

1992 ANNUAL REPORT



— *presented to* —

SIXTH CIRCUIT JUDICIAL CONFERENCE

May 27 - 29, 1992

Columbus, Ohio

JUDICIAL ADMINISTRATION IN THE SIXTH CIRCUIT

Introduction

This experimental 1992 Sixth Circuit Judicial Conference is the result of several years of planning as part of an overall study of the effectiveness of the policies governing the circuit conference.

**THE 1992 EXPERIMENTAL CIRCUIT
CONFERENCE CULMINATES FOUR
YEARS OF PLANNING.**

Chaired by Senior Judge Douglas W. Hillman of the Western District of Michigan, the program committee has developed both the delegate selection plan and the substantive program content for this conference. With respect to delegates, the goal of the committee was to assure that all delegates have a demonstrated interest in, as well as, experience in the work of the federal courts. In addition, both in the selection criteria developed by the committee, and in the selection of additional delegates, the committee has sought to assure that the delegates, in the aggregate, represent a fair cross-section of the practitioners before the courts of the Sixth Circuit, taking into account factors such as areas of practice, type of clients represented, professional affiliations, age, gender, race, and prior attendance at judicial conferences. The program also will be significantly different from most prior conferences. Rather than lectures or panel discussions presented to large audiences, the program will emphasize small-group workshops moderated by discussion leaders who will encourage open exchange between bench and bar.

The 1992 conference represents an important, but not final, step in the evaluation of the policies governing the Sixth Circuit Judicial Conference. Begun in 1988 under the leadership of then Chief Judge Albert J. Engel, a conference study committee, assisted by an advisory committee of judges and practitioners, will evaluate the success of the experimental 1992 conference and make recommendations to the Court of Appeals for any changes in the policies governing the size, composition, and program of the conference to assure that the conference conforms now, and in the future, to the provisions of 28 U.S.C. §333.

Study Committee

Chief Judge Gilbert S. Merritt, Chair

Circuit Judge Damon J. Keith

Circuit Judge Boyce F. Martin, Jr.

Circuit Judge Harry W. Wellford

Circuit Judge David A. Nelson

Advisory Committee

Senior Circuit Judge Pierce Lively

Senior District Judge Charles W. Joiner

Senior District Judge Douglas W. Hillman

Chief District Judge John D. Holschuh

District Judge S. Arthur Spiegel

District Judge Henry R. Wilhoit

District Judge Julia S. Gibbons

Bankruptcy Judge George C. Paine, II

Magistrate Judge James G. Carr

Charles F. Clarke, Esq., Life Member (Ohio)

Robert G. Stachler, Esq., Life Member (Ohio)

Kathleen Lewis, Esq., Life Member (Michigan)

Katherine Randall, Esq., Life Member (Kentucky)

Alfred H. Knight, III, Esq., Life Member (Tennessee)

Kay Lockett, Assistant Circuit Executive, Reporter

Judicial Conference of the United States

The Judicial Conference of the United States is the chief policy-making body for the federal judiciary. Established in 1922 as the Conference of Senior Circuit Judges, the Conference oversees the general performance of the federal judiciary and makes various policy recommendations for changes in policies or procedures of the courts. The Conference also performs a number of responsibilities which have a direct impact on the day-to-day operations of the judiciary. Some of those responsibilities include:

- Formulation of the budget for the judicial branch and presentation of the budget to the Congress.
- Submission of recommendations to Congress for additional judgeships.
- Determination of the number, location and salary of magistrates.
- Submission to the Supreme Court, subject to Congressional approval, of amendments to the Federal Rules of Procedure and Evidence.
- Supervision of judicial ethics and discipline.

The Judicial Conference meets twice each year - in March and September. The Conference is composed of the Chief Justice, the Chief Judge of each of the twelve geographic circuits, the Chief Judge of the Federal Circuit, the Chief Judge of the Court of International Trade, and a district judge representative from each of the twelve circuits. The district judge representative is elected by vote of the judges of the circuit he or she represents and serves for a term of three years. Upon the appointment of Judge Eugene E. Siler, Jr. to the Court of Appeals in September of 1991, the Chief Justice designated Judge Edward H. Johnstone of the Western District of Kentucky to serve as a member of the Judicial Conference until Judge Siler's replacement can be elected.

The spring and fall meetings of the Conference are only a small part of the total work of the Conference. Much of the work of the Conference is done by standing and ad hoc committees. Membership on the committees is by appointment by the Chief Justice and is not limited to members of the Conference. In addition to the regular committees of the Conference, a seven member Executive Committee oversees the assignment of matters to the substantive committees, sets the agenda for the Judicial Conference sessions, and acts for the Conference in between formal sessions.

The following persons from the Sixth Circuit currently serve on committees of the Conference:

J. Vincent Aprile, Esq. - *Committee to Review the Criminal Justice Act*
Kentucky

Hon. William O. Bertelsman - *Committee on Rules of Practice and Procedure*

Eastern District of Kentucky
Hon. Danny J. Boggs - *Advisory Committee on Appellate Rules*
Sixth Circuit
Hon. James G. Carr - *Committee on Criminal Law*
Northern Ohio
Hon. Julian Abele Cook, Jr. - *Chair, Committee on Judicial Ethics*
Eastern Michigan
Hon. Avern L. Cohn - *Committee on the Administration of the Magistrate Judges System*
Eastern Michigan
Prof. Edward H. Cooper - *Advisory Committee on Civil Rules*
Michigan
Hon. Julia Smith Gibbons - *Committee on Judicial Resources*
Western Tennessee
Hon. Benjamin F. Gibson - *Committee on Automation and Technology*
Western Michigan
Hon. Ralph B. Guy - *Committee on the Judicial Branch*
Sixth Circuit
Hon. Odell Horton - *Committee on Defender Services*
Western Tennessee
Hon. Thomas A. Higgins - *Committee on Court Administration and Case Management*
Middle Tennessee
Hon. Charles W. Joiner - *Committee to Review Conduct and Disability Orders*
Eastern Michigan
Hon. Edward H. Johnstone - *Committee on the Administration of the Bankruptcy Law*
Western Kentucky
Hon. Nathaniel R. Jones - *Advisory Committee on Codes of Conduct*
Sixth Circuit
Hon. Damon J. Keith - *Chair, Committee on the Bicentennial of the Constitution*
Sixth Circuit
Hon. David Kennedy - *Committee on the Administration of the Bankruptcy Law*
Western Tennessee
Edward F. Marek, Esq. - *Advisory Committee on Criminal Rules*
Northern Ohio
Hon. Boyce F. Martin, Jr. - *Committee on Federal-State Jurisdiction*
Sixth Circuit
Hon. H. Ted Milburn - *Committee on the Administrative Office*
Sixth Circuit
Hon. Virginia M. Morgan - *Committee on Long Range Planning*
Eastern Michigan

Hon. Thomas J. Moyer - *Committee on Federal-State Jurisdiction*
Chief Justice, Ohio Supreme Court
Hon. David A. Nelson - *Committee on Criminal Law*
Sixth Circuit
Hon. James L. Ryan - *Committee on Space and Facilities*
Sixth Circuit
Hon. Robert F. Stephens - *National State-Federal Judicial Council*
Chief Justice, Kentucky Supreme Court
Hon. Lawrence P. Zatkoff - *Committee on Court and Judicial Security*
Eastern Michigan

New Committees Created. Two committees of limited duration were created in August of 1991. The Committee to Review the Criminal Justice Act was appointed to study and report on the administration and operation of the Criminal Justice Act of 1964 and to make recommendations for legislation and for procedural or operations changes in the administration of the CJA program. J. Vincent Aprile, Esq. of Kentucky was appointed to serve on that committee. The Ad Hoc Committee on Gender Based Violence was created to monitor Congressional consideration of the proposed Violence Against Women Act of 1991, and, in coordination with the Executive Committee, to communicate the Conference position to members of Congress. No one from the Sixth Circuit was appointed to that committee.

Committee Membership Changes. Several other changes were made in committee assignments pursuant to the Chief Justice's policy of generally limiting appointments to the Judicial Conference Committees to two three-year terms. The following judges completed service as committee members and were released from further service with the appreciation of the Chief Justice: Judge David D. Dowd, Ad Hoc Committee on Asbestos Litigation and Judge Horace W. Gilmore, Committee on Judicial Ethics. In addition, Joseph Patchen, Esq. of Cleveland, Ohio, a member of the Advisory Committee on Bankruptcy Rules was released from service upon the completion of his term of appointment.

New Appointments. Circuit Judge H. Ted Milburn was appointed to a three year term as a member of the Committee on the Administrative Office, and Magistrate Judge Virginia M. Morgan was appointed to a three year term as a member of the Committee on Long Range Planning. Professor Edward H. Cooper of Michigan was appointed to a three year term on the Advisory Committee on Civil Rules, and J. Vincent Aprile, Esq. of Kentucky was appointed to the Committee to Review the Criminal Justice Act.

National State-Federal Judicial Council

In response to a recommendation of the Federal Court Study Committee, which endorsed a suggestion of the Conference of Chief Justices, the Judicial Conference of the United States and the Conference of Chief Justices created a body made up of an equal number of state and federal judges called the National Judicial Council of State and Federal Courts. Chief Justice Robert F. Stephens of Kentucky serves on the National Council.

The National Council serves as a national coordinator to encourage the establishment of local state-federal judicial councils and to strengthen existing councils. Calendar conflicts, habeas corpus procedures, removal of cases and other jurisdictional issues have been useful subjects for the local councils in many areas. The National Council also will seek to engage in educational projects which highlight issues of mutual interest in state and federal courts.

In April of this year the National Council sponsored a National Conference on State-Federal Judicial Relationships.

Judicial Council of the Sixth Circuit

The Judicial Council of the Sixth Circuit is established by 28 U.S.C. §332 to make "all necessary orders for the effective and expeditious administration of justice within its circuit." In addition to its responsibility for making administrative policy decisions within the circuit, the council plays a major role in formulating the policies established by the Judicial Conference as well as in executing those policies. For example, the council reviews any proposals regarding additional judgeship positions and submits recommendations to the Conference. The council also reviews a variety of matters involving the management of judicial resources for compliance with Conference established standards such as the plans for jury selection, criminal representation under the Criminal Justice Act, speedy trial plans, and the management of court reporters. The council also formulates circuit policy in a wide range of matters such as the allocation of personnel and approval of space and facilities projects, and it is authorized to issue orders for the division of business and the assignment of cases within a district court if the district judges are unable to agree.

**JUDICIAL COUNCIL
FOCUSES ON REDUCING
DELAY IN CIVIL CASES.**

There are 19 members of the council consisting of the chief judge, nine circuit judges, and nine district judges. The current membership of the Sixth Circuit Judicial Council is as follows:

Chief Judge Gilbert S. Merritt
Sixth Circuit, Chair
Circuit Judge Cornelia G. Kennedy
Circuit Judge Boyce F. Martin, Jr.
Circuit Judge Nathaniel R. Jones
Circuit Judge H. Ted Milburn
Circuit Judge Ralph B. Guy
Circuit Judge David A. Nelson
Circuit Judge James L. Ryan
Circuit Judge Danny J. Boggs
Circuit Judge Richard F. Suhrheinrich
District Judge William O. Bertelsman
Eastern District of Kentucky
Chief District Judge Ronald E. Meredith
Western District of Kentucky
Chief District Judge Julian Abele Cook, Jr.
Eastern District of Michigan
Chief District Judge Benjamin F. Gibson
Western District of Michigan
Chief District Judge Thomas D. Lambros
Northern District of Ohio

Chief District Judge John D. Holschuh
Southern District of Ohio
Chief District Judge James H. Jarvis
Eastern District of Tennessee
Chief District Judge John T. Nixon
Middle District of Tennessee
Chief District Judge Odell Horton
Western District of Tennessee

Non-voting Members

Bankruptcy Judge William T. Bodoh
Northern District of Ohio
Magistrate Judge Paul J. Komives
Eastern District of Michigan

Although not as extensive as the committee structure of the Judicial Conference of the United States, the Council also operates through a committee structure. The committees of the Council are as follows:

Executive Committee

Honorable Gilbert S. Merritt, Chair
Honorable Cornelia G. Kennedy
Honorable Boyce F. Martin, Jr.
Honorable Nathaniel R. Jones
Honorable Thomas D. Lambros
Honorable Julian Abele Cook, Jr.
Honorable John T. Nixon

Investigating Committee

Honorable Gilbert S. Merritt, Chair
Honorable Cornelia G. Kennedy
Honorable Boyce F. Martin, Jr.
Honorable Nathaniel R. Jones
Honorable H. Ted Milburn
Honorable Douglas W. Hillman
Honorable William O. Bertelsman
Honorable Thomas A. Higgins
Honorable S. Arthur Spiegel

Jury Utilization Committee

Honorable Cornelia G. Kennedy, Chair
Honorable Robert B. Krupansky
Honorable Harry W. Wellford

Senior Judge Personnel and Facilities Committee

Honorable Benjamin F. Gibson, Chair

Honorable H. Ted Milburn

Honorable John D. Holschuh

The Council meets in regular session twice each year, including a meeting in conjunction with the circuit judicial conference. Special meetings are held as necessary, and much of the routine business of the Council is transacted by mail votes. The circuit executive provides the staff and administrative support for the Council.

Among the many items considered in the last year, the Council recommended : (1) that the roving judgeship for the Eastern and Western Districts of Kentucky be converted to full-time service in the Eastern District of Kentucky only and that an additional judgeship be authorized for the Western District of Kentucky; (2) that the existing temporary judgeship in the Northern District of Ohio be made permanent and that an additional temporary judgeship be authorized for that district; (3) that one additional bankruptcy judgeship be authorized in both the Middle District of Tennessee and in the Western District of Tennessee; and, (4) that the part-time magistrate position at Covington, Kentucky be converted to full-time status. The Council also considered and rejected a proposal that a Bankruptcy Appellate Panel be established in the Sixth Circuit pursuant to 28 U.S.C. §158.

At a meeting on April 1, 1992, the Council reviewed the civil case management plans of the Western District of Michigan, the Northern District of Ohio and the Western District of Tennessee that were developed by those districts as early implementation districts under the Civil Justice Reform Act. The Council also reviewed the reports of pending motions, bench trials under advisement, and three-year old civil cases filed by each district and magistrate judge pursuant to the Act and approved a resolution calling upon each district judge to report, through the chief district judges, on civil cases pending for more than five years, bench trials under submission for more than two years, and motions pending for more than two years accompanied by recommended measures to eliminate those pending cases and motions.

OTHER CIRCUIT-WIDE ACTIVITIES OR ISSUES
OF INTEREST TO THE BENCH AND BAR

Bicentennial Committee

**JUDICIAL CONFERENCE OF
THE UNITED STATES
COMMENDS THE
COMMITTEE ON THE
BICENTENNIAL OF THE
CONSTITUTION AND ITS
CHAIRMAN, JUDGE DAMON
J. KEITH OF THE SIXTH
CIRCUIT, FOR ITS
OUTSTANDING WORK.**

The celebration of the Bicentennial of the Constitution culminated in 1991 with the celebration of the two hundredth anniversary of the ratification of the Bill of Rights. Several federal courts held ceremonies and programs to consider historical background of the first ten amendments to the Constitution and to analyze the future implications of those amendments. The September 1991 meeting of the Judicial Conference of the United States was dedicated to the Bicentennial of the Bill of Rights, and in October a three day conference on the bicentennial of the Constitution and the Bill of Rights was held in Williamsburg, Virginia, in conjunction

with the College of William and Mary's Marshall-Wythe College of Law and its Institute of Bill of Rights Law. Over 300 federal judges were joined by government officials, practicing lawyers, academics and journalists in the presentation of major lectures, small group discussions and moot court arguments.

On March 15, 1992 the Judicial Conference of the United States met in regular session. The Executive Committee of the Conference offered a resolution of appreciation for the outstanding work of Chairman Damon J. Keith and the members of the Committee on the Bicentennial of the Constitution. The resolution reads in part as follows:

Since 1985 the Committee has engaged in a wide variety of outstanding projects designed to foster judicial and public education on the Constitution of the United States and the Bill of Rights. Video-tapes depicting trials on major constitutional issues have been distributed to public television stations, courthouses, and schools nationwide. The Committee co-sponsored the International Appellate Judges Conference in Washington in 1990, attended by hundreds of judges from throughout the world, showcasing the Constitution and the Bill of Rights. The Committee has published brochures on the Constitution and the Bill of Rights and distributed millions of copies to school children around the nation, as well as to jurors and naturalized citizens, and has bestowed grants and stipends for many research and educational projects.

The Committee commissioned the production of bronze plaques containing the full text of the Bill of Rights, and has presented over 200 of those plaques to courthouses, universities, libraries, legislatures, and other institutions around the world.

....

Despite the substantial time required to accomplish the task before them, Judge Keith and the Committee members continued to perform their regular judicial duties as judges of their respective courts.

Judge Keith and the members of the Committee have earned our deep respect and sincere gratitude for their commitment to the success of this important celebration of our Constitution and our hearty congratulations on a job well done.

The resolution of commendation to Judge Keith and the members of his committee was unanimously approved by the Judicial Conference.

Judicial Discipline

The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. §372(c)) establishes a procedure whereby any person may file a complaint of misconduct or disability against any judicial officer of the circuit. A complaint is submitted first to the Chief Judge of the Circuit, who may dismiss a complaint which he finds to be directly related to the merits of a decision or procedural ruling of the judge complained against or which he finds to be frivolous. The Chief Judge also may close a complaint if he concludes that appropriate corrective action has been taken.

If the Chief Judge cannot dispose of the complaint, he must certify the complaint to the Investigating Committee of the Council. The Investigating Committee must conduct an investigation and prepare a report with recommendations for appropriate action by the Council. Sanctions which may be imposed by the Council, if necessary, include certification of disability, request that a judge voluntarily retire, temporary suspension of case assignments, or public or private censure or reprimand.

The Sixth Circuit Judicial Council first published Rules for Processing Complaints of Judicial Misconduct in 1981. Upon the recommendation of the Conference of Chief Circuit Judges that some degree of uniformity among the circuits was desirable in the handling of conduct or disability matters, the Sixth Circuit Judicial Council has adopted the illustrative rules proposed by the Conference of Chief Judges, with slight modifications. Copies of the rules are available from the circuit executive's office or from any clerk's office in the Sixth Circuit. Several minor amendments to conform the Sixth Circuit's rules to the recent amendments to 28 U.S.C. §372(c) were approved by the Council to be effective on April 1, 1992.

During the year ended December 31, 1991, 32 complaints were filed in the Sixth Circuit, and 32 complaints were terminated. All but one of the complaints were filed by disappointed litigants, some of whom were prison inmates. Twenty-six of the complaints were dismissed by the Chief Judge as directly related to the merits of a decision or procedural ruling. Three complaints were dismissed by the Chief Judge as not in conformity with the statute, and two complaints were dismissed as frivolous. One complaint was closed by the Chief Judge upon his finding that appropriate corrective action had been taken. No complaints were referred to the special investigating committee of the Judicial Council during 1991.

Death Penalty Task Forces

The Sixth Circuit has been endeavoring to prepare for the time when the persons under sentence of death would begin exhausting their state post conviction remedies and seek relief under the federal habeas corpus statute. In anticipation of this eventuality, Judge Pierce Lively appointed Death Penalty Task Forces in the respective States. Each succeeding Chief Judge has encouraged the work of those Task Forces. Our present Chief Judge, Gilbert S. Merritt, in December met with Task Force leaders and persons involved with the capital resource centers to revisit the commitment of this court to their programs.

THE TIME IS APPROACHING FOR THE DISTRICT COURT JUDGES IN OHIO, KENTUCKY AND TENNESSEE TO GIRD FOR THE INEXORABLE DEATH PENALTY CASES. MICHIGAN, THE FOURTH SIXTH CIRCUIT STATE, DOES NOT HAVE THE DEATH PENALTY.

The Capital Resource Centers are an outgrowth of the Task Forces. They are carrying forward the purposes that led to the formation of the task forces. The first of the resource centers to activate was Tennessee's Capital Case Resource Center. In looking at the work of these centers note must be taken of the early leadership role played by Chief Judge Odell Horton of the Western District of Tennessee. His steady hand and appreciation for the importance of the issues involved proved to be indispensable as he performed his duties. As Chairman of the Tennessee Task Force he guided the integration of the Resource Center into the federal and state legal communities and provided assistance in the recruitment of the support and involvement of members of the Shelby County Bar. This proved to be a model for the Kentucky and Ohio Task Forces and Centers. Judge Horton's service on the Defender Services Committee of the Judicial Conference of the United States provided him with a keen understanding of the importance of the Criminal Justice Act and its potential for facilitating the work of the resource centers. In helping to shape the policy Judge Horton brought to bear in Tennessee and the Sixth Circuit his understanding of the program. We are in his debt.

What follows is a status report of the three resource centers.

Kentucky Capital Litigation Resource Center. The acting Public Advocate is former Franklin Circuit Judge Ray Corns, who had earlier been appointed Deputy Public Advocate. The center has its full complement of four attorneys, though one recently resigned. Other staff include two paralegals, one investigator and two secretaries. One investigator's position is yet to be filled. Randall Wheeler is the Executive Director of the Center.

There are currently 29 persons on death row, including one woman. (Her sentence of death, as well as the conviction and sentence of death of a man on death row, were recently reversed by the Kentucky Supreme Court.) Two cases have reached the United States Court of Appeals for the Sixth Circuit on petitions for writs of habeas corpus. One of those cases was reversed last year and the other is currently being briefed.

Of the 29 persons on death row, eleven currently have cases on direct appeal to the Kentucky Supreme Court, while the other eighteen are in various stages of post-conviction litigation primarily in state court. All cases in federal court on petitions for writs of habeas corpus, or appeals thereof, are being handled by the Department of Public Advocacy and/or Resource Center attorneys.

The recruitment of qualified private attorneys to provide post-conviction representation remains a prime problem for the Resource Center. Representation in the federal courts can now be compensated more adequately by virtue of the Anti-Drug Abuse Act of 1988, and the guidelines established by the Administrative Office and the District Courts of this Circuit. Such is not the case in state court. A cap of \$2,500.00 plus expenses is proving to be a formidable impediment. In spite of the cap, the Resource Center succeeded in recruiting eight lawyers to represent capital clients in post-conviction proceedings. The Center continues to consult with private lawyers and public defenders and also, by means of a newsletter, Capital Concerns, seeks to keep Kentucky attorneys apprised of the latest developments in the field.

A litigation manual is in the process of preparation and in cooperation with the Department of Public Advocacy, an intensive post-conviction training program is being planned.

The Ohio Resource Center. In December, the Ohio Public Defender Commission, which also serves as the Board of Directors of the Ohio Resource Center, formally named David C. Stebbins, Esq., as the Executive Director of the Center. Throughout the year, Stebbins and members of the staff worked closely with other Resource Center Directors and their staffs in an effort to gain insights from their experiences.

Despite the fact that the Defender Services Committee approved funding for the Ohio Center, the funding did not begin until December. A number of factors, including the granting of eight commutations of death sentences by former Governor Richard F. Celeste in January, 1991, slowed the pace of activity in federal habeas corpus litigation.

There are 114 persons under sentence of death in Ohio. There are presently five death penalty cases pending in the District Courts, two in the Southern District and three in the Northern District. The Resource Center is providing direct representation in three of these cases and consulting on the remaining two. There are an additional seven cases that have moved through the state system and it is anticipated that federal habeas petitions will be filed within the next several months. Beyond that, there are another five to ten cases that could reach the federal courts within the next twelve months. A legal challenge to seven of the Death Row commutations granted by Governor Celeste will, in all likelihood, increase the pending cases since two of those persons also have petitions pending in the district courts. The remaining five have appeals pending in the state courts with the likelihood of them reaching the federal court in the next two years.

During the past year the Resource Center continued its activity of tracking all death penalty cases throughout Ohio as well as providing training and resources for attorneys who have been recruited to provide representation in habeas cases. The Center has sought and provided training in representing death row inmates in federal habeas corpus cases. The staff participated in training sessions at the Resource Center in San Francisco in April, 1991.

One of the activities that has engaged the Director has been the recruiting of qualified attorneys and other professionals for staff positions. A nationwide recruitment effort is underway. Additionally, since the Center is charged with developing lists of qualified attorneys willing to accept appointments and provide representation in death penalty federal habeas corpus cases, meetings have been held with the respective chief judges, Honorable Thomas Lambros of the Northern District and Honorable John Holschuh of the Southern District. Judge Holschuh is soliciting suggestions from his colleagues, while Judge Lambros has appointed a special Criminal Justice Act Task Force, to which he has named Director Stebbins. Federal Public Defender Ed Marek is a member of the subcommittee. A recommendation is expected soon.

Capital Case Resource Center of Tennessee. As noted in the introduction to this report, the Capital Case Resource Center of Tennessee, headquartered in Nashville, was the initial Resource Center in the Sixth Circuit. Under the direction of William Redick Jr., the Tennessee Center became fully staffed in 1990 though it began its work in 1988. It now has six attorneys and a total of nine full time staff with one position presently vacant.

Tennessee has approximately 98 persons on death row. Twenty-two of these cases are presently pending in federal court (some have returned to state court for the purpose of exhausting unexhausted issues). Fifty-plus death sentenced defendants are in state post-conviction proceedings with some having more than one post conviction petition pending. Twenty-five plus cases are on direct appeals from a death sentence at trial. At any given time there are approximately 175 first degree prosecutions pending in state trial courts, thirty or forty of which are death penalty cases.

The Center staff engages in consultation to a significant degree. Consultation on these cases can take many forms: telephone contact and personal meetings; distribution of materials--i.e. sample pleadings, articles, manuals; drafting of case specific pleadings, identifying co-counsel as well as investigators, and psychologists and other forensic experts to assist in the defense. In some instances the assistance includes making court appearances.

With equal funding from the state and federal governments, the Center divides its time between state and federal courts. In addition to the aforesaid services rendered in consultation, the Center assists in a broad variety of other ways, including dealing with personal emergencies involving death row inmates, seeking stays of execution

when defendants are unrepresented, and negotiating over the appointment of attorneys recommended by the Center.

Involvement in the individual cases in federal court is much more comprehensive than in state cases. Center staff attorneys are counsel of record in half of the capital habeas corpus petitions presently pending in the federal courts. They are active, in varying degrees, in all Federal habeas corpus petitions with minimal involvement in some of the cases at the pretrial stage in state court. Staff attorneys are counsel of record in eight federal habeas corpus cases, while they are presently counsel of record in ten state court cases. In all of these cases the defendants are indigent but the government is not billed as would be the case if appointed counsel were involved.

Other activities of the Resource Center included the conducting of one-day seminars in seven cities in Tennessee: Memphis, Jackson, Columbia, Clarksville, Cookeville, Chattanooga and Johnson City. Approximately 300 attorneys attended these seminars. Moreover, in April, 1991, a one day seminar on jury selection was held in Nashville. In January, 1992, the staff presented a two-day death penalty seminar in Nashville for 220 lawyers. This was followed by a March conference in Nashville attended by two staff attorneys and the director under the sponsorship of the National Legal Aid and Defenders Association.

The Tennessee Committee of the Sixth Circuit Task Force that created the Resource Center, has set as its number one priority the recruitment of qualified counsel to accept appointment in indigent capital cases. This recruiting activity has consumed an inordinate amount of resources with, unfortunately, decreasing success. To date, between 65 to 70 attorneys believed to be qualified to handle the assignments, have been recruited and accepted appointments in state and federal courts. This appears to be the limit of the Center's ability to attract qualified in-state attorneys. However, with the impetus from the Task Force, it is hoped that other lawyers will be identified and recruited.

Civil Justice Reform Act

The Civil Justice Reform Act, which was passed by the Congress and signed by the President effective December 1, 1990, consumed a good deal of the attention of the bench and bar in several districts in the Sixth Circuit. The Act requires each district court to implement a civil justice expense and delay reduction plan after consideration of the recommendations of an advisory group which include attorneys and other persons who are representative of major categories of litigants in a district.

Although the Act permits most districts to defer the adoption of their civil justice delay and expense reduction plan until 1994, three districts in the Sixth Circuit adopted their plans by December 31, 1991 and have been designated as early implementation districts. The Western District of Michigan and the Northern District of Ohio were designated in the Civil Justice Reform Act to serve as demonstration districts with a statutory mandate to experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and time frames for the completion of discovery and for trial. The Western District of Tennessee is the other early implementation district having been designated by the Judicial Conference of the United States as a pilot district. The pilot districts are part of a four-year test which will compare the expense and delay reduction results in the pilot districts with that achieved in comparable non-pilot districts.

The three plans that have been adopted in the Sixth Circuit include most of the techniques and procedures recommended in the Act, such as: (1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case; (2) early and ongoing control of the pretrial process through involvement of a judicial officer in assessing and planning the progress of a case and setting early, firm trial dates, such that the trial is scheduled to occur within 18 months of the filing of the complaint unless a judicial officer certifies that the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice, or that the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases; (3) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion and setting, at the earliest practical time, deadlines for filing motions and a time framework for their disposition; (4) for complex cases a case management conference or series of such conferences that explore settlement, identify principle issues and provides for staged resolution of issues or bifurcation consistent with Rule 42(b) FRCivP, and prepares a discovery schedule which avoids unnecessary or unduly burdensome or expensive discovery, and sets, at the earliest practical time, deadlines for filing motions and a time framework for their disposition; (5)

encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices; (6) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion; (7) authorization to refer appropriate cases to alternative dispute resolution programs that have been designated for use in a district court, or the court may make available, including mediation, mini-trial, and summary jury trial.

The Act also requires, for the first time, public reporting of cases and motions under submission. Twice each year the Administrative Office of the U.S. Courts shall prepare a semiannual report - available to the public - showing for each judicial officer: (1) a listing of each case in which a motion has been pending for more than six months; (2) A listing of each case tried by bench trial that has been under submission for more than six months; and, (3) a listing of cases that have not been terminated within three years of filing. The first such report was compiled for the six-month period ending September 30, 1991. A copy of the report may be obtained from the Administrative Office, from the Office of the Circuit Executive, or from the clerk of each district court.

Office of the Circuit Executive

The Office of the Circuit Executive occupies a somewhat unique position within the administrative structure of the Sixth Circuit. Although appointed by the Sixth Circuit Judicial Council, the Circuit Executive is administratively attached to the Court of Appeals and performs a variety of administrative responsibilities relating to all of the courts of the circuit.

As secretary and executive officer of the Council, the Circuit Executive provides administrative and staff support to the Council and its committees. In addition, the Circuit Executive's office provides staff support for each of the Bankruptcy Merit Selection Panels, and it administers the complaint procedure under the Judicial Councils Reform and Judicial Conduct and Disability Act.

For the Court of Appeals, the Office of the Circuit Executive exercises administrative control over all non-judicial functions of the court. The Circuit Executive serves as chief of staff of the Court of Appeals senior staff, and his office administers the budget, personnel, procurement and facilities management policies for the Court of Appeals. In addition, the Office of the Circuit Executive, under the supervision of the Chief Judge, prepares the panel assignments for the Court of Appeals and makes arrangements for scheduling visiting judges to sit with the court.

The Office of the Circuit Executive also provides administrative staff support to the Chief Judge of the Circuit and to other circuit-wide activities such as the Sixth Circuit Judicial Conference. Included is assistance with the liaison with other federal courts, state courts and various departments and agencies of the government, and assistance with the intercircuit and intracircuit designation and assignment of circuit, district and bankruptcy judges.

On October 1, 1991, the Court of Appeals became a decentralized budget court. The Office of the Circuit Executive will be responsible for the overall management of the court's financial system and budget administration. The implementation of new financial and accounting procedures has been a major undertaking in making the transition to the new system.

The United States Court of Appeals for the Sixth Circuit, along with the United States Court of Appeals for the D.C. Circuit and the United States District Court for the Eastern District of Michigan will constitute the three test sites for the installation of the new judiciary-wide data communications network. The automation unit of the Circuit Executive's office has been heavily involved in the preparations for implementation in locations throughout the Sixth Circuit. Installation is to be completed in late spring of 1992, and first stage acceptance testing will start shortly thereafter.

Finally, the Circuit Executive's office has participated in a process to redefine roles and responsibilities of judges and administrators in the management of the judiciary's space and facilities program. The judiciary is about to embark on an unprecedented level of construction of new court facilities throughout the country, and there is a growing recognition that there will be a need for greater decentralization of the management of the program to the affected courts.

JUDICIAL PERSONNEL IN THE SIXTH CIRCUIT

Deaths

Bert T. Combs. The Honorable Bert T. Combs died on December 4, 1991 when flood waters swept his car off the road into the Red River in Rosslyn, Kentucky. Judge Combs served as judge of the United States Court of Appeals for the Sixth Circuit from 1967 to 1970. He served as Governor of Kentucky from 1959 to 1963 and left the bench to seek another term as Governor. At the time of his death he was a partner in the law firm of Wyatt, Tarrant and Combs in Lexington.

Thomas A. Ballantine, Jr. The Honorable Thomas A. Ballantine, Jr., Senior United States District Judge for the Western District of Kentucky, died on February 18, 1992. Judge Ballantine was appointed to the District Court on October 12, 1977 and served as Chief Judge of the District from September 17, 1990 to November 26, 1991 when he assumed senior status. Judge Ballantine continued to render valuable service to the District Court until his untimely death.

Senior Status

Court of Appeals

Robert B. Krupansky. The Honorable Robert B. Krupansky assumed senior status on July 1, 1991. Judge Krupansky was appointed United States Circuit Judge for the Sixth Circuit on March 10, 1982. Prior to his appointment to the Sixth Circuit Court of Appeals, he served as United States District Judge for the Northern District of Ohio from 1970 to 1982. Judge Krupansky continues to render valuable service to both the Sixth Circuit Court of Appeals and the United States District Court for the Northern District of Ohio.

District Court

Alvin I. Krenzler. The Honorable Alvin I. Krenzler assumed senior status on January 1, 1992. Judge Krenzler was appointed United States District Judge for the Northern District of Ohio on December 10, 1981. Prior to his appointment to the District Court, Judge Krenzler was a Judge on the Eighth District Court of Appeals of Ohio. Judge Krenzler continues to render valuable service to the District Court.

Retirements

Charles R. Laurie, Jr. The Honorable Charles R. Laurie, Jr. retired on July 1, 1991 as United States Magistrate Judge in the Northern District of Ohio at Akron. Magistrate Judge Laurie was appointed to his first term as United States Magistrate Judge on July 18, 1977. He continues to serve the District as a recalled Magistrate Judge.

George J. Long. The Honorable George J. Long retired on June 30, 1991 as United States Magistrate Judge in the Western District of Kentucky at Louisville. Magistrate Judge Long was appointed to his first term as United States Magistrate Judge on October 13, 1978. Prior to his appointment as magistrate judge, he was the United States Attorney for the Western District of Kentucky.

District Court Elevations

William O. Bertelsman. The Honorable William O. Bertelsman became the Chief Judge of the United States District Court for the Eastern District of Kentucky on September 20, 1991. Judge Bertelsman was appointed to the District Court on November 27, 1979, and prior to his appointment to the district court bench, he was in private practice. He succeeds United States Circuit Judge Eugene E. Siler, Jr. of London, Kentucky as Chief Judge of the District.

John T. Nixon. The Honorable John T. Nixon became the Chief Judge of the United States District Court for the Middle District of Tennessee on August 1, 1991. Judge Nixon was appointed to the District Court on May 12, 1980. Prior to his appointment to the District Court, He was General Sessions Judge of the Tenth Judicial Circuit of the State of Tennessee. He succeeds United States District Judge Thomas A. Wiseman, Jr. of Nashville, Tennessee as Chief Judge of the District.

James H. Jarvis, II. The Honorable James H. Jarvis became the Chief Judge of the United States District Court for the Eastern District of Tennessee on November 22, 1991. Judge Jarvis was appointed to the District Court on October 12, 1984, and prior to his appointment, was Judge of the Circuit Court for Blount County, Tennessee. Judge Jarvis succeeds United States District Judge Thomas G. Hull of Greeneville, Tennessee as Chief Judge of the District.

Ronald E. Meredith. The Honorable Ronald E. Meredith became the Chief Judge of the United States District Court for the Western District of Kentucky on November 29, 1991. Judge Meredith was appointed to the District Court on April 4, 1985. Prior to his appointment to the bench, Judge Meredith was United States Attorney for the Western District of Kentucky. He succeeded the late Senior United States District Judge Thomas A. Ballantine, Jr. of Louisville, Kentucky as Chief Judge of the District.

New Appointments

Sixth Circuit Court of Appeals

Eugene E. Siler, Jr. The Honorable Eugene E. Siler, Jr. was appointed United States Circuit Judge for the Sixth Circuit Court of Appeals on September 16, 1991 to the position which was vacated by Judge Harry W. Wellford's assumption of senior status. Prior to his appointment to the Court of Appeals, Judge Siler served as United States District Judge for the Eastern District of Kentucky from 1975 to 1991, and as Chief Judge of the District Court from October 1, 1984 to September 20, 1991.

Alice M. Batchelder. The Honorable Alice M. Batchelder was appointed United States Circuit Judge for the Sixth Circuit Court of Appeals on December 2, 1991 to the position which was vacated by Judge Pierce Lively's assumption of senior status. Prior to her appointment to the Court of Appeals, Judge Batchelder served as United States District Judge for the Northern District of Ohio from April 4, 1985 to January 4, 1992.

United States District Courts

Paul R. Matia. The Honorable Paul R. Matia was sworn in as United States District Judge for the Northern District of Ohio on December 20, 1992 to a new position created by P.L. 101-650. Prior to his appointment to the District Court, Judge Matia was a Judge of the Court of Common Pleas for Cuyahoga County, Ohio from 1985 to 1991.

David McKeague. The Honorable David W. McKeague was appointed United States District Judge for the Western District of Michigan on February 6, 1992 to the position which was vacated by Judge Douglas Hillman's assumption of senior status. Prior to his appointment to the bench, Judge McKeague was a senior partner in the law firm of Foster, Swift, Collins & Smith, P.C. of Lansing.

Nancy G. Edmunds. The Honorable Nancy G. Edmunds was appointed to the United States District Court for the Eastern District of Michigan on February 20, 1992 to the position which was vacated by Judge Richard F. Suhrheinrich upon his appointment to the Sixth Circuit Court of Appeals. Prior to her appointment to the district bench, Judge Edmunds was a senior partner in the law firm of Dykema Gossett of Detroit, Michigan.

Sandra Beckwith. The Honorable Sandra S. Beckwith was appointed United States District Judge for the Southern District of Ohio on February 21, 1992 to a new position established pursuant to the Judicial Improvements Act of 1990. Prior to her appointment, Judge Beckwith was a Hamilton County Municipal Court Judge, Common Pleas Court Judge, Hamilton County Commissioner, and an associate in the law firm of Graydon, Head & Ritchey.

Jon Phipps McCalla. The Honorable Jon Phipps McCalla was appointed United States District Judge for the Western District of Tennessee on February 10, 1992 to a new position established pursuant to Public Law 101-650. Prior to his appointment to the bench, Judge McCalla was a partner in the Memphis office of the Tennessee law firm of Heiskell, Donelson, Bearman, Adams, Williams & Kirsch.

Robert L. Echols. The Honorable Robert L. Echols was sworn in as United States District Judge for the Middle District of Tennessee on April 16, 1992 to a new position created by P.L. 101-650. Prior to his appointment to the District Court, Judge Echols was in private practice with the firm of Dearborn & Ewing in Nashville.

United States Magistrate Judges

James S. Gallas. The Honorable James S. Gallas was appointed United States Magistrate Judge for the Northern District of Ohio on June 27, 1991 to the position which was vacated by United States Magistrate Judge Charles R. Laurie's retirement. Prior to his appointment, Magistrate Judge Gallas had been Clerk of the United States District Court for the Northern District of Ohio since 1979.

J. Daniel Breen. The Honorable J. Daniel Breen was appointed United States Magistrate Judge for the Western District of Tennessee on July 1, 1991. Magistrate Judge Breen holds court both in Jackson and Memphis, Tennessee. He was appointed to a new full-time magistrate judge position. Prior to his appointment, Magistrate Judge Breen was engaged in the private practice of law in Jackson, Tennessee.

C. Cleveland Gambill. The Honorable C. Cleveland Gambill was appointed United States Magistrate Judge for the Western District of Kentucky at Louisville on August 3, 1992. He was appointed to the position vacated by the retirement of United States Magistrate Judge George Long. Prior to his appointment, he was Assistant United States Attorney for the Western District of Kentucky for seven years and was First Assistant for three of those seven years.

J. Gregory Wehrman. The Honorable J. Gregory Wehrman was appointed United States Magistrate Judge for the Eastern District of Kentucky at Covington on January 10, 1992. He was appointed to a new full-time magistrate judge position. Prior to his appointment, Magistrate Judge Wehrman had served as a part-time Magistrate Judge in the Eastern District of Kentucky for sixteen years and was engaged in the private practice of law.

John M. Dixon. The Honorable John M. Dixon, Jr. was appointed United States Magistrate Judge for the Western District of Kentucky at Hopkinsville on March 10, 1992. He was appointed to a new full-time magistrate judge position. Prior to his appointment, Magistrate Judge Dixon had served as a part-time Magistrate Judge in the Western District of Kentucky for twenty years and was engaged in the private practice of law.

JUDICIAL WORKLOAD IN THE SIXTH CIRCUIT

Workload in the District Courts

The trend of decreasing civil filings, with a slight increase in criminal filings continued in the district courts of the Sixth Circuit last year.

During 1991 civil filings decreased by 17%, while criminal filings increased by 5%. Civil terminations increased by 11%, and criminal terminations increased by 14%. The number of civil cases pending in the District Courts of the Sixth Circuit decreased by about 17%, and the number of pending criminal cases dropped by about 8%. **Figure 1** depicts the history of filings in the district courts of the Sixth Circuit by major category of cases over the last ten years.

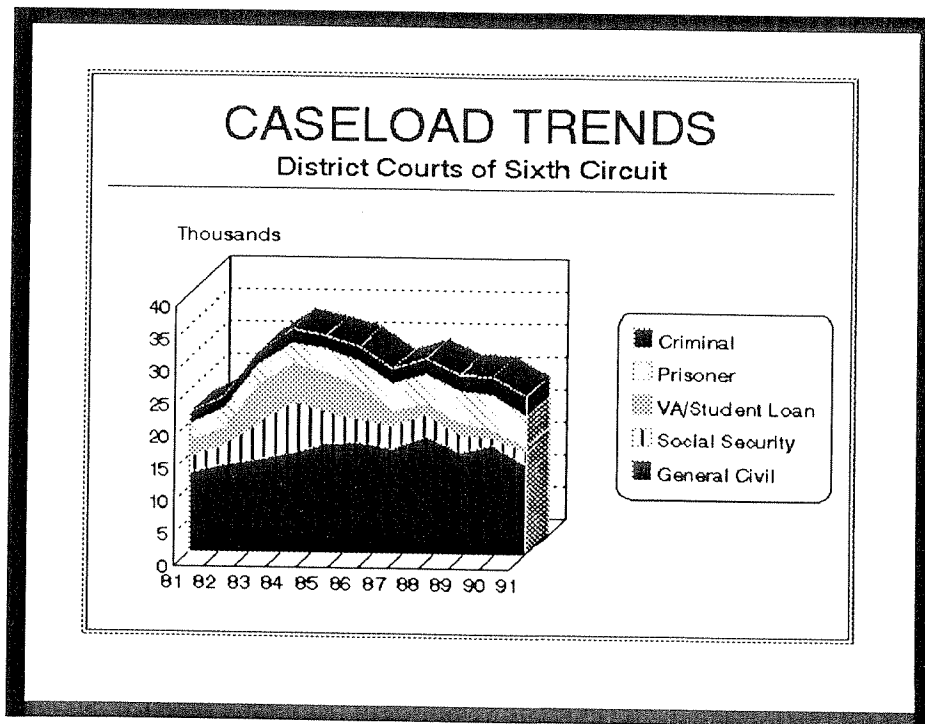


Figure 1

Filings. Largely due to a significant drop in the number of new asbestos cases filed, the Northern District of Ohio experienced a 50% drop in the number of civil cases filed during 1991. The Eastern District of Kentucky and the Eastern District of Michigan had the largest increases in new filings, while the Eastern District of Tennessee and the Middle District of Tennessee had substantial declines in filings.

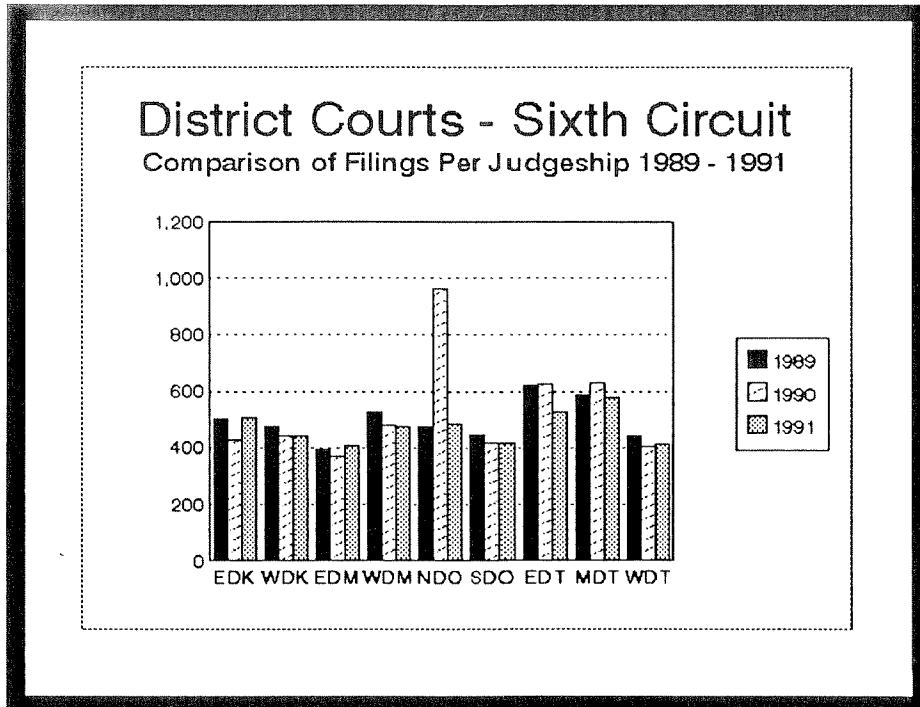


Figure 2

Terminations. The largest increase in total terminations was in the Northern District of Ohio with a 42.8% change over last year. The Eastern District of Michigan and the Western District of Tennessee also had modest increases in terminations. The Middle District of Tennessee experienced the largest drop in terminations, and the Eastern District of Kentucky, the Western District of Michigan and the Eastern District of Tennessee also had declines in terminations.during fiscal year 1991. (Figure 3)

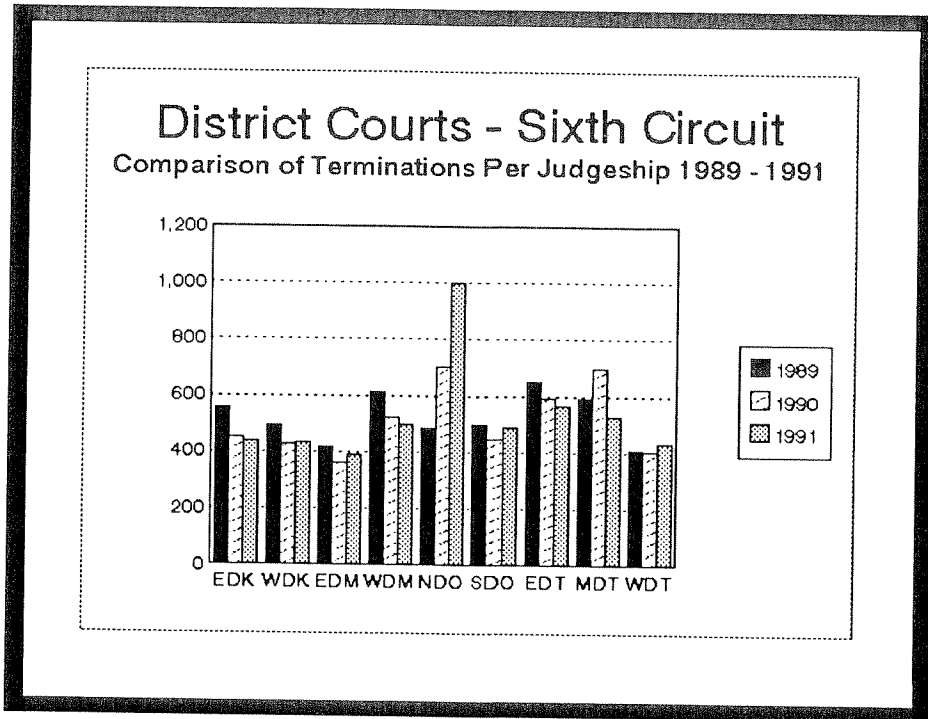


Figure 3

Pending. Figure 4 shows a comparison of pending cases per judgeship in each of the districts in the Sixth Circuit. The Eastern of Kentucky and the Middle District of Tennessee experienced the largest increases in pending cases during fiscal year 1991, while the Northern and Southern Districts of Ohio had the largest decreases in pending cases per judgeship.

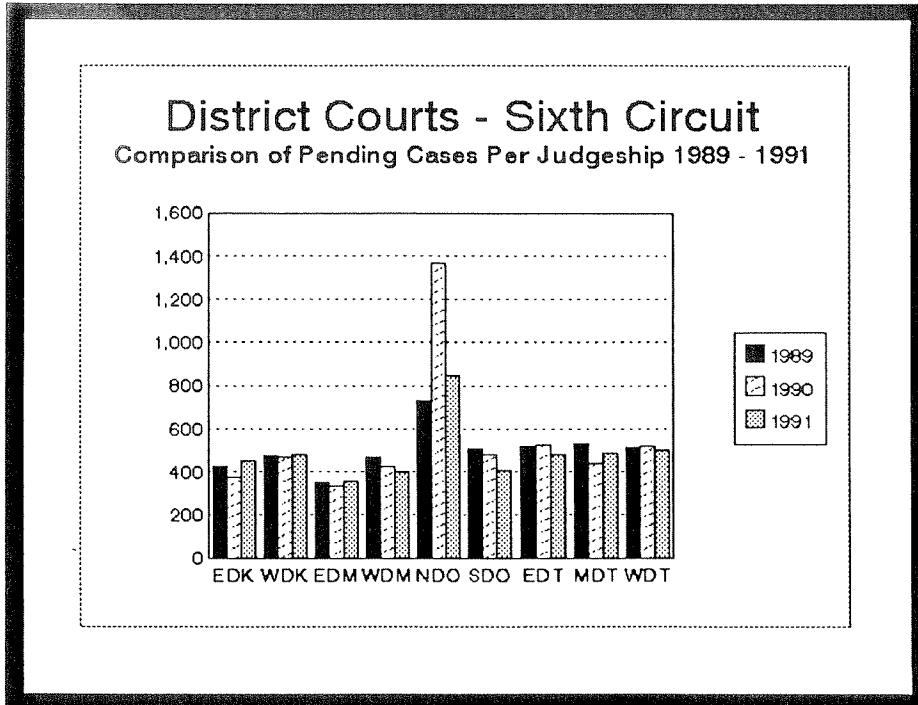


Figure 4

Median Disposition Times. The median number of months from filing to disposition of civil cases increased in the Northern District of Ohio, the Eastern District of Tennessee and the Western District of Tennessee. All of the other districts achieved decreases in the median months for disposition, and the Middle District of Tennessee experienced the largest decrease. **Figure 5** shows the median disposition times for civil cases in each of the districts in the Sixth Circuit during 1989, 1990 and 1991.

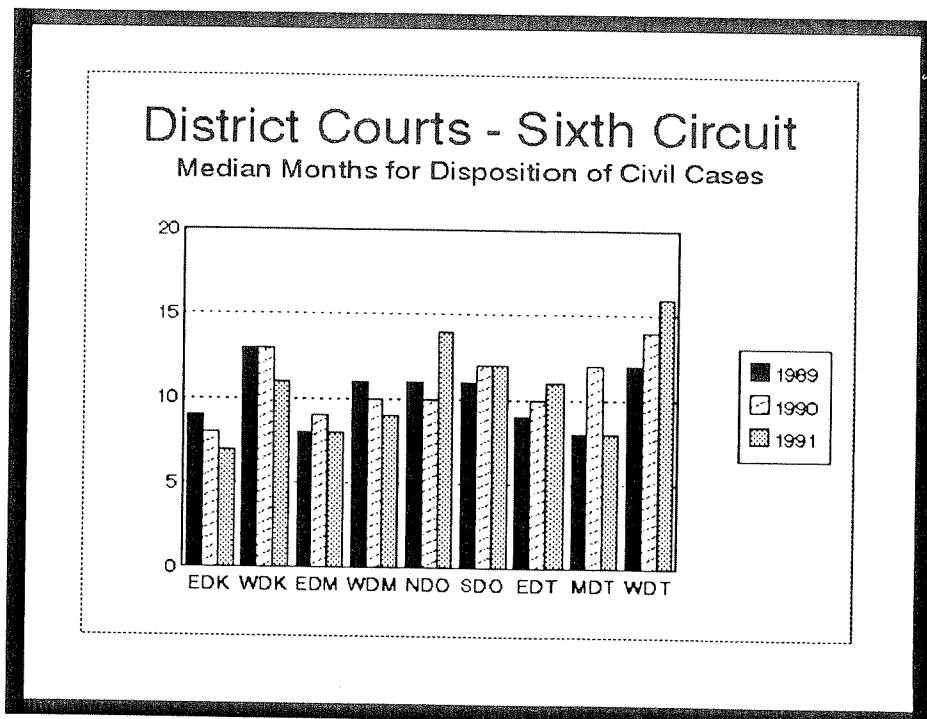


Figure 5

Figure 6 shows the civil actions three years old or older as a percentage of pending cases for 1989, 1990 and 1991 for each of the district courts in the Sixth Circuit.

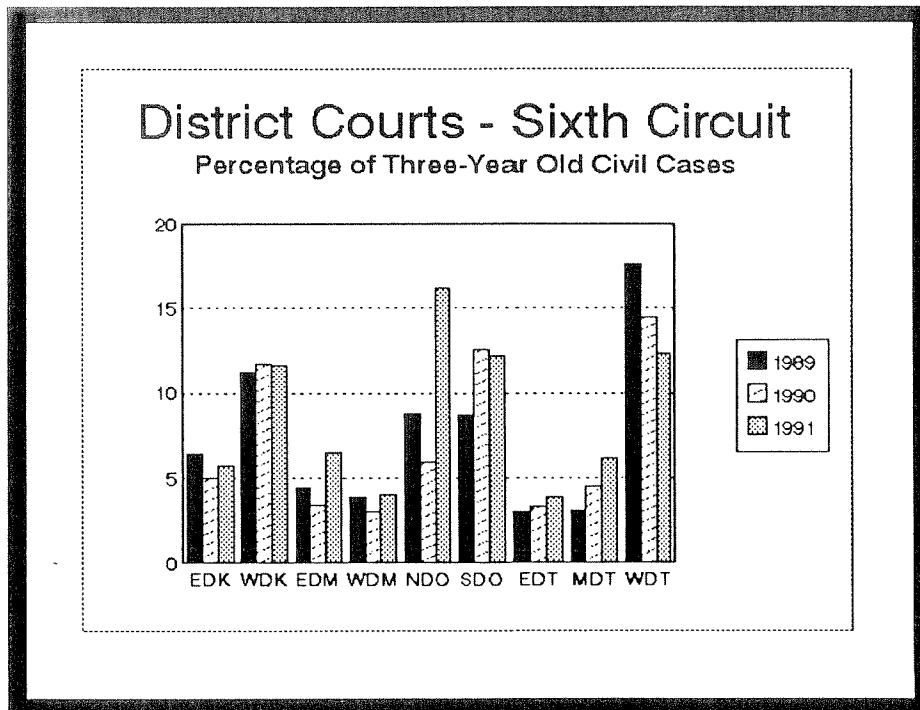


Figure 6

Juror Utilization. Figure 7 depicts the juror utilization trends (measured as the percentage of jurors not selected, serving or challenged on the first day of service) for each of the districts in the Sixth Circuit for the last three years. Again in 1991 several district courts in the Sixth Circuit do not compare favorably with the national average. However, some courts, notably the Eastern District of Michigan, the Northern District of Ohio and the Eastern and Middle Districts of Tennessee achieved significant improvements in their juror utilization records.

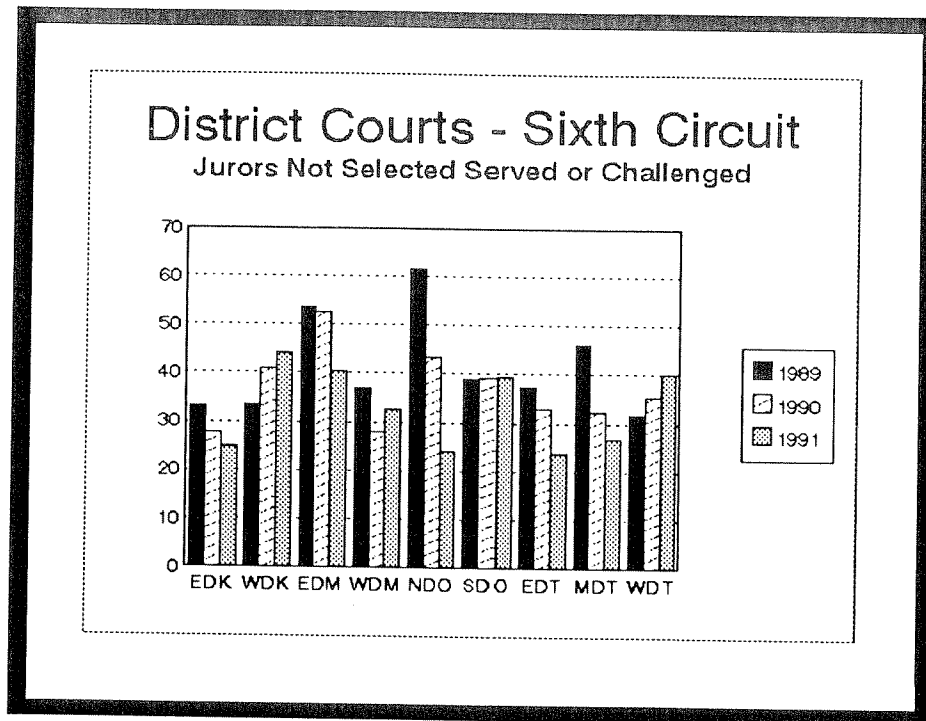


Figure 7

Workload in the Bankruptcy Courts

For the fourth straight year bankruptcy filings increased in the Sixth Circuit, with the total filings (Figure 8) up by 18% circuit-wide. The Eastern District of Michigan and the three Tennessee districts had the largest increases on a per judge basis.¹

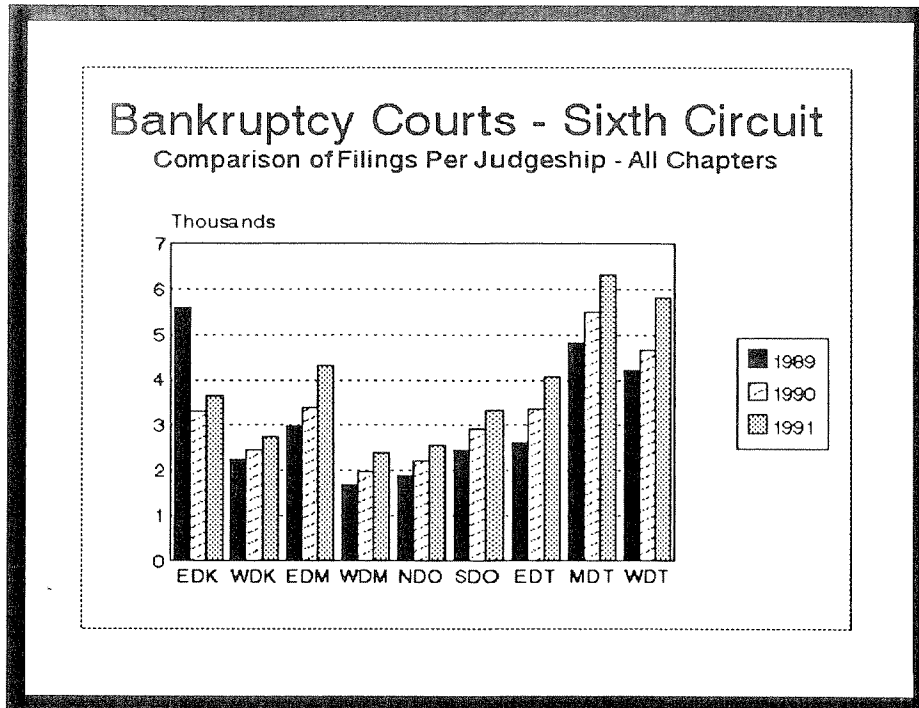


Figure 8

¹Figures 8-11 are comparisons based on per judge statistics. The Eastern District of Kentucky, which had an absolute increase in all categories of cases, reflects a reduced caseload per judge in all categories in 1990 because of the appointment of an additional judge for that district in 1990.

Chapter 7 filings also increased by 18% circuitwide. The Eastern District of Kentucky, the Eastern District of Michigan, and the Middle District of Tennessee had the largest increases. **Figure 9** shows the comparison of Chapter 7 filings per judge in each of the districts in the Sixth Circuit for the fiscal years 1989, 1990 and 1991.

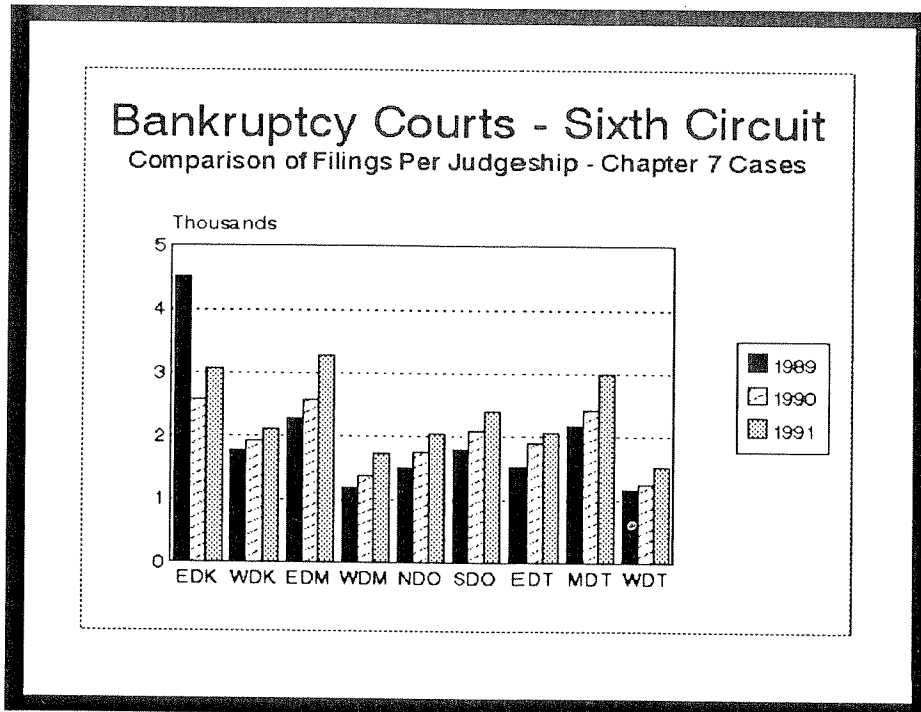


Figure 9

Chapter 11 filings remained approximately even over all in the Sixth Circuit during fiscal year 1991, but several districts, notably the Western District of Michigan and the Middle and Western Districts of Tennessee had large increases in Chapter 11 cases during 1991. **Figure 10** shows the comparison of Chapter 11 cases filed in fiscal years 1989, 1990 and 1991.

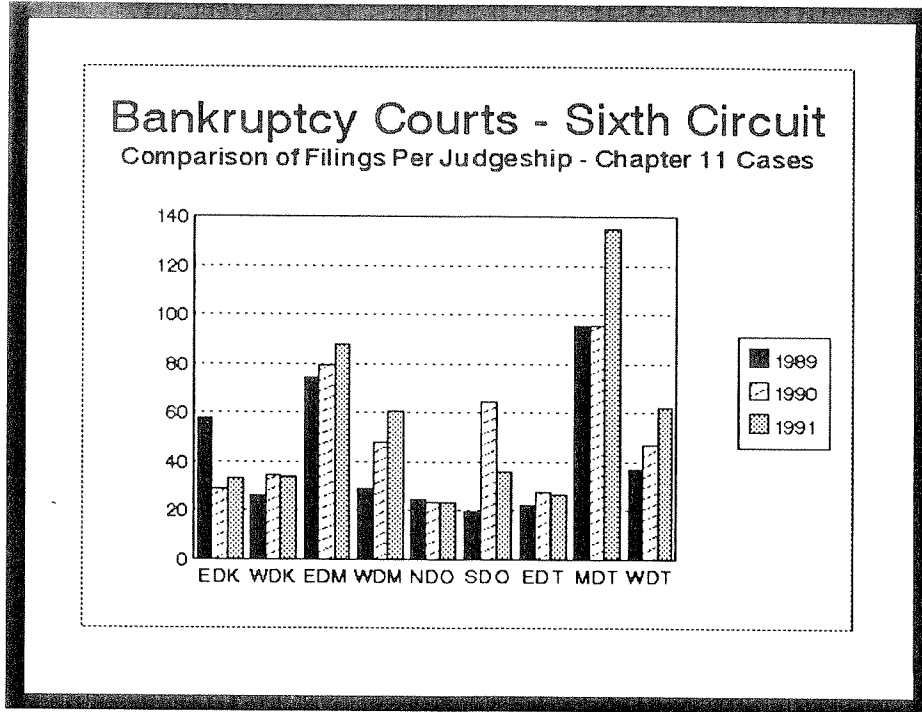


Figure 10

Chapter 13 filings increased by 18% on a circuit-wide basis, with virtually all of the increase coming in the Eastern, Middle and Western Districts of Tennessee. **Figure 11** shows the comparison of Chapter 13 cases filed per judgeship in fiscal years 1989, 1990 and 1991.

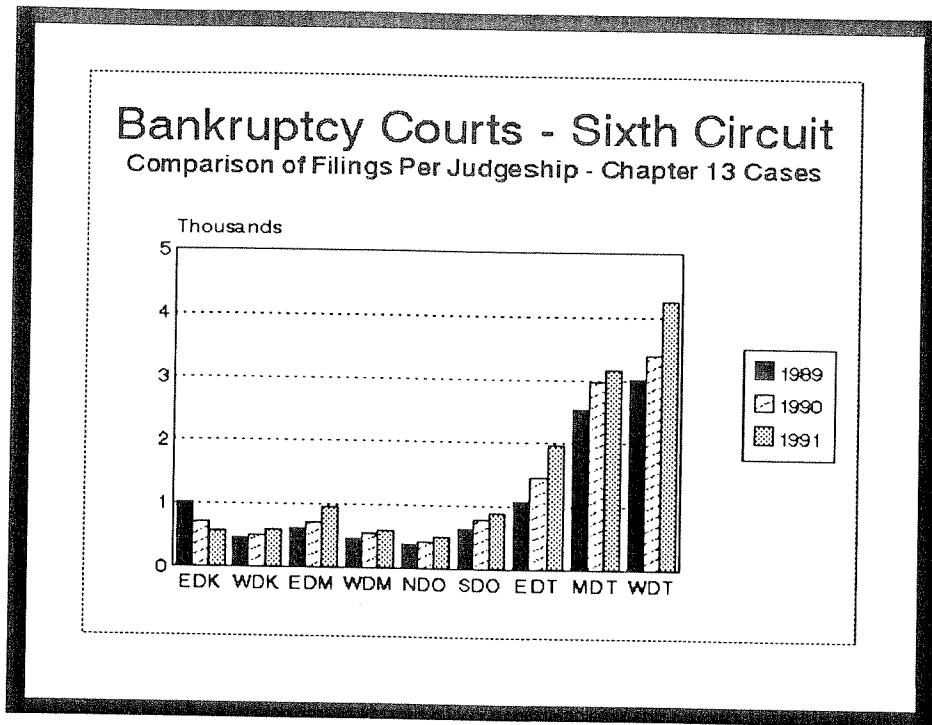


Figure 11

REPORT OF THE COURT OF APPEALS

CLERK'S OFFICE

Leonard Green, Clerk

Janice E. Yates, Chief Deputy

In 1991 the court experienced another year of docket stability. New filings increased by 0.6% from the previous year's level, to a total of 4193. Coming on the heels of a slight decline in filings in 1991, the court's volume of filings remains at approximately the same level as two years ago. For the third consecutive year, however, the court decided more cases than it filed; 1991 terminations exceeded the previous year's level by some 4.6%.

The substantial reduction in the court's pending caseload which resulted from the excess of terminations over filings is testimony to the court's commitment to the expeditious resolution of those appeals brought before it. In order to carry through on that commitment the judges of the Sixth Circuit continue to shoulder one of the heaviest workloads of any of the circuit courts.

Nearly half of all appeals terminated on the merits are decided after counsel has been given the opportunity to present oral argument, to which the court continues to ascribe a fundamental role in the decisional process. The reduction in the pending caseload has left the court with virtually no backlog of cases which are ready for submission but awaiting the opportunity to be presented to a panel. Civil cases are routinely argued within five to six months after briefing is complete, and criminal appeals are argued within two to three months after the appellant's brief has been filed.

It is the criminal sector of the docket which continues to show the greatest growth. Criminal filings in 1991 totalled 929; to put this in some perspective, this figure represents 22.2% of all new filings, and an increase of some 15.3% over the previous year's level of criminal filings. Prisoner habeas corpus and civil rights filings also increased, and together account for nearly one of every three new filings.

In order that cases may proceed on to submission without unnecessary delay the clerk's office works closely with counsel, court reporters, and other necessary parties to ensure that the deadlines and procedural requirements of the Federal Rules of Appellate Procedure and the Sixth Circuit Rules and Internal Operating Procedures, are understood and complied with. The local rules and procedures continue to receive the close attention of the court and the 12-member attorney Advisory Committee on Rules. The response of the bar to proposed changes in the local rules plays an important role in refining the court's processes.

The Sixth Circuit was among the first of the federal appellate courts to fully automate its docket. The clerk's office continues to benefit from the work of a talented

automation staff in developing new automated applications which allow for more informed and effective management of the court's day-to-day activities.

The Public Information Office, created two years ago, continues to make available to the media and the general public accurate and timely information about the court and its work. The court's electronic bulletin board, dubbed CITE, is increasingly looked to by the bench and bar, as well as the media, as a primary tool to be used to follow the precedential opinions of the court, as well as remain current with its rules and other activities. CITE can be accessed by calling (513) 684-2842.

The clerk's office remains strong in its commitment to provide as much assistance as possible to those who bring cases before the court, and to provide the court itself with the highest level of support so that it can function effectively. The clerk's office always welcomes suggestions on how it can improve upon the delivery of its services.

OFFICE OF THE STAFF ATTORNEYS

Kenneth A. Howe, Jr. Senior Staff Attorney

Michael C. Cassady, Supervisory Staff Attorney

Joseph C. Merling, Supervisory Staff Attorney

Staff Attorneys were first employed by the Sixth Circuit in 1971. At that time, three attorneys were hired for these newly budgeted positions in the clerk's office. In 1976, the court appointed its first senior staff attorney and created the Staff Attorneys' Office as a separate entity, both administratively and operationally, from the other support offices of the court. Title 28 U.S.C. § 715(a)-(b), which became effective October 1, 1982, codified each court of appeal's prior budget authority to appoint a senior staff attorney, staff attorneys and secretaries. The Sixth Circuit Staff Attorneys' Office and all its personnel are located in Cincinnati. The senior staff attorney is responsible for personnel and all administrative and operational activities of the office. The office has filled seventeen of its twenty-one presently funded attorney positions and has allotted four additional positions to the clerk's motions unit and two positions to the conference attorney program. The office employs six legal secretaries and has allotted an additional computer specialist position to the court's automation support unit. All staff attorney personnel are employed as permanent career-oriented professionals.

The office provides various support services to the court. The primary service is to review all pro se and prisoner-related appeals and to prepare legal research memoranda for those cases which do not appear to require oral argument. More recently, this review process has been extended to counsel-represented appeals where counsel have expressly waived oral argument. The criteria used in this review process are set forth in Sixth Circuit Rule 9 and Fed. R. App. P. 34. If a case falls within one of the enumerated criteria, it is assigned to a staff attorney for review of the record and briefs, and for legal research and memorandum on the facts and relevant legal issues for consideration by the court under Sixth Circuit Rule 9.

The office also reviews all pro se and prisoner-related cases for proper appellate jurisdiction. A research memorandum for consideration by a motions panel of the court is prepared in cases lacking proper appellate jurisdiction or where a substantive motion is filed. In addition, the office issue indexes all civil (except for cases submitted under Sixth Circuit Rule 9) and criminal cases upon review of the appellate briefs. Codes are assigned to each issue, type of decision appealed, and relief granted or denied. A numerical weight is also assigned on the basis of the complexity of the appeal. Such coding and weighting provides information for the preparation of the court calendars, allows monitoring of cases raising the same or similar issues, and assists in the identification of additional cases for consideration under Sixth Circuit Rule 9.

In the past year, a panel of the court appointed the senior staff attorney special master in a case in order to investigate, conduct discovery, and submit a report and recommendation as to whether a party's motion for costs under the Equal Access to Justice Act should be granted. This appointment was necessary as the case was before the court on a petition to review a final administrative rule of the National Highway Traffic Safety Administration, and hence remand to the district court for discovery and further factual development was not appropriate.

The Staff Attorneys' Office assists the court in processing a large number of appeals. During calendar year 1991, the office prepared 894 legal memoranda on the merits of cases under Sixth Circuit Rule 9, and 376 memoranda on substantive motions and appeals lacking proper appellate jurisdiction. In 1991, the office also presented to the court 221 applications for certificate of probable cause and 351 motions seeking permission to proceed in forma pauperis under 28 U.S.C. § 1915(a). The office also issued 1,458 appeals in 1991.

PRE-ARGUMENT CONFERENCE PROGRAM

Robert W. Rack, Jr., Senior Conference Attorney

Deborah Ginocchio, Conference Attorney

Martha H. Good, Conference Attorney

Roderick M. McFaull, Conference Attorney

The Court established the Pre-Argument Conference Program in 1981 to mediate settlements in civil appeals. Secondary objectives are to reduce procedural problems and to clarify issues on appeal. Pursuant to Local Rule 18, a staff of four conference attorneys initiates confidential discussions in as many new civil appeals as possible and works with all sides to thoroughly explore and evaluate settlement possibilities.

Most conferences are scheduled randomly from eligible appeals before briefs are submitted. Eligible civil cases include all except habeas corpus, prisoner and pro se appeals and most agency cases. About 35 percent of the conferenced cases are scheduled at the request of one or more of the parties. The program treats requests for conferences as confidential. Occasionally cases are referred to the program from the Court's oral argument calendar. In such cases, the conference attorneys report back to the court only whether or not the case is settled.

The great majority of conferences and subsequent negotiations are conducted by telephone. Program involvement in about 20 percent of the cases goes no further than the initial conference. In the most active 25 percent of the cases, however, conference discussions are much more involved, often lasting a month or longer.

SETTLEMENT STATISTICS FOR CALENDAR YEAR 1991 ²			
	Number Of Cases	Number Settled ³	Settlement Rate
All Cases	574	248	43%
Requested Conferences	224	104	46%
Referred by the Court	9	8	89%

²All statistics are from cases in which program involvement was concluded in 1991.

³Generally, counted here as settlements are all cases voluntarily terminated following program involvement without judicial review of the merits. These include cases remanded to District Courts on joint motions pursuant to *First National Bank of Salem v. Hirsch* for implementation of settlement terms negotiated by the parties. No judgment on the merits is required for such remands. Also included are cases dismissed for failure to make timely filings following negotiated settlements. These two categories of cases are counted by the Clerk respectively as Summary Dispositions and Dismissals for Want of Prosecution, thus accounting for the higher number of "settlements" reported in this section of the Court's annual report.

Conference Attorney Lance Olwell left the program in July, 1991 to work in a new, similar program in the Tenth Circuit Court of Appeals. Martha Good was appointed in January, 1992 to replace him. Also, a new position has been added to the program and filled by Roderick McFaul starting in February, 1992. The staff vacancy in 1991 resulted in a lower number of cases conferenced compared to last year.

In addition to the Second, Eighth and Tenth Circuit Courts, which now are conducting mediation conferences, the First Circuit has announced a program starting in January, 1992, and the Ninth Circuit is restructuring a program to emphasize mediation. Three other Circuit Courts are considering or actively planning settlement programs.

CIRCUIT LIBRARY

Kathy Joyce Welker, Circuit Librarian

Pamela Schaffner, Deputy Circuit Librarian

Introduction. 1991 proved to be another year when library statistics demonstrated that the demand for legal reference and research services continues to rise and is being met by Sixth Circuit library personnel. Also during 1991, many library staff members worked on laying the groundwork for the design and implementation of an automated computer system that would integrate all library operations onto one software program accessible by all library users--including court offices throughout the circuit.

Personnel changes. Two full-time and one part-time positions were filled during 1991. In Grand Rapids, Joan Byerly became the Satellite Librarian when Janette Ransom-Bergstrom resigned her position. Ms. Byerly came to the courts from the Grand Rapids Bar Association Library where she had directed that library's operation for a number of years. In Cincinnati, Barbara Overshiner became the Circuit Reference/CALR Librarian replacing James Voelker who left the Sixth Circuit to become the Deputy Circuit Librarian at the Eighth Circuit Library in St. Louis. Ms. Overshiner came to the courts with an extensive background in corporate and law firm law librarianship. Gail Regulski was also hired as a part-time library technician in the Toledo Satellite Library.

Reference and legal research support services. In 1991, the number of times that legal research support services were provided to library users indicate an overall increase in demand for such services. A quantitative description of these services follows:

Service Category	Number	% of Increase over 1990
Directional questions answered	6,915	17%
Research/substantive questions answered	6,216	42%
Library books circulated	1,379	51%
Interlibrary loans and mailings to court personnel	621	29%
Photocopying transactions	4,437	262%
Faxing transactions	710	11%

Collection development and maintenance. Due to repeated system failure of the aging AO computer on which books orders are prepared and tracked and due to limited AO staffing availability, the acquisition process for books (including turnaround time)

was highly unsatisfactory in 1990. The result of these problems was that the Sixth Circuit staff participated along with other circuits across the country in an effort to find a viable alternative to the system currently in place. One alternative being designed and proposed is for the decentralization of all book ordering funding and operations to the circuits bringing the staff doing this work closer to the users, i.e. judges and other court personnel. A decision regarding this proposal is expected early in 1992 making it possible to move forward in solving the turnaround problems that plagued library staff and users alike.

Total expenditures for new books and other published materials for all circuit locations during fiscal year 1991 were \$129,117.39 for a total of 1,057 orders processed. This amount includes \$10,396.98 spent on new judgeships which is not budgeted to the circuit but paid for by the Administrative Office. It also includes \$2,900.37 spent by the AO for Sixth Circuit Probation and Pretrial Offices.

Collection development also includes the processing of ongoing supplementation of existing materials. Collection growth is measured by tracking the increase in volume count in the libraries. This growth is quantified as follows:

LIBRARY	01/01/91	12/31/91	'91 GROWTH
Cincinnati	58,894	62,960	4,066
Cleveland	29,542	30,747	1,205
Columbus	14,500	14,916	416
Detroit	32,773	33,994	1,221
Grand Rapids	19,291	19,372	568
Memphis	10,744	11,228	484
Nashville	19,567	20,330	763
Toledo	18,473	19,372	899
TOTAL	203,784	213,406	9,622

Budget decentralization's impact on libraries. Like all other units of the Circuit Court, the library system began operating under a decentralized budget in FY92. Preparation for this development began in the spring of 1991 with extensive staff training and the development of a proposed budget. With the implementation of the budget, tracking of funds began and the opportunity to make certain necessary library management decisions with budgetary impact became available for the first time.

Court history program. A space for the archival storage of court history materials and working space for a court historian/archivist has been developed. Permission has been granted by the AO to hire a court historian and this position is scheduled to be added to the library staff in the summer of 1992. In addition, an oral history project for the circuit is well under way with the participation of a number of the Circuit Judges.

Tasks and Goals for 1992. The establishment of the Louisville and Chattanooga satellite libraries are primary goals for 1992. Expansion of the Toledo Satellite space is also planned. Another major goal revolves around the development of an automated acquisitions program that processes and tracks new titles and continuations from the point of requesting to bill payment. Finally, the beginning of a development of an Integrated Library System (including an on-line library catalog) is expected to move far ahead in 1992. Library staff will be working extensively with a nationally-contracted library consultant who will help develop specifications for such a system.

Conclusion. It is the library's overall purpose to provide high quality research support services. The number of times that court personnel turn to the libraries to provide these services continues to rise. Based upon the assumption that repeat and increasing business is a valid indicator that library services are not only needed but valued by the courts, the court library staff continues to expand and develop these support services. Suggestions from library users for the improvement of services are both solicited and desired.

REPORTS OF THE DISTRICT AND BANKRUPTCY COURTS

Introduction

In order to give a more complete picture of the business of the courts in the Sixth Circuit, the Chief Judge of each district and bankruptcy court was invited to submit for inclusion in the annual report a separate report for his or her court highlighting particular achievements or problems which may have been experienced in the preceding year. The reports follow.

**United States District Court
Eastern District of Kentucky**

1991 Annual Report

The Eastern District during 1991, experienced a year of growth seldom encountered in the last decade.

Milestones for Court Personnel. In September, 1991, Chief Judge Eugene E. Siler, Jr., London, was appointed to the bench of the United States Court of Appeals for the Sixth Circuit causing the elevation of Judge William O. Bertelsman, Covington, to the position of Chief Judge. Judge Siler's formal swearing in ceremony was held in the District's ceremonial courtroom in Lexington where the Sixth Circuit set in session for the first time in Kentucky's history. The Covington Division of the Court was authorized to have a full-time U. S. Magistrate Judge, which position was filled in early January, 1992, with the appointment of J. Gregory Wehrman. The fall of 1991, saw the appointment of a new Chief Probation Officer for the District, James Provence, who came from the Southern District of Texas. The Spring and Fall produced portrait hanging ceremonies in Lexington for Senior Judges Scott Reed and G. Wix Unthank.

Space and Facilities. In November, 1991, the Court approved a long range facilities plan for the Eastern District. A new courthouse is in the planning stage for the Covington Division of the Court. It was determined by the Long Range Group that the Lexington and London Courthouses were out of space in 1991. The Pikeville facility will be out of space in 1995. Final planning has been completed on a U. S. Magistrate Judge's Chambers, Courtroom and related facilities for the Lexington Courthouse. New visiting Judges' Chambers have been completed for Covington (including a new Magistrate's Courtroom) and at Ashland.

Case Filings. For the twelve month period ending September 30, 1991, the Eastern District of Kentucky has experienced the largest number of civil filings in the Sixth Circuit. While the rest of the Circuit experienced an average 17.2% drop in civil filings, the Eastern District experienced a 19.4% increase in raw filings with a corresponding rise in weighted filings.

For the twelve month period ending September 30, 1991, the Eastern District experienced the second highest increase of filings for criminal cases in the Sixth Circuit or a 29.9% increase when the average increase for the Sixth Circuit was 8.7%.

Civil Justice Reform Act Advisory Group. The Advisory Group met in October and December of 1991. The Group is developing detailed questionnaires concerning cost and delay issues which will be sent to counsel and the parties for every fifth closed case filed district wide for the years of 1988, 1989 and 1990. The survey will exclude prisoner cases and cases in which the United States is a party.

Joint Local Rules. In cooperation with the Western District of Kentucky, the highly successful joint local rules for the Eastern and Western Districts of Kentucky, first adopted in 1987, underwent a second printing. The Rules were amended in 1989 and 1991.

Respectfully submitted,

William O. Bertelsman
Chief Judge

**United States District Court
Western District of Kentucky**

1991 Annual Report

During 1991, the U. S. District Court for the Western District of Kentucky experienced many changes. In an effort to keep our report brief, it will only contain the major events.

Personnel. George J. Long, Magistrate Judge retired on June 30, 1991 and was replaced by C. Cleveland Gambill on August 2, 1991. Judge Eugene E. Siler Jr., was elevated to the Sixth Circuit Court of Appeals in September of 1991. Judge Siler had served for many years as a "swing" Judge for both the Eastern and Western Districts of Kentucky. Because of serious health problems Judge Thomas A. Ballantine Jr., had to step down as Chief Judge and Ronald E. Meredith assumed the duties of Chief Judge on November 29, 1991.

Decentralized Budget. This Court was one of twenty courts selected for decentralized budgeting for fiscal year 1992. We have faced several problems with automation, but are slowly working those out. After one quarter of 1992 and several adjustments, everything seems to be running smoothly at the moment.

Court Workload. Our criminal filings for calendar year 1991 were even with 1990. With an increase of federal agents, Assistant U.S. Attorneys, and after discussing criminal filings with the U. S. Attorney's Office, we project criminal filings will increase by approximately 10% (mostly white collar crimes) for calendar year 1992. Our civil filings were down approximately .5% in calendar year 1991. Based on filings beginning January 1, 1992, we project our civil filings will increase by 13% in calendar year 1992.

In view of the loss of 1-1/2 of our 4-1/2 active Judges, there is a dire need to replace Judges Ballantine and Siler as soon as possible. The three remaining active Judges, Meredith, Johnstone and Simpson, cannot handle the caseload without immediate help. By early Summer 1992 there is a distinct possibility that the only cases actually being tried in this District will be criminal cases with the entire civil docket held in abeyance.

Probation. Significant changes occurred in the U. S. Probation Office. Additional personnel and promotional opportunities were authorized. Three specialist positions were authorized and permission to name a second Deputy Chief was also granted. Additionally, authorization was granted to name a PC Administrator, replacing a clerical position.

Supervision caseload remained relatively constant but the presentence and collateral investigations rapidly increased. During 1991, 455 presentence investigations and 202 collateral investigations were completed. Of the presentence investigations, 25 were

pre-guideline, and seven were pretrial diversion reports. 423 were guideline sentencing investigation reports.

Summary. Cooperation between the Judges, Clerk's Office, Probation, and Bankruptcy remains outstanding. Our Court is filled with dedicated employees at all levels. Without exception, our personnel have been willing to put forth the extra effort necessary to keep up with the ever-increasing workload, including the demands caused by the Judicial vacancies.

Respectfully Submitted,

Honorable Ronald E. Meredith
Chief Judge

**United States Bankruptcy Court
Western District of Kentucky**

1991 Annual Report

The Bankruptcy Court for the Western District of Kentucky has gone through a year of significant change. Overall, there has been progress in the areas of automation, case management, space and facilities, and budgeting. In addition, Chief Judge J. Wendell Roberts was elected to a three-year term on the Board of Governors of the National Conference of Bankruptcy Judges. We are fortunate to have the collegial working environment among the judges of the bankruptcy court and within the district as a whole.

Workload. There has been a progressive increase in the total number of cases filed in the Western District of Kentucky over the last three years ending December 31. In 1989, there were 6,876 cases filed; in 1990, 7,759 cases were filed; and in 1991 there were 8,588 cases filed. One of the goals of the court in regard to case management is to keep case pending levels substantially below the rate of filings.

In view of the filing increases, it has been increasingly difficult to maintain a pending case level at approximately 1,000 cases below the filing levels. We have also been told by the Administrative Office of the U.S. Courts that our case processing measures are above average in all eleven categories measured by the Administrative Office of the U.S. Courts. In addition, we have been assisting the Southern District of Indiana, the Middle District of Florida and the Southern District of Florida by holding Court in those Districts until new judges can be appointed.

Space and Facilities. In April of 1991 the bankruptcy judges offices and clerk's office relocated to new facilities on the fifth floor of the Federal Courthouse in Louisville. The relocation went extremely well, and we are very grateful for the support of the Administrative Office, GSA, and our staff in making this transition.

We also completed a new non-residential judges facility in Bowling Green that the new full-time Magistrate will be utilizing. As a result of the full-time magistrate's appointment in Bowling Green, we are constructing a new facility. We are also in the process of building a facility in Owensboro, Kentucky for Judge David T. Stosberg. Both projects have been approved by the Circuit.

One ongoing project that we are involved in is the construction and support of a physical fitness facility in Louisville to be used by all federal agencies. Judge Henry H. Dickinson oversees the construction of this project pursuant to our responsibilities as lead agency. Hopefully, this project will be completed in April of 1992.

Decentralized Budget. The Western District of Kentucky was one of ten courts chosen to assume the responsibilities of a decentralized budget for fiscal year 1992. The chief judges of the District Court, Bankruptcy Court and the unit executives attended a training session in Leesburg, Virginia in April of 1991. Thus far, we have

found this new program to be very beneficial in allocating resources to accommodate local conditions without Administrative Office involvement. In view of the prospect of smaller future budgets, our experience has shown this project to be a very vital one. It has also enhanced the working relationship of the district court, bankruptcy court and probation office. It is truly a project on which we are all working together to do what is best for our district.

Automation. There are several automation projects that have been completed or that are near completion in our Court. In coordination with the District Court, we have implemented a computer network that accommodates all computers utilized in all divisional offices, including district court divisional offices in the Western District of Kentucky. To reduce costs, we have computers supporting approximately fifty (50) work stations. We have found that there have been significant savings when a new program is released, because instead of having to buy fifty new programs, we only have to buy eight. In addition, we have found that we have been able to maximize the utilization of Lexis and Westlaw.

One other program that the Bankruptcy Court has developed is a local opinions data base that all judges' staffs can utilize. This data base also includes all Circuit Court opinions that are bankruptcy-related. The Clerk's office has automated the personnel function, financial deputy function, procurement function, statistical functions, as well as the secretarial and courtroom deputy staffs.

BANCAP has been installed, but we are awaiting the arrival of new equipment before we begin operations. Once this equipment arrives, 39 of the 44 positions allocated will utilize automation.

Conclusion. In view of the projected increase in workload in this court, we are striving to make the best use of our resources in the current budget environment. There are several other changes that we have had to contend with over the past year: Amendments to the Bankruptcy Code, the bankruptcy rules and the revision of our court's local rules. In addition, we have had to reorganize our duties based on a new Memorandum of Understanding with the U.S. Trustees Office.

We deeply appreciate the opportunity to serve the Judiciary of the United States.

Respectfully Submitted,

Honorable J. Wendell Roberts
Chief Judge

**United States District Court
Eastern District of Michigan**

1991 Annual Report

The year 1991 saw an increasing variety of administrative changes in the life of the United States District Court for the Eastern District of Michigan.

Civil Justice Reform Act. In response to the requirements of the Civil Justice Reform Act of 1990, the Court appointed an Advisory Group consisting of the following: Robert P. Young, Jr., Chairperson, Sharon-Lee Edwards, Vice-Chairperson, Judge Anna Diggs Taylor, Magistrate Judge Paul J. Komives, Larry Bennett, William Daniel, W. Mack Faison, Deborah L. Gordon, Leslie T. Graves, Steven P. Iamarino, Becky M. Lamiman, Clunet R. Lewis, Paul J. O'Reilly, William T. Street, Bruce T. Wallace, L. Michael Wicks, Thomas N. Young, Marvin Zalman, John P. Mayer; Advisors: Judith K. Christie, Kevin B. Williams, and Mary E. Miers. The Advisory Group's report is expected in the second quarter of 1992.

Special Committee on Review of the Local Rules. The Court received the report of the Special Committee on Review of the Local Rules. The Committee consisted of Judge Patrick J. Duggan as Chair; Judges Paul V. Gadola and Nancy G. Edmunds, Magistrate Judges Marcia G. Cooke and Charles E. Binder; Attorneys Maura D. Corrigan, Thomas W. Cranmer, Elizabeth J. Larin, John R. Runyan, Jr., Laurence M. Scoville, Jr., Robert L. Segar, Miriam L. Siefer, Sharon M. Woods; Reporters: Dean Arthur Lombard, Professor Lawrence C. Mann and John P. Mayer; Advisors: David R. Sherwood, Judith K. Christie, Kevin B. Williams and Geraldine M. Torolski. Local Rules in Civil Cases were approved to take effect January 1, 1992. Local Rules in Criminal Cases were still pending at year's end.

Special Committee on Evaluation of the Magistrate Judge System. The Special Committee on Evaluation of the Magistrate Judge Program made its report to the Court. This committee consisted of Judge Avern Cohn, Chair, Judges Robert E. DeMascio and Lawrence P. Zatkoff; Magistrate Judges Marc L. Goldman and Steven D. Pepe; Attorneys Ulysses W. Boykin, Maura D. Corrigan, David F. DuMouchel, Ross Parker, Victoria A. Roberts and John R. Runyan, Jr. Reporters for the Committee were: John K. Rabiej and John P. Mayer. Their report recommended random assignment of civil cases to magistrate judges at the same time they are assigned to district judges and designation of magistrate judges to conduct civil trials with the consent of the parties. The Court approved the first recommendation and rejected the second.

Jury Management. Throughout 1991, the judicial officers and staff of the Court participated in a jury management project designed to improve utilization of jurors. Focusing on control of the number of jurors summoned to the Courthouse by use of staggered starts and pooling, the project was very ambitious and resulted in

considerable time and money saved to jurors and to the Court. The Court's overall juror non-usage dropped from 52.6% in the year before implementation of the jury management program to 38.2% for the year of the program. The program continues on a voluntary basis with most full-caseload judges participating.

The jury management program would have been even more successful if it were not for the continuing settlement of civil jury cases on the assigned trial date. Some judges have begun assessing juror expenses as costs in appropriate cases. Other judges decline to assess juror expenses as costs because they do not want to do anything which will deter settlements, even on the day of trial.

Court Administration Reorganization Plan. The Court Administration Reorganization Plan, which the Court had approved in August 1990, was fully implemented by the creation of the position of Chief of Court Services under the Court Administrator/Clerk of Court. Alfred D. Minniti left a similar position in the Clerk's Office of the U. S. District Court for the District of Arizona in order to accept appointment as Chief of Court Services in Detroit.

Judge James Harvey. Judge Harvey requested that his colleagues relieve him of his caseload and indicated his intention to complete all judicial matters pending before him by May 1992.

Magistrate Judge Marc L. Goldman. Magistrate Judge Goldman was reappointed by the Court for a second eight-year term.

Magistrate Judge Steven D. Pepe. Magistrate Judge Pepe was reappointed by the Court for a second eight-year term.

Magistrate Judge Marcia G. Cooke. Magistrate Judge Cooke advised the Court that she would not be seeking reappointment upon the expiration of her term.

Chief Bankruptcy Judge. On April 14, 1991, the Court appointed Bankruptcy Judge Ray Reynolds Graves Chief Bankruptcy Judge for a four-year term.

Court Security. In May, the Court took a major step toward tightening security in the U. S. Courthouse in Detroit. All persons entering the Courthouse, including judicial officers and staff, must either go through the magnetometer or show government identification. Although many attorneys have privately expressed concern about being subject to this requirement, few have expressed their concern in writing.

Judge Horace W. Gilmore. On May 1, 1990, Judge Horace W. Gilmore took senior status while retaining a full draw of civil and criminal cases. Later in the year, he requested that his draw of civil cases be reduced to 75%.

Budget Decentralization. The Court began participation in the Budget Decentralization Program on October 1, 1991. However, Congress appropriated less funds than the Administrative Office had foreseen, and so even relatively constant expenditure items were not fully funded as promised. At year's end it was not clear

whether the increased flexibility would actually produce promised benefits of the program.

Court Facilities. After several years of a relatively low level of activity in the area of facilities renovation, 1991 saw facilities planning shift into high gear. The Prospectus Project for the Courthouse for Detroit took another major step toward funding of final design and construction. It is expected that demolition for the first phase will begin in the summer of 1993. All construction will be completed by 1996-7. The Bankruptcy Court in Bay City and Flint will move to leased space, and the District Court will expand into the space vacated. In Detroit, the new Tax Court facility on the first floor of the Courthouse was completed permitting occupancy by the Bankruptcy Court of the former Tax Court facility on the tenth floor.

Cameras in the Courtroom. The Cameras in the Courtroom pilot program began on July 1, 1991. An Advisory Committee was appointed including representatives of local print and broadcast media. Because the pilot program is limited to civil cases only, media predictions that there would be relatively little activity proved to be true. By the end of 1991, only ten applications for coverage had been received of which seven were approved by the presiding judicial officer.

Respectfully Submitted,

Honorable Julian Abele Cook, Jr.
Chief Judge

**United States Bankruptcy Court
Eastern District of Michigan**

1991 Annual Report

The growth in case filings in recent years continued in the district in 1991. The number of petitions filed reached 17,941, up 27% from 1990. The burgeoning caseload in the Bankruptcy Court is straining our limited space and facilities. The Bankruptcy Court is working with the Administrative Office, General Services Administration and the United States District Court to address these problems.

Despite the high number of cases filed and pending, the Bankruptcy Court continues to dispose of cases in an expeditious manner, better than the national average. According to a case processing study by the Bankruptcy Division of the Administrative Office, this district terminates Chapter 7 cases within 4.5 months from the date of filing while the national average is 5.6 months. The Bankruptcy Court's record with respect to the case processing measures for Chapter 11, 13 and adversary proceedings is also greater than the national average.

The Clerk's Office continued the transition into automation in 1991 with electronic docketing, a matrix scanning program, financial management, claims processing, a courtroom calendar program, and public access terminals. An automated judge select program will soon be operational as well as a conversion of case management to BANCAP.

During 1991, the Bankruptcy Court held its second annual district-wide seminar with each of the four judges in the district presenting a topic on the basics of bankruptcy. The Clerk of the Bankruptcy Court from the Western District of Washington presented an overview of the BANCAP case management system in preparation of the implementation of that system in 1992.

A four-part educational program on HIV/AIDS, organized and sponsored by the Bankruptcy Court, was presented to employees of the Bankruptcy Court, District Court, Pre-Trial Services and Probation Department over a period of four months. The first three presentations, which included all employees of the Court family, were entitled: HIV/AIDS; Social/Psychological Aspects of AIDS; and AIDS and the Law. The final session, for supervisors and managers, was presented as a hypothetical trial of a court manager who inadvertently breached the confidentiality of an employee who tested HIV positive. This educational program raised the awareness of the employees of the federal court family to the causes of HIV/AIDS, the legal issues, and the privacy rights of those affected.

The Bankruptcy Court has continued to invest heavily in the training and skill development of existing staff by having the following programs available:

- 1) On-site class on the basic components of the computer and an introduction to the concept of the local area network.
- 2) A typing and "Learn to Know your PC" program.
- 3) Off-site computer courses in Lotus, Wordperfect, DOS and LAN.
- 4) A budget decentralization seminar for senior and mid-level staff.
- 5) The FJC sponsored "Applied Supervision" courses in a classroom setting.

In addition to locally developed programs, several staff members attended FJC and GSA sponsored seminars and workshops held in southeastern Michigan, including:

- 1) "Improving Office Communications in the Court Environment".
- 2) "Customer Service in the Federal Courts".
- 3) "Information Records Management and Imaging Technologies".
- 4) "Frontline Leadership Training".

Respectfully Submitted,

Honorable Ray Reynolds Graves
Chief Judge

**United States District Court
Western District of Michigan**

1991 Annual Report

The Western District of Michigan is pleased to report that it has concluded another successful and innovative year. In addition to our normal workload, we have undertaken several pilot projects and other special events described below. Our district continues to take pride not only in the diligence of all of its judicial officers and court staff, but also in the quality of service rendered to those persons who utilize our court.

Special Events. Since our last report, the court, in cooperation with the Eastern District of Michigan, the two Michigan chapters of the Federal Bar Association, and the State Bar of Michigan, hosted a first-time, state-wide federal judicial conference at Shanty Creek, Michigan. Designed as a forerunner of this year's Sixth Circuit Judicial Conference, the conference drew most of the state's federal judges, as well as 150 prominent federal practitioners from both districts. All enjoyed a variety of seminars concerning the improvement of federal practice, as well as several other presentations. The seminars were designed to make everyone a participant, and appeared to accomplish their purpose.

The court continues to run a trial skills workshop to teach basic advocacy skills to new attorneys each January in Grand Rapids and each August in Marquette. The success of the workshop, renamed the Hillman Advocacy Program after Senior Judge Douglas W. Hillman, is attributed to the combined efforts of the court and the Western Michigan Chapter of the Federal Bar Association. This past year marked the 10th anniversary of this workshop, which has enrolled over 800 attorneys since its inception.

Our judges have also been frequent participants in other bar seminars in 1991 dedicated to federal court practice.

On November 20, 1990, and on September 16, 1991, the court, again in conjunction with our local Federal Bar Association chapter, dedicated bronze plaques of the Bill of Rights at the Gerald R. Ford Federal Courthouse in Grand Rapids and the Federal Courthouse in Kalamazoo. Both plaques were placed out-of-doors for ready viewing by the public. The Grand Rapids plaque is mounted on an impressive 4 1/2 ton Michigan granite boulder. The plaques were gifts of the Bill of Rights Bicentennial Committee of the Judicial Conference.

Personnel. In February 1991, Chief Judge Douglas W. Hillman took senior status while maintaining his regular caseload. He was succeeded as Chief Judge by the Hon. Benjamin F. Gibson. Taking Judge Hillman's place on the court is the Hon. David W. McKeague, who came to the court from private practice. Judge McKeague was sworn in on February 28, 1992, and will occupy the district's Lansing courthouse. This

facility was previously used by Judge Robert Holmes Bell prior to his move to Grand Rapids. Congress has also approved a position for a temporary fifth district judge. This position remains unfilled at this writing.

Automation and Facilities. The court is rapidly moving into the computer age. In January, the district installed its second UNISYS 5000/90 system to address the growing needs of both the district and bankruptcy courts. In addition, the court utilizes 84 personal computers, and a Novell network for the Central Financial System software which has been in operation since July. The court is also presently computerizing its criminal docketing. The district continues to participate in the national CIVIL Users Group, organized by the Administrative Office, and continues to chair its Bugs and Enhancements Subcommittee and to work with various other subcommittees. Chief Judge Gibson continues to serve on the Automation and Technology Committee of the Judicial Conference.

The district also continues to have an active local automation users group and is preparing to be involved in the national Data Communications Network project.

Local Rules. Under the court's supervision, a committee composed of attorneys and members of academia completed an exhaustive revision of the local court rules. The new rules were adopted effective August 1, 1991.

Court Workload. The district filed 1,962 civil and criminal cases in 1991, a slight increase over the previous year. Terminations exceeded filings and totaled 1,978. The pending caseload as of December 31, 1991 was 1,575.

As of June 30, 1991, the end of the statistical year, the district had only 61 cases, or 4 percent of its caseload, over three years old, giving the district a ranking of second in the circuit, down from first the preceding year.

The court is taking part in the Central Financial System (CFSII) pilot program, and became a budget decentralized court as of October 1, 1991.

Training seminars, including video and local in-house training programs, were provided to the staff. These programs ranged from computer training to office productivity and docketing. The court also participated in its first Employee Recognition Program, awarding approximately \$2,000 to court family employees, along with award certificates for distinguished service.

Pilot Projects. The Western District of Michigan has been legislatively designated as one of the demonstration courts under the Civil Justice Reform Act of 1990. The court is presently implementing an experimental system of differentiated case management that will specifically provide for assigning cases to appropriate processing tracks established under explicit rules, procedures and time frames for the completion of discovery and for trial. The court's Advisory Group and its staff are scheduled to have the mechanics of the expense and delay reduction plan ready for use by July 1, 1992.

The district also remains a member of the pilot court-annexed arbitration program as part of its comprehensive ADR effort. Also, the court extensively and effectively utilizes mediation and, upon occasion, conducts summary jury trials.

Probation. During 1991, the position of Intensive Supervision Specialist was created to better supervise high profile individuals, as part of a national pilot program to test enhanced supervision standards. The Probation Office has also established drug, alcohol, and mental health aftercare contracts with vendors throughout the district.

The Probation Office began and ended 1991 with a supervision caseload of 358 persons. The Pretrial Service officers continue to interview and submit bond recommendations for 97 percent of the defendants appearing in court.

Respectfully Submitted,

Honorable Benjamin F. Gibson
Chief Judge
Richard A. Enslin
Robert Holmes Bell
David W. McKeague
District Judges
Wendell A. Miles
Douglas W. Hillman
Senior Judges

**United States Bankruptcy Court
Western District of Michigan**

1991 Annual Report

In 1991 the bankruptcy court saw another substantial increase in case filings over 1990. Total bankruptcy cases rose from 6,200 cases to 7,300 cases, a 17% jump, while adversary proceedings increased from 520 to 881. These increases are not as large as those experienced by many districts in the last year, but they are consistent with the pattern of growth which has emerged in the last few years. The court's overall caseload has nearly doubled since 1986 with increases being particularly rapid since 1988. This court is projecting further rapid expansion in 1992.

The Western District of Michigan is a large district, requiring that services be provided in areas outside the Grand Rapids metropolitan area. Although all four current judges reside and sit in Grand Rapids, the court maintains 4 other courtrooms in the district. Traverse City (140 miles from Grand Rapids) is visited twice a month by judges from the court and Marquette (400 miles from Grand Rapids) is visited monthly. As the number of cases in outlying areas increases, the demands on the judges also increase. In addition, facilities in Traverse City and Marquette are quickly becoming too small to adequately handle the increase in the caseload.

Space and Facilities issues continue to be a constant concern of this court. Although the facilities for the clerk's office were expanded significantly just two years ago, the allocation of staff in the clerk's office has increased from 36 to 48 in the same time period. Therefore, the court is already seeking more space for future growth. It is clear that the long range planning efforts of the Sixth Circuit and the Administrative Office are crucial to accommodate the constant changes which this court has experienced.

Respectfully Submitted,

Honorable Laurence E. Howard
Chief Judge

**United States District Court
Northern District of Ohio**

1991 Annual Report

The Northern District of Ohio is among the largest districts in the country. Situated along the Great Lakes, the district includes the cities of Cleveland, Akron, Toledo, Canton and Youngstown and is the home to many major law firms and businesses. The area possesses a highly skilled and trained labor force but is struggling to rebound from recent economic setbacks.

The lawyers and judges of the Northern District of Ohio worked cooperatively together during 1991 to establish a new model of case management that meets the needs of this changing environment. The primary goal of those efforts was to provide improved access to a fair and efficient federal judicial system by reducing costs and avoiding unnecessary delay. The efforts resulted in the approval of new Local Rules of Court, the ratification of a Differentiated Case Management (DCM) plan, and the adoption of a broad menu of court-annexed Alternate Dispute Resolution (ADR) techniques.

Local Rules. The Local Rules Advisory Committee was established in May, 1990 in response to the Sixth Circuit request that the district conduct an analysis of its local rules. The committee was composed of public and private attorneys, law professors, judges and magistrate judges. The committee was charged with reviewing standard practices and proposing new local rules in each of the following areas: civil procedure, criminal procedure, bankruptcy, internal operating procedures and the use of magistrate judges.

The diligent efforts of the committee came to fruition December 13, 1991, when the Court accepted its recommendations and adopted a new set of local rules, which incorporates ADR processes and DCM techniques, effective January 1, 1992.

Civil Justice Reform Act of 1990. The popular perception is that civil justice in the United States takes too long and costs too much. As a result, the Civil Justice Reform Act of 1990 mandates that each district court "develop and adopt a civil justice expense and delay reduction plan." 28 U.S.C. §471. The Northern District of Ohio completed this task a year ahead of schedule when the Court received the final report and adopted the recommendations of the Civil Justice Reform Act Advisory Group, composed of private and public attorneys, law professors and business persons.

Differentiated Case Management. Under the Civil Justice Reform Act of 1990, the Northern District of Ohio is also required to "experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial." 28 U.S.C. §482. Acting

upon the recommendation of the special Task Force on Differentiated Case Management, which worked in conjunction with the Civil Justice Reform Act Advisory Group and the Local Rules Advisory Committee, the Court adopted, and incorporated into the local rules, a Differentiated Case Management Plan. The district also chose to become an early implementation district, which required it to adopt and implement a delay and cost reduction by December 31, 1991.

The underlying principle of the DCM system is to make access to a fair and efficient court system available and affordable to all citizens by reducing costs and avoiding unnecessary delay without compromising the independence or the authority of either the judicial system or the individual judge. The DCM plan attempts to meet these goals by providing early involvement of a judicial officer in each case and by establishing "event-date certainty" for case management conferences, status hearings, final pretrial conferences and trial dates as well as for discovery and motion cut-off dates.

Under the DCM system, judicial officers review each case and assign it to one of five processing "tracks": expedited, standard, complex, administrative or mass tort. Each track employs a case management plan tailored to the general requirements of similarly situated cases and provision is made for the initial track assignment to be adjusted to meet the special needs of a particular case.

Alternate Dispute Resolution. Upon the recommendation of the Committee on Alternative Dispute Resolution, which was established in December, 1990 shortly after the Northern District of Ohio was selected as a pilot district for voluntary arbitration, the new local rules offer and provide guidelines for the use of a wide array of ADR processes, including arbitration, mediation, early neutral evaluation, summary jury trials and summary bench trials. These ADR processes are designed to provide quicker, less expensive, and generally more satisfying alternatives to traditional litigation.

Judgeships. Although the Northern District of Ohio is authorized 12 judgeships, it presently has eight regular judges on active duty. We are fortunate to be receiving the support of our senior judges because the judges of this Court continue to carry workloads in excess of the national average. It is expected that the Northern District of Ohio will be at full judge strength before the end of the year. The five magistrate judges continue to provide a full range of support to the district judges during this period of judge shortage.

Docket Equalization. The Court initiated a protocol for the establishment of dockets for newly appointed judges. The protocol provides for the equalization of dockets whenever a new judge enters on duty or every three years.

Court Workload. The number of civil, non-asbestos filings in the Northern District of Ohio increased by 12% over the prior year, while overall filings (criminal and civil, including asbestos) increased 65%. According to the United States District

Courts National Judicial Workload Profile, the number of weighted case filings per judge was 472, which ranks highest in the Circuit and among the top ten districts in federal court system. Over the past 22 years, the district has consistently maintained a weighted caseload per judge that has been above the national average. The overall civil pending caseload decreased by 0.1% during 1991, while the civil, non-asbestos pending caseload decreased by 3.9%. The number of criminal case filings decreased by 6.3% and the pending criminal caseload was reduced by 2.3%. The number of defendants in pending criminal cases increased 8%, however, indicating a trend toward increased multi-defendant indictments.

Asbestos Cases. On July 29, 1991, the Judicial Panel on MultiDistrict Litigation (MDL), transferred all asbestos cases pending in federal courts to the Eastern District of Pennsylvania for pretrial management supervision. Although the MDL transferee judge has assumed overall pretrial management supervision of this complex mass tort docket, the presence of the asbestos docket continues to influence staff workload here. Pursuant to the Judicial Panel's order of transfer, casefiles and pleadings continue to be maintained and docketed by the transferor courts. Approximately 60 new asbestos cases have been filed each month in the Northern District of Ohio since the original transfer order issued. In compliance with order of transfer, the Clerk's Office compiles and files monthly reports with the Judicial Panel on asbestos case activity including information related to new motions and case filings. Upon proper notice to all the parties by the Judicial Panel, newly filed asbestos actions are treated as "tag-along" actions and are subject to the MDL transfer. The Court anticipates many cases will be remanded to the district for ultimate resolution.

Juror Utilization. The Northern District of Ohio dramatically improved its juror utilization statistics for the second year in a row. Nationwide, the district ranked 25th out of 94 reporting districts compared to 53rd in 1990 and 93rd in 1989. The district ranked second in the Circuit during 1991. The percentage of jurors called but not used was reduced from 31% in 1990 to 27.5% in 1991, below the 30% goal set by the Judicial Conference of the United States. This reduction was the direct result of utilizing such efficiency techniques as multiple voir dire, staggering of trial starts, pooling of jurors and summary jury trial assignments for those jurors not selected or challenged.

Office of the Clerk of Court. The Clerk's Office was significantly impacted this past year by a reduction in its personnel allocation from 88 positions to 73 positions. The reduction occurred despite the district's shortage of judges and heavier than average workload, which requires each judge to place additional reliance on supportive staff and personnel.

Clerk's Office staff participation is integral to the implementation of the new local rules, the DCM plan and the ADR processes adopted by the Court. Clerk's Office staff are also actively involved in supporting all of the judges of the Court.

Automation. Effective November 1, 1991 the Eastern Division began using the automated case assignment system developed by the Administrative Office (AO) to replace the manual card decks used in the assignment of judges to new cases. Using in-house developed computer programs to tailor the AO provided software, our Intake Clerks in the Eastern Division now use less steps in the case assignment process and the amount of paperwork has been reduced. The new system has reduced the time to assign a case to a judge from as long as 15 minutes to less than 15 seconds. The new system also reduces the possibility of human error. The Western Division implemented the new draw system effective January 1, 1992.

In 1991, the Automation Department pioneered an electronic system for transferring asbestos case information to the MultiDistrict Litigation Panel, alleviating the need to send hard copy dockets. This system is being used regularly, not only by the Northern District of Ohio, but also by other districts throughout the country. A member of the Automation staff of the Clerk's Office received a commendation from the MultiDistrict Litigation Panel for the significant contribution he made to ease this process. The Automation Department also wrote software to support the Court's docket equalization process.

This past spring the first Local Office Automation Users' Group meeting, modeled on the Sixth Circuit Users' Group concept, was conducted to support the 133 personal computers installed in the district.

Criminal Justice Act Taskforce. In August, the Court approved a new plan for the composition, administration and management of panels of private attorneys under the Criminal Justice Act (CJA) for the Northern District of Ohio. The Plan was the culmination of over a year's effort of the Criminal Justice Act Taskforce, appointed by the Court in June, 1990, working in close conjunction with the judges' CJA Liaison Committee.

Pretrial Services. The Pretrial Services Office has grown rapidly since it was established in March, 1988 from an original staff of three to its present personnel allocation of 15. During its four years of existence the Pretrial Services Office has established two satellite offices in Akron and Toledo, implemented a student contractor program, and was selected as a training location for a newly appointed Chief Clerk from another district. In calendar year 1991, 718 cases were activated, an 8% increase over 1990. Approximately 25% of these cases required supervision, involving conditions of electronic monitoring, drug after-care and increased frequency of contact with officers.

Probation Office. The Probation Office workload increased during 1991. There were 1,223 persons under supervision at the end of the year, up 3% over the 1990 total. Investigation increased by 27%, with 2,514 completed. Allocated staff positions grew from 67 to 82.

The Probation Office participates in two national pilot programs. The Home Confinement Program utilizes electronic monitoring equipment to aid in the enforcement of home detention sentences. During the year, 71 offenders received home detention sentences. The Probation and Pretrial Automated Case Tracking System (PACTS) is now being expanded nationwide.

The drug treatment program provides outpatient and residential services. The number of offenders in the program increased from 306 to 364 during the year. The Intensive Supervision Program provided services to over 100 high risk offenders. The Probation Office is also part of the Intermediate Sanctions Project sponsored by the National Institute of Corrections. The Office also provided all employees with 53 hours of training opportunities.

Security. Courthouse security continues to be a nationwide concern for all users of the federal judicial system. This district has a very active Court Security Committee which meets on a regular basis in cooperation with the Court and the U.S. Marshal Services. Security awareness was raised during Desert Storm when several threats were experienced at the Cleveland Courthouse. Enhanced security measures were implemented and no mishaps occurred. Plans to improve the security of the Akron Courthouse/Federal Building proceeded during 1991 with expectation for completion in the first quarter of 1992.

Facilities. In February, 1991, the Administrative Office of the United States Courts, in cooperation with a Planning Team from the Northern District of Ohio, conducted a Long Range Facility Planning session and projected the total space needs for the Court for the next thirty years. A significant finding of the study was that the U.S. Courthouse in Cleveland was experiencing a space shortage of crisis proportions. In response to that finding, the Court began the process to obtain commercial leased space for its senior judges outside of the Cleveland Courthouse. It is expected that the senior judges will be able to occupy the commercial lease space by the summer of 1993. In addition, in December, 1991 the Court proceeded to relocate its four Cleveland magistrate judges into emergency leased space.

As a result of the facility study it was also concluded that new courthouses were required in Cleveland and Toledo. The initial planning for a new Cleveland Courthouse is already underway. Construction of the new courthouse in Youngstown is expected to begin this year.

Court Reporting Services. With several of our judges taking senior status this past year the Clerk's Office hired an electronic court recorder operator (ECRO) in Cleveland to augment the pool of court reporters. Additional electronic sound recording (ESR) equipment was installed in several courtrooms to provide a safety valve when the Court's complement of court reporters are engaged.

The Court also conducted a four month experiment with Real Time Court Reporting. The experiment permitted the Court to view the text of the proceedings as

transcribed by the Court Reporter instantaneously on a monitor. The Court was also provided the capability of scrolling back to review previous testimony at any time. A rough copy of the transcript was obtainable instantaneously as well. All court reporters have indicated a desire to participate if the Court decides to pursue Real Time in the future.

Bicentennial of the Bill of Rights. Ceremonies celebrating the bicentennial of the Bill of Rights were conducted throughout the district with the dedication of bronze plaques installed in the courthouses in Cleveland, Toledo and Akron.

Naturalization of New Citizens. With the enactment of the Judicial Naturalization Ceremonies Amendments of 1991 in December, the Northern District of Ohio elected to exercise exclusive authority to administer the oath of allegiance to new citizens at naturalization ceremonies. Naturalization ceremonies are conducted bimonthly as well as on special occasions. This past year naturalization ceremonies were conducted at Cleveland City Hall over the Fourth of July holiday; at Ashtabula High School to commemorate the 200th Anniversary of the Bill of Rights; and at Mentor Junior High School during National Education Week. The total number of persons naturalized by the Court in 1991 was 1,282.

Conclusion. With the expectation that the Northern District of Ohio will be at full judge strength in 1992, we look forward to the challenging opportunities to better serve the citizens of this district. This goal will be accomplished through the continued commitment and cooperative efforts of lawyers and judges working together as a team.

Respectfully Submitted,

Honorable Thomas D. Lambros
Chief Judge

**United States Bankruptcy Court
Northern District of Ohio**

1991 Annual Report

The United States Bankruptcy Court for the Northern District of Ohio experienced a 14% increase in case filings for 1991 over the previous year. Significant growth occurred in each of our five court locations ranging from 12% in Toledo and Youngstown to 16% in Canton.

Presently, ours is the tenth largest bankruptcy court in the United States. The Clerk's office is staffed with 118 employees and, including Judges and their support staffs, a total of 144 persons administer the bankruptcy process in our District.

Major relocation and remodeling projects are underway in our Court. Planning is now in the final stage to relocate the division at Cleveland into approximately 40,000 square feet of leased space. Construction of a new Federal Building in Youngstown is expected to commence in the spring of 1993. Plans to relocate our operations as a part of that project are ongoing. Both the Akron and Canton Clerk's offices were remodeled during 1991. Additionally, we expect to complete a project to relocate the chambers/courtroom facility in the Akron Federal Building within the next few months.

Our Systems Division continues to provide quality service to the Court, the Bar and public. BANCAP is fully operational in a split database environment. PACER and VCIS were made available to the Bar and public during 1991.

An in-house automation training center, staffed by members of our Systems Division, is used by all our employees. We have also provided training to other Bankruptcy Courts in our Circuit.

Our local rules were revised in 1991 in a cooperative effort between our Court and an Advisory Committee made up of practitioners from across the District. The new rules became effective in January, 1992.

Respectfully Submitted,

James H. Williams
Chief Judge

United States District Court
Southern District of Ohio

1991 Annual Report

The year 1991 ended a trend in our court in recent years of a decline in the filing of civil cases. Civil case filings increased in 1991, and the workload of criminal cases remained heavy, especially at Columbus. At the request of the Advisory Group, the Clerk did an analysis of civil case filings in the district which was the subject of a joint meeting of the district judges and the Advisory Group.

After a thorough review of the local rules of court, the Local Rules Advisory Committee recommended revisions of the rules, most of which were adopted by the court, and on October 1, 1991, a new set of local rules of court became effective in this district.

Sandra S. Beckwith of Cincinnati was appointed by President Bush in 1991 to fill the vacancy created by Congress in the Federal Judgeship Act of 1990. Judge Beckwith is a former judge of the Municipal Court of Hamilton County, Ohio and the Common Pleas Court of Hamilton County, Ohio. Her appointment was confirmed by the Senate on February 6, 1992, and she became a member of the court on February 21, 1992 when the judicial oath was administered at Cincinnati, Ohio. Judge Beckwith will devote approximately 80% of her time to the Columbus docket and approximately 20% of her time to the Dayton civil docket.

At all three locations of the court, Columbus, Dayton, and Cincinnati, the judges continue programs with local law schools whereby students serve as externs in the judges' chambers and assist the judges in legal research and drafting of memoranda under the immediate supervision of law clerks.

On December 16, 1991, the judges held a ceremony in Columbus in celebration of the 200th anniversary of the Bill of Rights. Thomas J. Moyer, Chief Justice of the Supreme Court of Ohio, was the principal speaker.

The judges of the Southern District of Ohio are very pleased to welcome the judges and attorney delegates of the Sixth Circuit to the annual conference in Columbus this year.

Respectfully Submitted,

John D. Holschuh
Chief Judge

Carl B. Rubin
S. Arthur Spiegel

Walter H. Rice
Herman J. Weber
James L. Graham
George C. Smith
Sandra S. Beckwith
Joseph P. Kinneary

**United States Bankruptcy Court
Southern District of Ohio**

1991 Annual Report

Workload. The Southern District of Ohio posted a record 23,551 filings during calendar year 1991. This was up 11.35% over last years filings. Also, during calendar year 1991, the Southern District of Ohio closed 20,277 cases which was a 12.24% increase. Currently the Southern District of Ohio ranks first in the Circuit in filings and closings, fifth in the nation in filings and seventh in the nation in closings. All chapters experienced an increase in filings. With chapter 11's leading the way at a 74% increase followed by chapter 12's - 62% increase, chapter 7's - 13% increase and chapter 13's - 8% increase.

Mega Cases. Two mega cases were filed in the Southern District of Ohio in 1991. Eagle-Picher Industries, et al., filed for protection under chapter 11 of the Bankruptcy Code in Cincinnati with 25,000 trade creditors and over 100,000 asbestos claimants. Outdoor Sports Headquarters, Inc. filed for protection under chapter 11 of the bankruptcy code in Dayton with assets totaling \$103,487,983.38 and liabilities totaling \$99,670,306.44. These cases have required a considerable amount of judicial and clerk's office time in their administration.

Automation. During 1991, we celebrated our first anniversary on the BanCap electronic docketing system.

VCIS, Voice Case Information System, was installed providing access to the court's database via touch-tone telephones. Court patrons can verify filings and obtain status reports on all pending cases 24 hours a day through a toll free nationwide 800 number.

A BanCap Users Group was formed comprised of members of the Bar throughout the district and Clerk's office staff to explore ways to improve our service to the Bar and public.

Staffing. Clerk's office staffing increased by 26.96% during 1991. Clerk's office personnel now total 123, making this the largest Clerk's office in the Circuit.

Local Rules. New local rules were published effective August 1, 1991. The local rules were published in looseleaf, 8 1/2 x 11 format, to simplify future updates and as a cost reduction measure.

Space and Facilities. All three court locations in the Southern District of Ohio have outgrown their facilities. Projects were initiated this year to move Columbus, Cincinnati and Dayton into new facilities by fiscal years 1993, 1994 and 1995, respectively. By the time these projects come to fruition, our space inventory will have been increased from 40,819 square feet to 108,908 square feet, 166% increase.

A long range space study was completed during 1991 for the entire court family within the Southern District of Ohio for facilities in Cincinnati, Columbus and Dayton. This study projected space needs for five, ten and thirty years. The findings of this study served as a benchmark for determining our space requirements for projects now under way.

Awards Program. For the first time, the Administrative Office, during 1991, funded a cash awards system for all JSP graded personnel. The Southern District of Ohio handed out several special and suggestions awards totaling \$2,522.00. The program was driven through nominations by all court personnel. The District and Bankruptcy Court will be cooperating this year in establishing district wide award procedures.

Day To Remember. On July 31, 1991, the day before the revisions of the federal bankruptcy rules, a total of 430 cases were filed in the Southern District of Ohio. That figure represented the most filings for a one day period in memory.

Respectfully Submitted,

Burton Perlman
Chief Judge

**United States District Court
Eastern District of Tennessee**

1991 Annual Report

During the past 12 months, our district had the opportunity to explore its progress over the past seven years and then take a hard look at where it is headed.

The change in the chief judgeship from Judge Thomas G. Hull to the undersigned in a special ceremony last November gave all of us an opportunity to review with pride the accomplishments we made under Judge Hull's strong leadership over the past seven years. And, as we previewed what lies ahead, we realized that many challenges and opportunities still await us. Some of them are listed here:

New Courthouse. Preliminary design work commenced on the new U.S. Courthouse planned for Knoxville. The target date for completion of construction is mid-1995.

A major renovation of the U.S. Courthouse at Chattanooga was completed, providing the court family with improved space. In addition, more space became available in the courthouse because of the move by the Bankruptcy Court and the U.S. Attorney's Office into the old U.S. Post Office and Customs House, which was extensively renovated. Although courthouse facilities were improved and expanded, the court will once again find itself facing possible limitations in physical facilities when the district's fifth judge is appointed and the appointee takes office in Chattanooga.

New Judgeship. Pending the appointment of an additional judge, our judges made a concentrated effort to assist each other, especially helping on the burgeoning Chattanooga docket.

New Magistrate Judge. While the district still awaits the additional judge, it was fortunate in that Magistrate Judge Thomas W. Phillips, appointed in February 1991, settled into the job quickly and started providing valuable assistance to our judges and the three other magistrate judges.

Magistrate Judge Meetings. To provide greater coordination in their workload and procedures and to help resolve mutual problems, our four magistrate judges started the practice of holding quarterly meetings, rotating the meeting sites among the divisions.

Our Knoxville magistrate judges started holding settlement conferences, and the practice has proven to be useful. Participants were surveyed and, in general, comments were favorable.

Community Defender Organization. The Judicial Conference Committee on Defender Services approved funds for Federal Defender Services of Eastern Tennessee for 1991 and 1992, and that office went into limited operation in January 1992. The director expects to be up and running, covering all divisions of our court, by early spring.

Districtwide Meetings. Meetings we started a year and a half ago to bring together members of the court family for fellowship and training will continue this year, with plans already under way for two such meetings, one in the spring and one in the fall. These meetings have proven to be an excellent means for improving communication. The spring meeting is for the district's management personnel for training and the fall one is a fun meeting for employees and family members.

Interoffice Meeting. Representatives of the Probation Office, the Clerk's Office, and the U.S. Attorney's Office held a first-of-its-kind meeting at a site away from the U.S. Courthouse in Knoxville in the fall. The occasion was a day-long training session on the collection of fines and the sentencing guidelines.

Automation Training. Like several other courts, we in the Eastern District of Tennessee are bracing for the plunge very soon into ICMS, decentralized budgeting, and the automated financial system. We know the advent of these new systems will bring challenges, but we welcome this advancement.

After-hours Depositories. During the past year, we placed into service in our Knoxville office an after-hours depository and file stamp, and similar facilities are being prepared for installation at the Chattanooga and Greeneville offices. These depositories enable attorneys and others to file documents after office hours and then drop them into a receptacle that is later emptied by a deputy clerk.

New Local Rules. We completed a comprehensive rewriting of our local rules this past year, following the suggested uniform numbering system.

Installation of Plaques. During the past year, we have placed special plaques in the corridors outside our four offices that depict the geographic boundaries of our district. These specially-designed plaques are in the shape of the state of Tennessee, and the 41 counties of the district are outlined, giving a clear view of the area of the district's jurisdiction. These plaques are seven feet wide and almost two feet high.

In addition, we have installed the Bill of Rights plaques in two of our courthouses, and plans are under way for installing the plaques at the other two courthouses.

Court History Project. We have made progress on our court history project, selecting attorney John W. Wheeler, past president of the Tennessee Bar Association and a member of the Knoxville firm of Hodges, Doughty and Carson, to serve as chairman of a group yet to be named that will coordinate a districtwide history committee.

Respectfully Submitted,

Honorable James H. Jarvis
Chief Judge

**United States Bankruptcy Court
Eastern District of Tennessee**

1991 Annual Report

Filings in the Eastern District of Tennessee continue to rise. For the year ended December 31, 1991, there were 12,568 cases filed, an increase of 20.9% over the previous year.

In addition there were 1,109 adversary proceedings filed, an increase of 55.3% over the previous year.

The judges combined heard over 20,543 motions.

Also, after costs and attorneys' fees, for the year ended December 31, 1991, creditors in the Eastern District of Tennessee netted \$39,340,737.58 from chapter 13 cases.

In the Sixth Circuit creditors continue to receive millions of dollars in chapter 13 cases. For the fiscal year ended September 30, 1991, creditors in the entire State of Tennessee received \$163,483,005.

Respectfully Submitted,

Honorable Ralph H. Kelley
Chief Judge

**United States District Court
Middle District of Tennessee**

1991 Annual Report

1991 marked the beginning of changes for this District. Judge Wiseman completed his distinguished tenure as Chief Judge on August 1, 1991, and was succeeded in that position by Judge Nixon. Although the Judgeship Act of 1990 authorized this District a fourth judgeship, the judgeship was not filled in 1991. On October 22, 1991, President Bush nominated Robert Echols. He was confirmed by the Senate on March 13, 1992. The Court looks forward to his taking the bench in the near future.

Despite the judgeship vacancy, this District is proud of its efficient disposition of cases. Based on the caseload statistics for the statistical year ending June 30, 1991, the filings in this District decreased slightly from the previous year, but, based on four active judgeships (only three of which were actually filled in 1991), the District ranks the second highest in the Circuit in filings per judge. In contrast, this District ranks seventh in the Circuit in pending cases per judge.

The District is fortunate to have the invaluable assistance of Senior Judge Morton, who not only saves the rest of the Court from having to travel to Cookeville to hold Court but also continues to maintain an active caseload of all civil and criminal Northeastern Division cases and other designated types of civil cases for the entire District. In addition, the District relies heavily upon the resources of the two able Magistrate Judges, who handle initial criminal matters, pretrial matters in prisoner cases, including frivolity determinations, Social Security cases, Title VII cases, and a substantial number of dispositive motions in other civil cases.

The District continues to be burdened with a heavy amount of prisoner litigation, with prisoner cases comprising over 37 percent of the total civil caseload for the statistical year ending June 30, 1991. As more typical of other districts, the next most frequently filed types of cases in this District are contracts, torts, and civil rights, each comprising between ten and thirteen per cent of the civil caseload.

In the late summer of 1991, the Clerk's office went "live" on the Integrated Case Management System (ICMS) for civil cases. Although automating proved to be an arduous and time-consuming process, the enhanced accessibility of data and potential for case management is already apparent.

In March of 1991, the Court appointed a large, but diverse, Civil Justice Reform Act (CJRA) Advisory Group. The Group has been hard at work evaluating the status of the docket and identifying areas of cost and delay. Since this Court was not designated either a pilot or early implementation Court, the Advisory Group is afforded the time to investigate thoroughly, compile data, and make considered recommendations to the Court. The Court looks forward to receiving the Advisory

Group's report and recommendations either in 1993 or perhaps as early as the end of 1992.

With the confirmation of a fourth active district judge and the infusion of new ideas from the CJRA Advisory Group, this District looks forward to 1992 with optimism and enthusiasm.

Respectfully Submitted,

Honorable John T. Nixon
Chief Judge

**United States Bankruptcy Court
Middle District of Tennessee**

1991 Annual Report

Workload. The total number of petitions filed in 1991 exceeded the number of petitions filed in 1990 by 6 percent. This represented an overall decrease in the rate of filing over the previous year which was 16 percent. However, Chapter 11 filings increased at a rate of 27 percent for a total of 261 of which 243 were business filings. These business Chapter 11 filings contributed significantly to both the complexity and volume of litigation. The largest overall decline was in Chapter 13 cases that take the least judicial involvement. They decreased by 4 percent over 1990. It is speculated that this decrease is attributable to the job market in the Middle Tennessee area so fewer people are able to meet the income requirements of a Chapter 13 plan. Further, debtors have fewer assets worth protecting in a personal reorganization.

Judges. The additional judgeship for the Middle District of Tennessee that was approved by the Judicial Conference in 1990, has passed in the Senate. Hearings were held in the House in March and Chairman Brooks should introduce legislation approving it soon thereafter. It is hoped that when this report is published the authorization will have passed both Houses and be signed by the President. Even with an additional judgeship, the workload per judge will still be substantially above the national average.

The Circuit has continued the joint designation of Judge William Houston Brown of the Western District of Tennessee. Bankruptcy judges throughout the Circuit have generously volunteered to help in the Middle District of Tennessee but space restrictions have made this impossible. The judges of the Middle District continue to be extremely grateful to Judge Brown for taking time out from his own busy docket to give them help.

On March 31, 1992, a celebration occurred commemorating the tenth anniversary of both bankruptcy judges' appointments to the bench. The event was held in the ceremonial courtroom at the Customs House and was attended by numerous members of the bench and bar.

Personnel. The staff in the clerk's office grew from 62 in 1990 to 67 in 1991. One of these was an assistant to the Systems Manager. This position has been of significant value in the maintenance and operation of the computer system. In addition, it has been extremely useful in creating application programs for the court. No other organizational changes were made during the past year.

It is the nature of the court to monitor the local economy and be especially sensitive to any indicators, good or bad. So it did not augur well for future workload when over 900 persons applied for five new entry level positions in the Clerk's office.

Automation. Use of automation has substantially grown within the court during the past year. Several advanced applications have been implemented. The networked PC system supports 45 workstations with a dedicated ALA PowerPro 486 file server using SCSI drives totaling 720 mg fully duplexed drives on Netware 3.11.

Case administration is accomplished though NIBS software. This provides the court with accurate real time docketing information of over 20,000 cases and basic lookup information in 120,000 cases. The system supports over 15 applications including networked versions of Lexis, Westlaw, Checkcite and Wordperfect, all accessible from any workstation. The network also generates the weekly docket of 300 plus cases, meeting of creditors dockets of 30 pages per week as well as associated notices of hearing and proceedings memoranda.

Public dial-in access is available for any person to review real time case information, case docket or court calendar. This application was funded with a grant from the federal court library fund chaired by Chief District Judge John Nixon.

Lastly, plans are nearing completion to incorporate an envelope printing system which uses CD-ROM technology, scanning and barcoding of 9 digit zip coded imported from a National CD Zip database.

Space and Facilities. Negotiations are presently underway with GSA to expand court space to accommodate the new judge and the additional personnel in the Clerk's office.

Respectfully Submitted,

Honorable George C. Paine, II
Chief Judge

Honorable Keith M. Lundin

**United States Bankruptcy Court
Western District of Tennessee**

1991 Annual Report

Based on 1990 caseload projections for calendar year 1991, the bankruptcy court anticipated a steady growth of new case filings. This projection was certainly accurate with a calendar year increase of nearly 16 percent or 3,204 cases district wide.

During the twelve month period ending September 30, 1991, the Administrative Office of the United States Courts recorded 17,436 new case filings in the Bankruptcy Court for the Western District of Tennessee. This figure placed our district as the fifteenth largest bankruptcy court in the country, up from sixteenth in 1990.

The majority of petitions filed within the Western District of Tennessee were chapter 13s (13,153 during CY 1991). This figure represents the greatest number of filings (one in 114 persons) within a district in the United States based on total population.

The weighted caseload hours per judge in the district experienced a significant increase during CY 1991 over CY 1990. During CY 1990, the weighted caseload per judge was 1,742 hours which increased in CY 1991 to 2,306 hours.

On July 1, 1991, the Clerk's Office began to enter live data on the Bankruptcy Court Automation Project (BANCAP). With a growing database the Clerk's Office has been better able to track and monitor its ever growing caseload. The court is concurrently using the NIBS database to monitor cases filed prior to July 1, 1991.

The public has been able to dial into the court's BANCAP computer system and retrieve current case information since February 1992, using VCIS (Voice Case Information System). VCIS has been receiving approximately 60 telephone inquiries each day of the week.

In April 1992, public access to the courts BANCAP data base will be increased via Pacer (Public Access to Court Electronic Records). Anyone having a personal computer and modem will be able to dial into the data base and view the docket and all pertinent case information. We anticipate that with the use of both systems, the Clerk's Office will realize a significant decrease in telephone calls and copy requests thereby allowing more time for case processing.

During 1991, a site survey team from the Bankruptcy Committee of the United States Judicial Conference visited our court. It was the recommendation of the Bankruptcy Committee that an additional judgeship be requested for the Eastern Division of the Western District of Tennessee. The Conference approved the request based on the findings and recommendations of the Bankruptcy Committee. The United States Senate has approved the Bill which would create 32 new bankruptcy judgeships,

one of which is slated for our district. The legislation is currently in committee in the House, where hearings were held on March 5, 1992. We anticipate that approval of the new judgeship will be received shortly and that funding will be available so that the position will hopefully be filled during the latter part of 1992.

Respectfully Submitted,

Honorable David S. Kennedy
Chief Judge

Honorable William H. Brown
Honorable Bernice B. Donald

In
Memoriam

Bertram Thomas Combs

Thomas Austin Ballantine, Jr.

**MEMORIAL RESOLUTION
In Honor of
BERTRAM THOMAS COMBS**

Before the Sixth Circuit Judicial Conference
Columbus, Ohio
May 1992

The life of a towering figure in the law and in public life in the Commonwealth of Kentucky was suddenly and tragically extinguished December 3, 1991. On that night Bert Combs' car was swept away in the flash flood-swollen waters of the Red River. Only hours earlier had he left his law office in Lexington, and when tragedy struck he was heading toward his beloved country home, Fern Hill, in Powell County, where he was looking forward to a pleasant evening with his lovely wife Sara. But that was not to be, as the prospect of years of relaxed retirement was also victimized by the tumultuous waters.

Four months earlier a host of friends, colleagues and admirers had gathered at Spindletop to hear Bert referred to as the "First Citizen of Kentucky," and to hear an array of famous speakers review in glowing terms his emergence from an early life in reduced circumstances in the tiny town of Manchester, his attendance and election to the Order of the Coif at the University of Kentucky Law School even though he was working to pay his way, his early days as a struggling young lawyer, in Prestonburg, his superior services as Kentucky's Governor, as a judge of its Court of Appeals (now its Supreme Court), and as a judge of the United States Circuit Court for the Sixth Circuit. However, as great as was his contribution in these areas of public service, they all but paled into insignificance as Spindletop speakers detailed the story of his triumph against long odds in the long-neglected area of public education in the Commonwealth. After refusing to be dissuaded from attacking the basic method of school financing, he persevered to ultimate triumph by obtaining Supreme Court affirmance of the lower court's holding that the system of financing was indeed unconstitutional. Speaker after speaker told of the dramatic and far-reaching changes this will mean in the lives of the children of the present and all future generations of Kentucky children, and indeed of a large number of other children in other states.

However, our focal point at the moment concerns Judge Combs' service as a member of the Sixth Circuit Court of Appeals. Although a judge of this court for only thirty-eight months (two months to the day more than three years), Judge Combs' contribution to the work of the court and to the pleasure of those who had the good fortune to serve with him was substantial indeed. A world-class raconteur, Bert's stories, frequently featuring an east Kentucky character called "Root Digger" who eked out a living by grubbing for ginseng roots in eastern Kentucky, lightened many of the Court's University Club luncheons as well as larger audiences, and he often made telling points in court conferences through rustic, whimsical anecdotes tailored to fit the

facts. Predictably, his appearances at the banquet podium were always characterized by hilarious hill humor, underlaid by solid, commonplace lessons on life in our times.

Lest you get the idea that Judge Combs converted the halls of justice into a country club setting, we call your attention to the fact that for all his pleasant good humor, Bert Combs was a conscientious and hard working jurist. He served the court from April 5, 1967 to June 5, 1970. During that period, the court published 1,241 opinions, and Judge Combs was on the panel in 378, or more than one-third of those cases. He wrote 72 majority opinions, and all are models of clarity and brevity. He had the rare ability to state a case, decide it, and quit. Many of us could well aspire to such a goal. It should be added that none of his opinions was reversed by the Supreme Court.

While it may with accuracy be said that Bert Combs' accomplishments in life far exceeded the achievements of most men, the fact remains that his death was saddening and much too soon. We continue to mourn his passing, and THEREFORE, let it be here

RESOLVED that this document be entered into the permanent records of this court as a memorial to the late Judge Bertram Thomas Combs, and LET IT BE FURTHER

RESOLVED that a copy hereof be forwarded to the surviving members of his family as a testament of the affection and admiration in which Judge Combs was held by his colleagues on the Sixth Circuit Court of Appeals, and by the members of this Conference.

John W. Peck
United States Circuit Judge

Pierce Lively
United States Circuit Judge

Boyce F. Martin, Jr.
United States Circuit Judge

MEMORIAL RESOLUTION
In Honor of
THOMAS AUSTIN BALLANTINE, JR.
1926 - 1992

Before the Sixth Circuit Judicial Conference
Columbus, Ohio
May 1992

It is with great sadness that we record this resolution in memory of Thomas Austin Ballantine, Jr., who died in Louisville on February 18, 1992. Tom Ballantine's death represents the third time in two years that the members of this Judicial Conference must mourn the loss of a distinguished colleague and friend from Kentucky. Tom Ballantine's death--like the deaths of Judge James Gordon in February 1990, and Judge Bert Combs in December 1991--will be profoundly felt by all who practice in this region, as well as by those who had the good fortune to know him personally.

Tom was the epitome of a lawyer's judge. He was widely respected by attorneys even when he ruled against them. Though members of the legal profession are often fractious and slow to find a common ground, the lawyers who appeared before Tom are united in their belief that he was an exceptional jurist, as well as an exceptional man. For those who had the pleasure to work with him, Tom was the model of judicial integrity, industry, and intelligence. Perhaps most importantly, he treated with unfeigned respect and dignity all who appeared before him, regardless of their relative prominence in the legal profession or the community.

Although Tom never took lightly the duties of his craft, he strove to bring humor and, in the process, a bit of humanity to his work. This humor was also emblematic of the humility and strength of spirit that served him throughout his life. During the final months of his life, as the increasing toll of his illness diminished his capacity for work, Tom sent a letter to court personnel explaining the circumstances of his health. He acknowledged the news he announced was grim. Nonetheless, he concluded the letter by stating: "This does not mean that . . . any of you are free henceforth to ignore me when you see me in the hall, to throw impervious objects at me, or otherwise add to my already dismal condition." Tom's self-deprecating humor during a truly dark period of his life is a poignant illustration of his desire, above all else, to put those around him at ease.

Born on September 22, 1926, Tom grew up in the area of Louisville known as the Highlands. He was the son of a widely respected Louisville businessman and Democratic party leader, Thomas A. Ballantine, Sr. After graduating from the Louisville Male High School, to which he attributed the development of his great writing ability, he began his college career at Northwestern University. He completed his undergraduate education at the University of Kentucky in 1948, by which time he had forged what would become a lifelong and endearing loyalty to the athletic teams fielded by that institution. Following his graduation from the University of Kentucky,

he returned to Louisville and earned his law degree from the University of Louisville in 1954. Fifteen years later he would return to the University of Louisville as an instructor, serving in this capacity from 1969 to 1975. His legendary 8:00 a.m. torts class trained many a famed trial lawyer.

From 1954 to 1964, Tom practiced law at McElwain, Dinning, Clarke & Winstead. The hallmark of his legal practice, and later of his judicial career, was the confluence of two talents: the ability to write well and the ability to reduce complicated legal matters to a single, and often simple, essential question.

In 1962, Tom was appointed by Governor Bert Combs to fill an unexpired term on the Jefferson Fiscal Court, which was the ruling body of the local government outside of the City of Louisville. As one of two Democratic members on the four-member court, he was frequently at odds with the then-Jefferson County Judge Executive, Marlowe Cook, who would later become one of Kentucky's United States Senators. Following this rather tumultuous period as a legislator, Tom Ballantine turned to his true calling in 1964 when he was appointed to the Jefferson County Circuit Court, Common Pleas Branch, Sixth Division. He served in that position until his appointment to the United States District Court for the Western District of Kentucky in October 1977.

Tom Ballantine's no-nonsense style of judging, tinged when appropriate with a wry wit, was much appreciated by members of the bar. A classic example of Tom's humor in the courtroom was his handling of a guilty plea by a self-proclaimed con artist. The man had confessed to skipping from state to state, befriending numerous people and then stealing their money, credit cards, and checkbooks. As the man awaited formal sentencing and then transportation to his place of incarceration, Ballantine offered the following advice to the attorneys and marshals present in the courtroom: "Everyone hang onto your wallets until then."

Tom is remembered with particular fondness by members of the Louisville bar. Year after year, members of the Louisville Bar Association were delighted and amused by the skits he and his wife, Nancy Armstrong Ballantine, wrote and produced for the annual gridiron dinner. In addition to leaving behind a lovely wife, who shared his humorous spirit, Tom leaves behind a wonderful and loving family: two sons, Thomas A. Ballantine III and Joseph A. Ballantine; two daughters, Brigid Haney and Adair Mathistad; two brothers, John T. and William C. Ballantine; and three grandchildren.

Tom is also remembered with much admiration and affection by his former law clerks. His tutelage took many forms and provided for the successful embarkation of many legal careers. His former law clerks are universal in their pronouncement that he was a powerful and positive force in their professional and personal development, and that he continued to act as a mentor long after their clerkship had ended.

Many people who have risen to the level to which Tom rose possess feigned humility; few, if any, are ever truly humble. Tom was a truly humble, decent man

whom all will miss. In part, our tribute to Tom might well end with these words that Hamlet spoke in praise of his father:

He was a man, take him for all in all, I shall not look upon his like again.

Now, therefore, BE IT RESOLVED that the Fifty-Third Judicial Conference of the Sixth Circuit, in session at Columbus, Ohio, this 27th day of May, 1992, pays tribute and appreciation to the memory of Judge Thomas Austin Ballantine, Jr., who served the nation, this Circuit, and the State of Kentucky faithfully and well.

Be it FURTHER RESOLVED that a copy of this resolution be preserved upon the records of this Conference and that copies be furnished to the family as a mark of our sympathy and esteem.

Boyce F. Martin, Jr.
United States Circuit Judge

Ronald E. Meredith
Chief United States District Judge

Edward H. Johnstone
United States District Judge

APPENDIX

FILINGS BY SOURCE

The table below shows the new appeals filed in recent years, showing the number of appeals originating in each of the individual districts within the circuit.

SOURCE OF FILINGS

		1985	1986	1987	1988	1989	1990	1991
OHIO	Northern	496	556	573	510	512	570	610
	Southern	378	455	480	497	479	464	491
	TOTAL	874	1011	1053	1007	991	1034	1101
KENTUCKY	Eastern	213	252	314	352	358	349	351
	Western	191	260	285	296	339	323	285
	TOTAL	404	512	599	648	697	672	636
MICHIGAN	Eastern	722	887	1018	960	1081	1012	996
	Western	171	171	215	298	339	337	373
	TOTAL	893	1058	1233	1258	1420	1349	1369
TENNESSEE	Eastern	213	265	263	292	361	360	291
	Middle	184	183	208	209	241	259	224
	Western	165	209	246	192	208	245	280
	TOTAL	562	657	717	693	810	864	795
AGENCY, TAX COURT & ORIGINAL PROCEEDINGS		306	268	243	345	296	248	292
TOTAL		3039	3506	3845	3951	4214	4167	4193

FILINGS, (cont.)

The following table presents a summary of filings in recent years, and identifies the types of cases that have comprised the court's docket during that period.

FILINGS BY CASE TYPE

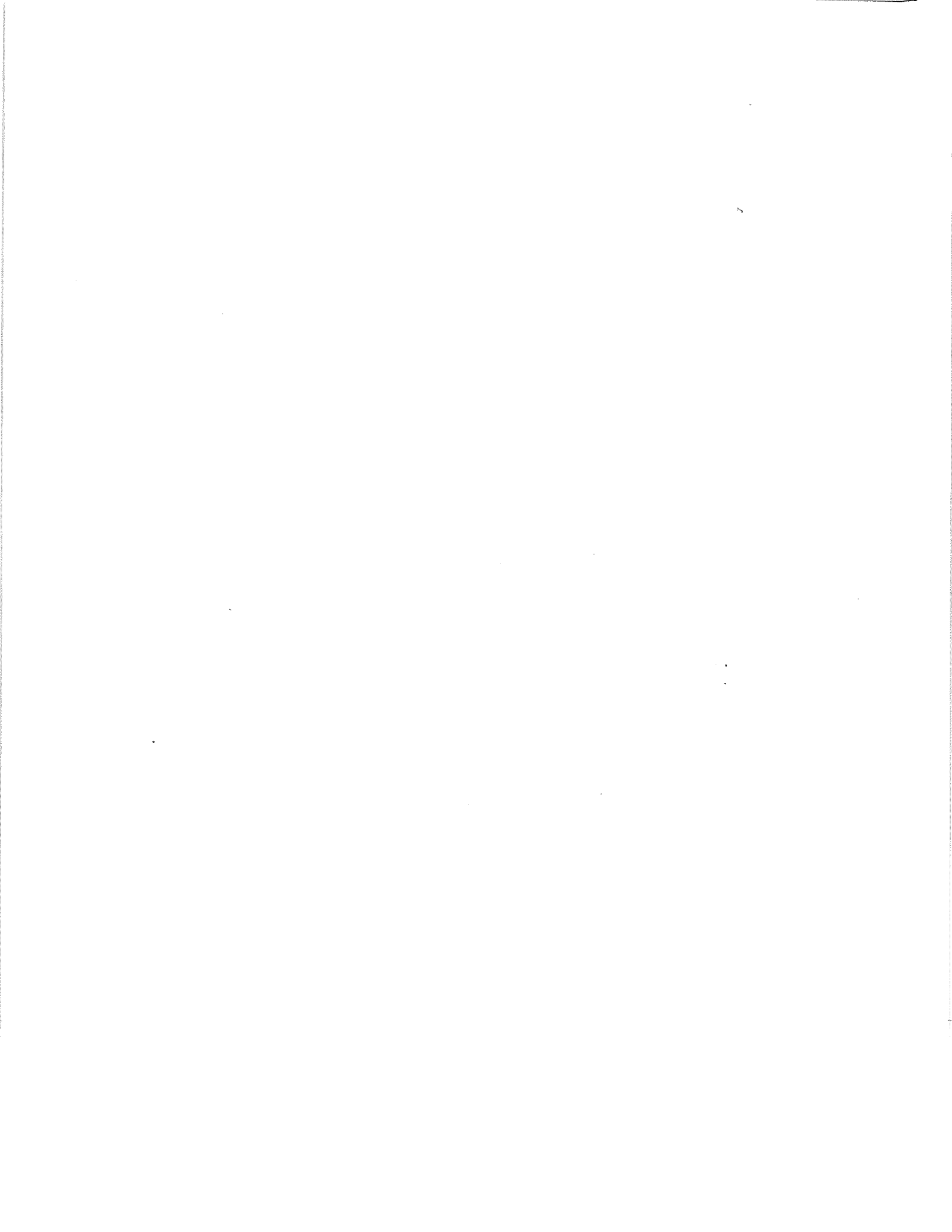
	1985	1986	1987	1988	1989	1990	1991
TOTAL CIVIL	2347	2843	3061	2963	3144	3053	2970
Prisoner Petitions	731	953	1098	1045	1303	1271	1365
Civil Rights	502	553	621	570	536	532	501
Social Security	240	321	238	198	221	131	115
Diversity	288	389	408	431	506	463	393
Other Civil	586	627	696	719	578	656	596
BANKRUPTCY	93	80	62	71	80	102	93
CRIMINAL	386	395	448	575	694	806	929
ORIG PROCEEDINGS	40	32	23	36	44	42	48
AGENCY	306	268	251	306	252	164	153
TOTAL CASES FILED	3172	3618	3845	3951	4214	4167	4193

SUMMARY OF DISPOSITIONS

	1985	1986	1987	1988	1989	1990	1991
ORAL ARGUMENT	1461	1428	1628	1667	1738	1649	1735
SUMMARY DISPOSITIONS (Rule 9)	817	989	1122	1302	1470	1499	1440
VOLUNTARY DISMISSALS	375	340	383	413	345	339	356
DISMISSALS FOR WANT OF PROSECUTION	321	340	266	207	342	373	598
SETTLEMENT PROGRAM	164	211	172	299	330	280	231
OTHER	45	29	31	44	53	68	41
TOTAL	3183	3337	3602	3932	4278	4208	4401

FILINGS, DISPOSITIONS AND PENDING CASES

	1985	1986	1987	1988	1989	1990	1991
FILINGS	3172	3618	3845	3951	4214	4167	4193
Percentage of Annual Change	5.9	14.1	6.3	2.8	6.7	-1.1	0.6
DISPOSITIONS	3183	3337	3602	3932	4278	4208	4401
Percentage of Annual Change	16.0	4.8	7.9	9.2	8.8	-1.6	4.6
PENDING (as of Dec. 31)	2691	2972	3215	3234	3170	3132	2924
Percentage of Annual Change	-0.4	9.5	7.6	0.6	-2.0	-1.2	6.6



The picture on the front cover is courtesy of
Mr. Seymour Raiz, Communications Director of the Greater
Columbus Convention and Visitors Bureau.