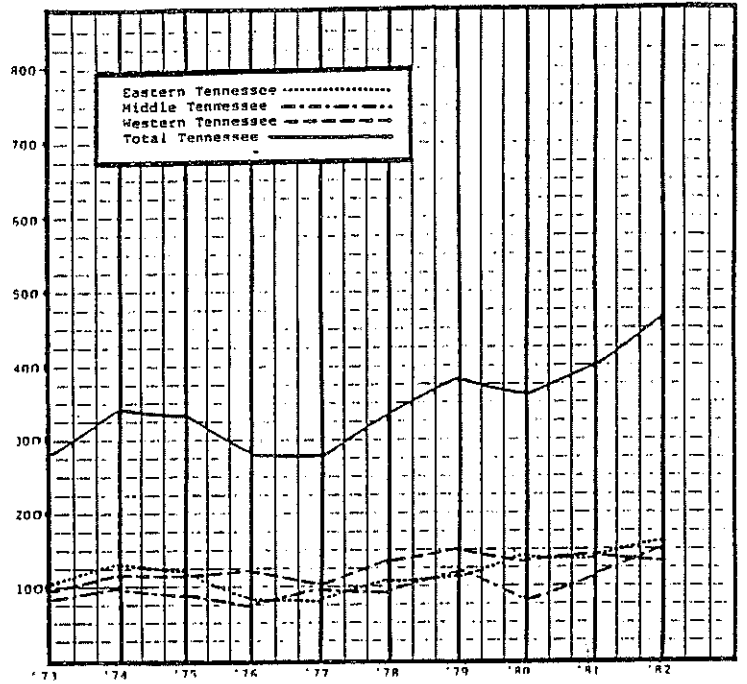
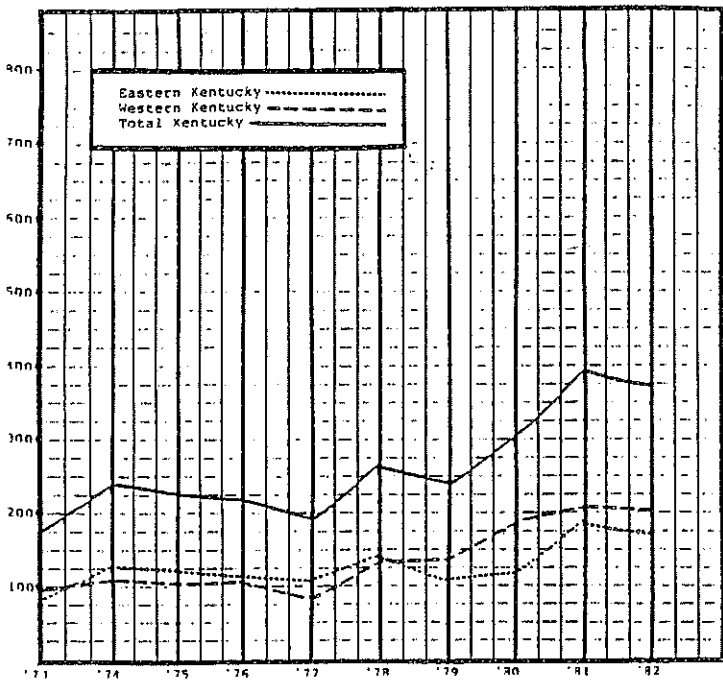


In 1982, cases arising from the states of Michigan and Ohio accounted for 54% of all the new case filings.



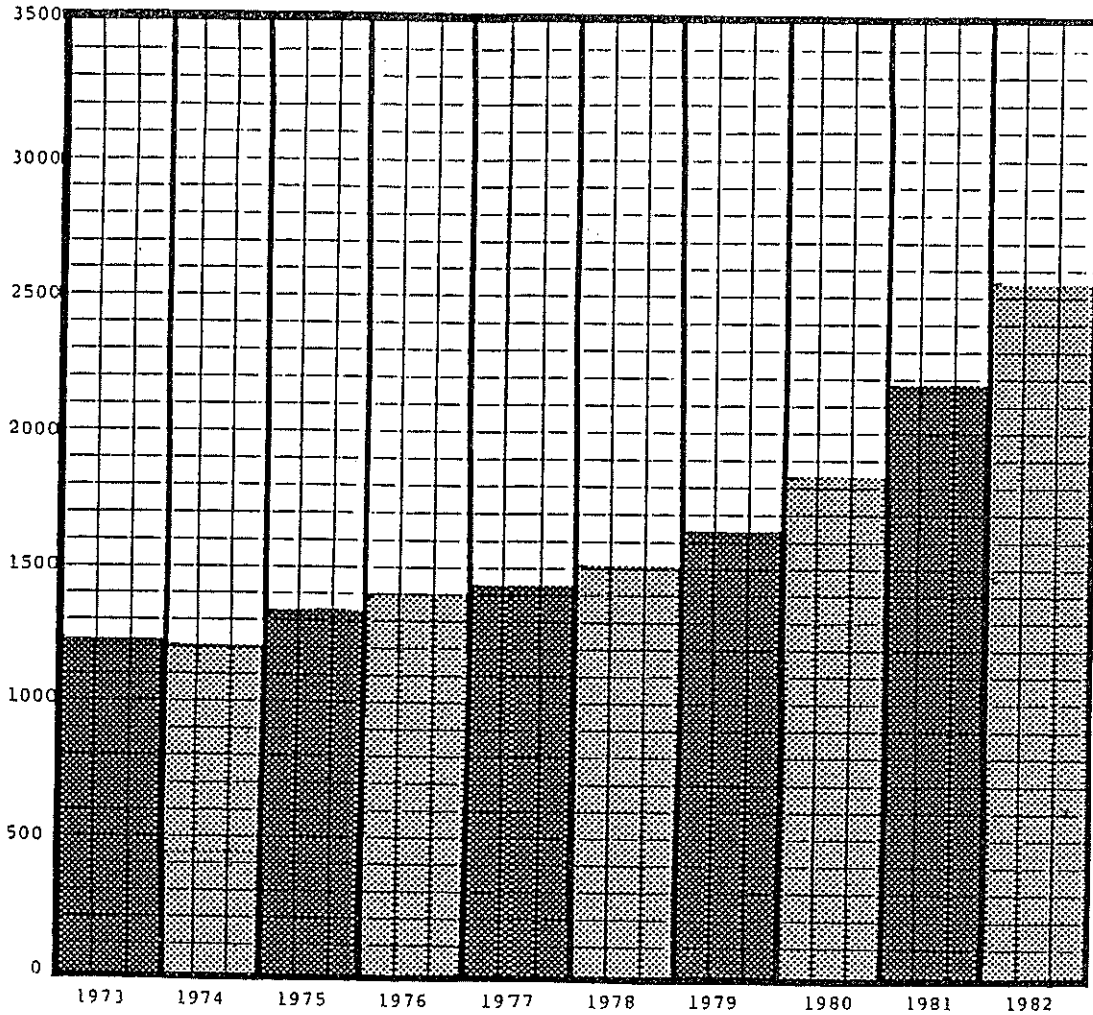
The following four charts depict the changes in filings by the various district courts within the circuit and compares them with their respective state totals. The fifth chart shows the changes in agency and bankruptcy cases on appeal in the last ten-year period along with cases originating in the Court of Appeals for the same period.





DISPOSITIONS

As indicated earlier, there has been a dramatic increase in case dispositions in 1981 and 1982. The graph below depicts dispositions over the past ten years.



Pending cases as of June 30, 19--

The following table and charts show the category of dispositions by the court. Cases were submitted on briefs after parties were given the opportunity for argument but sought and received the court's approval to waive oral argument. In 1982, 49% of the case dispositions were afforded the opportunity for oral argument.

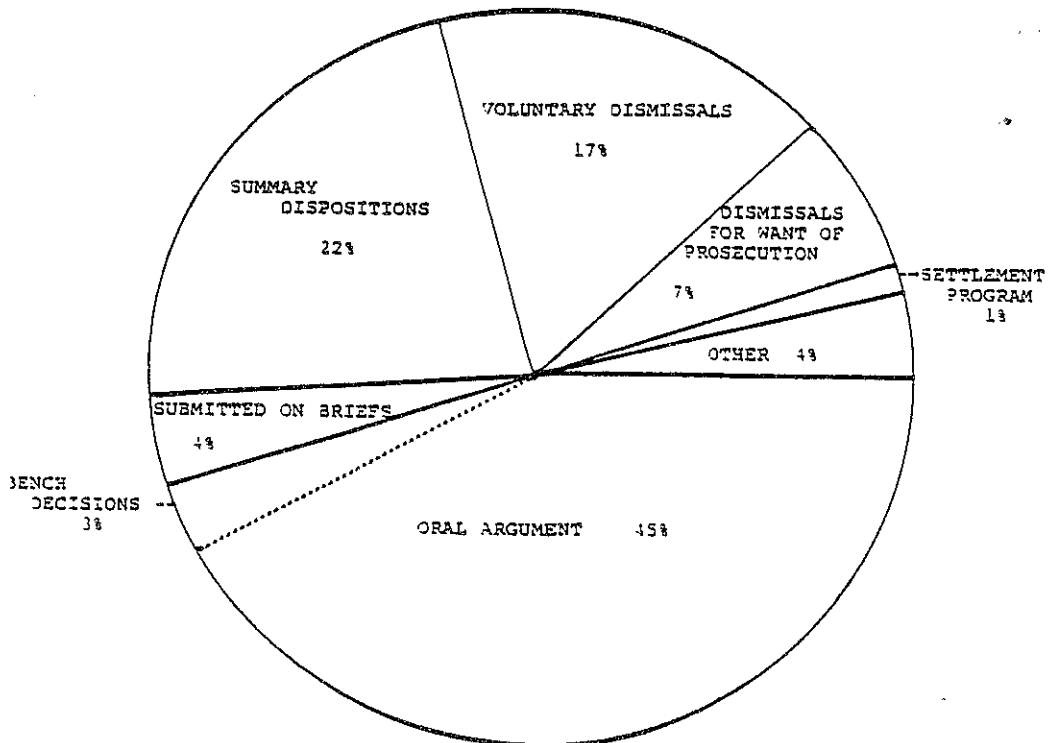
SUMMARY OF DISPOSITIONS
FOR THE TWELVE MONTH PERIOD JULY - JUNE
1980 through 1982

	80	81	82
ORAL ARGUMENT	900	1224	1137
Bench Decisions*	-	1	66
SUBMITTED ON BRIEFS	112	103	96
SUMMARY DISPOSITIONS (Rule 9)	406	444	574
VOLUNTARY DISMISSALS	289	344	445
DISMISSALS FOR WANT OF PROSECUTION	95	107	187
SETTLEMENT PROGRAM**	-	-	14
OTHER	45	42	98
TOTAL	1847	2264	2551

*Sixth Circuit Rule 19 authorizing the issuance of bench decisions went into effect in June, 1981

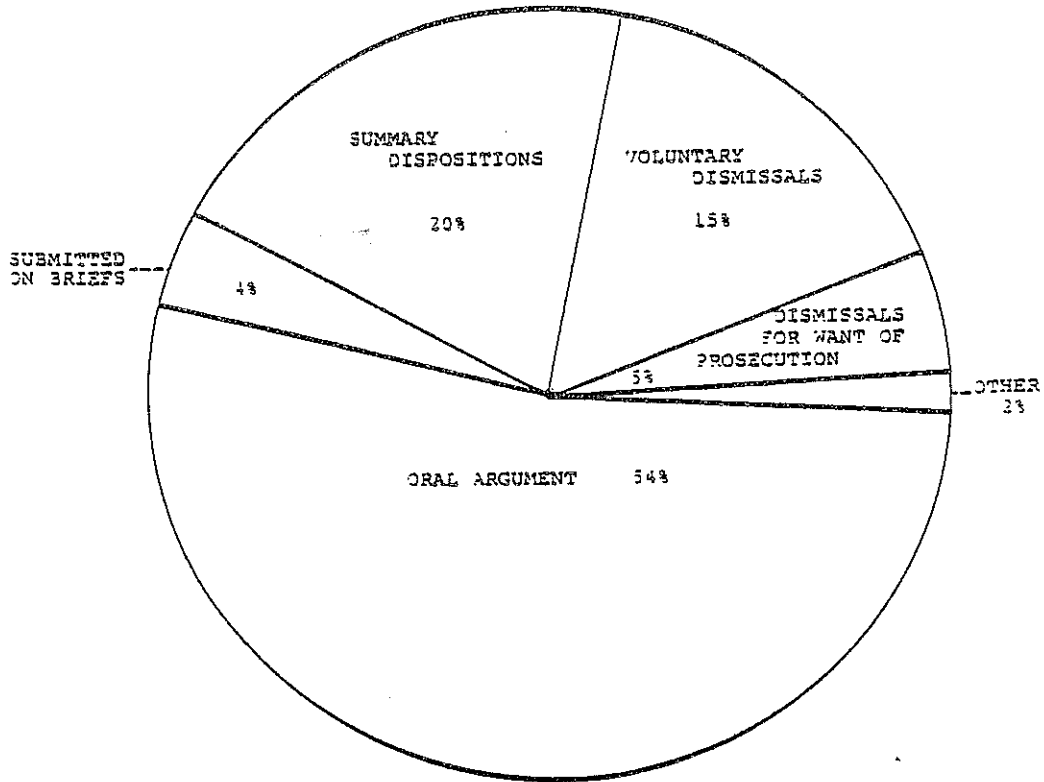
**Implementation of the settlement program started in January, 1982.

SUMMARY OF CASE DISPOSITIONS
For 12-Month Period Ending June 30, 1982



SUMMARY OF CASE DISPOSITIONS

For 12-Month Period Ending June 30, 1981



SUMMARY OF CASE DISPOSITIONS

For 12-Month Period Ending June 30, 1980

