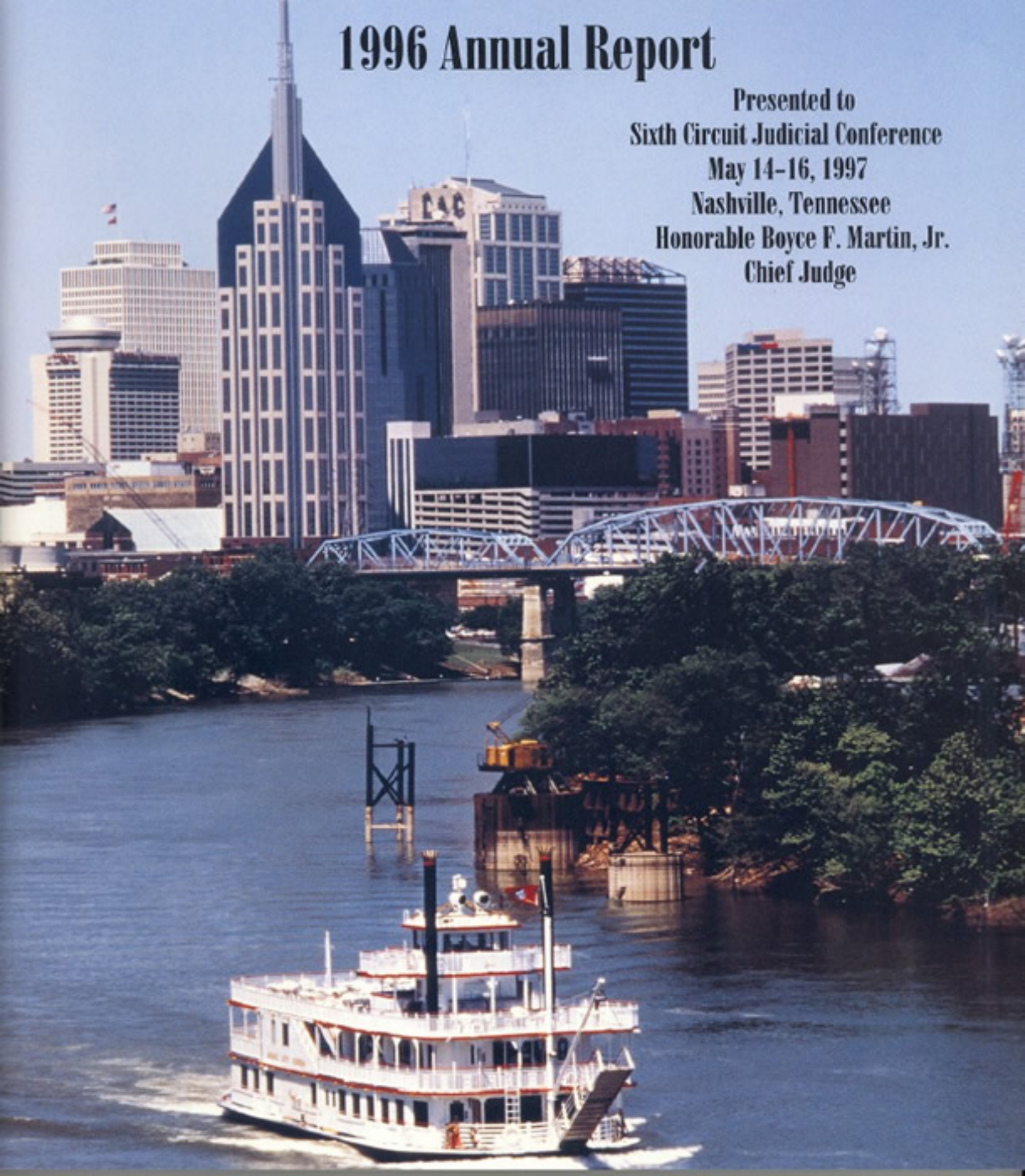


# 1996 Annual Report

Presented to  
Sixth Circuit Judicial Conference  
May 14-16, 1997  
Nashville, Tennessee  
Honorable Boyce F. Martin, Jr.  
Chief Judge





*Honorable Boyce F. Martin, Jr.  
Chief Judge*

## *Forward*

This annual report is prepared with the assistance of the chief district and bankruptcy judges of this circuit and the circuit court staff. It is intended to provide a brief overview of the administrative structure of the federal courts in the Sixth Circuit, the major changes in the judicial personnel of the circuit resulting from appointments, retirements and deaths, and the major workload trends of the courts of the circuit.

As the statistics and graphs will show, the workload of the Court of Appeals has remained quite steady for the last several years, although, at approximately 4,600 cases per year, the workload is higher than the current complement of active circuit judges can reasonably be expected to handle. The cases in the district courts of the circuit increased moderately last year, while the bankruptcy filings increased by 28 percent.

Fortunately, Congress has given us most of the financial resources we need to perform our responsibilities. There are, however, two serious and persistent problems that Congress has failed to address. The first of these is the failure to fill the vacancies on the courts of appeals. There currently are three vacancies on the Sixth Circuit Court of Appeals, two of which have been designated as judicial emergencies by the Judicial Conference of the United States because they have existed for more than 18 months. In fact, one of the vacancies has remained unfilled since September 1, 1994. This is not a problem that is limited to the Sixth Circuit. No circuit court nominees were confirmed by the Senate during the second session of the 104<sup>th</sup> Congress. To date in this Congress, only one circuit judge nominee has been processed by the Senate. The failure to have our vacancies filled has had a serious impact on the operation of the Court of Appeals, and if our vacancy situation is continued much longer, we will have to reduce our hearing schedules.

The second serious problem is judicial pay. This year marks the fourth year in a row that judges have not received a cost of living adjustment. Even in these times of relatively modest inflation, this has resulted in a loss of approximately \$13,000 in the value of judicial salaries today compared to 1993. As Chief Justice Rehnquist said in his recent Year-End Report on the Federal Judiciary, the failure of Congress to permit the cost of living adjustments to take effect "jeopardizes the ability to retain and recruit to the judiciary the most capable lawyers from all socioeconomic classes and geographical areas, including high-cost-of-living urban areas. We must ensure that judges, who make a lifetime commitment to public service, are able to plan their financial futures based on reasonable expectations." I can only add a hearty "Amen" to the Chief Justice's eloquent statement of the problem and join him in urging that Congress take action during this session to provide the judges with the cost of living increases that they have missed over the last four years and to fix the system so that this does not become a recurring problem.

Boyce F. Martin, Jr.

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# JUDICIAL ADMINISTRATION IN THE SIXTH CIRCUIT

## *Introduction*

The federal judiciary is a large and complex administrative system in which the Sixth Circuit plays a significant part. There were more than 180 judicial officers and 2,000 staff members to handle the nearly 170,000 appeals, district court cases and bankruptcy filings during 1996. The Sixth Circuit represents approximately 10 percent of the total federal judicial resources.

The work of the federal courts in the Sixth Circuit mirrored, in general, the national experience during 1996. Nationally, cases in the district courts increased by nearly 8 percent, while district court filings in the Sixth Circuit increased by 10 percent.

On the national scene, bankruptcy cases, which had declined for several years, increased sharply by 25 percent in 1996. In the Sixth Circuit, bankruptcy cases increased by 27 percent.

Several judges in the Sixth Circuit serve in key administrative positions within the judiciary's Judicial Conference committee structure. Chief District Judge Julia Smith Gibbons of the Western District of Tennessee serves as Chair of the Committee on Judicial Resources which is responsible for overseeing all issues of personnel administration, including the need for additional Article III judges and support staff, and Judge John G. Heyburn II serves as Chair of the Budget Committee of the Judicial Conference which is responsible for presenting and defending the judiciary's annual budget requests to Congress.



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## JUDICIAL CONFERENCE OF THE UNITED STATES

The Judicial Conference of the United States is the chief policymaking 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. Judge Thomas A. Wiseman, Jr. of the Middle District of Tennessee began a new three-year term beginning in October 1996.

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

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for the Judicial Conference sessions, and acts for the Conference in between formal sessions. In the current times of fiscal austerity, perhaps the most important responsibility of the Executive Committee is to establish the spending plan which determines how the funds appropriated by Congress are spent within the judiciary.

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

Hon. Danny J. Boggs  
Sixth Circuit  
*Committee on Automation  
and Technology*

Prof. Edward H. Cooper  
Michigan  
*Reporter, Advisory Committee on Civil  
Rules*

Hon. Bernice B. Donald  
Western District of Tennessee  
*Advisory Committee on Bankruptcy Rules*

Hon. David D. Dowd  
Northern District of Ohio  
*Advisory Committee on Criminal Rules  
Advisory Committee on Rules of Evidence*

Hon. Robert L. Echols  
Middle District of Tennessee  
*Committee on the Judicial Branch*

Hon. Nancy G. Edmunds  
Eastern District of Michigan  
*Committee on Defender Services*

Hon. Albert J. Engel  
Sixth Circuit  
*Committee on Financial Disclosure*

Hon. Julia S. Gibbons  
Western District of Tennessee  
*Chair, Committee on Judicial Resources*

Hon. John G. Heyburn, II  
Western District of Kentucky  
*Chair, Committee on the Budget*

Hon. Thomas A. Higgins  
Middle District of Tennessee  
*Committee on Court Administration  
and Case Management*

Hon. Douglas W. Hillman  
Western District of Michigan  
*Committee on the Administration of the  
Magistrate Judges System*

Hon. James H. Jarvis, II  
Eastern District of Tennessee  
*Committee on the Codes of Conduct*

Hon. Nathaniel R. Jones  
Sixth Circuit  
*Committee on International Judicial  
Relations*

Hon. Damon J. Keith  
Sixth Circuit  
*Committee on the Judicial Branch*

Hon. Cornelia G. Kennedy  
Sixth Circuit  
*Committee to Review Circuit Council  
Conduct and Disability Orders Rules*

Hon. Robert B. Krupansky  
Sixth Circuit  
*Committee on Financial Disclosure*

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Henry A. Martin, Esq.  
Middle District of Tennessee  
*Advisory Committee on Criminal Rules*

Hon. Gilbert S. Merritt  
Sixth Circuit  
*Committee on International Judicial Relations*

Hon. Thomas J. Moyer  
Chief Justice, Ohio Supreme Court  
*Committee on Federal-State Jurisdiction*

Hon. George C. Paine II  
Middle District of Tennessee  
*Committee on State Federal Jurisdiction*

James K. Robinson, Esq.  
Eastern District of Michigan  
*Advisory Committee on the Rules of Evidence*

Hon. Gerald Rosen.  
Eastern District of Michigan  
*Committee on Criminal Law*

Hon. Charles R. Simpson III  
Western District of Kentucky  
*Committee on the Administration of the Bankruptcy Law*

Hon. Richard F. Suhrheinrich  
Sixth Circuit  
*Committee on Security, Space and Facilities*

#### **COMMITTEE MEMBERSHIP CHANGES.**

Several 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. A number of judges

completed service as committee members and were released from further service with the appreciation of the Chief Justice. Circuit Judge Gilbert S. Merritt was released from his chairmanship of the Executive Committee upon the completion of his term as Chief Judge of the Sixth Circuit. Circuit Judge Alice M. Batchelder was released from service on the Advisory Committee on Bankruptcy Rules, and Circuit Judges H. Ted Milburn and Eugene E. Siler, Jr. were released from their terms as members of the Committee on the Administrative Office and the Committee on the Judicial Branch, respectively. District Judge Edward H. Johnstone was released from his term as a member of the Committee on the Administration of the Bankruptcy System, and District Judge Lawrence P. Zatkoff was released from the Committee on Security, Space and Facilities.

**NEW APPOINTMENTS.** Judge Bernice B. Donald was appointed to the Advisory Committee on Bankruptcy Rules. Judges Damon J. Keith and Robert L. Echols were appointed to the Committee on the Judicial Branch. Judge Gilbert S. Merritt was appointed to the Committee on International Judicial Relations. Judge Charles R. Simpson III was appointed to the Committee on the Administration of the Bankruptcy System, and Judge Richard F.

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Suhrheinrich was appointed to the Committee on Security, Space and Facilities.

**REAPPOINTMENTS.** Judge David D. Dowd was reappointed to a three-year term on the Advisory Committees on Criminal Rules and the Rules of Evidence. Judges Albert J. Engel and Robert B. Krupansky were reappointed to the Committee on Financial Disclosure. Judge Douglas W. Hillman was appointed to the Committee on the Administration of the Magistrate Judge System. Judge Cornelia G. Kennedy was appointed to the Committee to Review Circuit Council Conduct and Disability Orders. Chief Justice Thomas J. Moyer of the Ohio Supreme Court was reappointed to the Committee on State Federal Jurisdiction, and Henry A. Martin, Federal Public Defender for the Middle District of Tennessee was reappointed to the Advisory Committee on Criminal Rules.



## 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. Section



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332(d)(2) requires all judicial officers and employees to carry into effect all orders of the judicial council. Failure to abide by council orders could lead to civil contempt proceedings.

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

#### **COUNCIL MEMBERSHIP**

Chief Judge Boyce F. Martin, Jr., Chair  
Circuit Judge Gilbert S. Merritt  
Circuit Judge David A. Nelson  
Circuit Judge James L. Ryan  
Circuit Judge Alan E. Norris  
Circuit Judge Richard F. Suhrheinrich  
Circuit Judge Eugene E. Siler, Jr  
Circuit Judge Martha Craig Daughtrey  
Circuit Judge Karen Nelson Moore  
Circuit Judge R. Guy Cole, Jr.  
Chief District Judge William O.  
Bertelsman  
Eastern District of Kentucky  
Chief District Judge Charles R.  
Simpson III  
Western District of Kentucky  
Chief District Judge Anna Diggs Taylor  
Eastern District of Michigan  
Chief District Judge Richard A. Enslin  
Western District of Michigan  
Chief District Judge George W. White  
Northern District of Ohio  
Chief District Judge Walter H. Rice  
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 Julia S. Gibbons  
Western District of Tennessee

#### **Non-voting Members:**

Bankruptcy Judge David T. Stosberg  
Western District of Kentucky

Magistrate Judge Peggy P. Patterson  
Eastern District of Kentucky

#### **COUNCIL COMMITTEES**

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

#### **EXECUTIVE COMMITTEE**

Honorable Boyce F. Martin, Jr., Chair  
Honorable David A. Nelson  
Honorable Richard F. Suhrheinrich  
Honorable Karen Nelson Moore  
Honorable Richard A. Enslin  
Honorable Walter Herbert Rice  
Honorable James H. Jarvis, II

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## INVESTIGATING COMMITTEE

Honorable Boyce F. Martin, Jr., Chair  
Honorable James L. Ryan  
Honorable Alan E. Norris  
Honorable Eugene E. Siler, Jr.  
Honorable Martha Craig Daughtrey  
Honorable Richard A. Enslen  
Honorable Charles R. Simpson III  
Honorable R. Allan Edgar  
Honorable James G. Carr

The Council meets in regular session three to four times each year, including a meeting in conjunction with the circuit judicial conference. Special meetings are held as necessary, and some business of the Council is transacted by mail votes, either of the full council or of the executive committee, when appropriate. The circuit executive provides the staff and administrative support for the Council.

The allocation of judicial resources is an important council function. The council reviews and makes recommendations to the Judicial Conference of the United States and the Congress on the creation of new circuit and district bankruptcy and magistrate judgeships. The council also monitors the pending motions, bench trials under advisement and civil cases awaiting trial and the disposition of vouchers pending for more than 90 days filed by

counsel and experts appointed under the Criminal Justice Act.

In response to a provision in the Bankruptcy Reform Act of 1994, Public Law 103-394, which requires each judicial council to establish a Bankruptcy Appellate Panel unless it determines that (1) there are insufficient judicial resources available in the circuit, or (2) establishment of such service would result in undue delay or increased cost to parties in cases under Title 11, the council established a Bankruptcy Appellate Panel for the Sixth Circuit.

The growth in the judiciary has resulted in an unprecedented increase in the amount of space occupied by courts in recent years. In response to this, the Judicial Conference of the United States has requested that each council undertake rent reduction policies, including the closing of underutilized facilities and the sharing of courtrooms for senior and visiting judges. In 1996 the Sixth Circuit Judicial Council adopted a Space Management Plan to govern the acquisition of new space and the funding of renovation of existing space.



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**JUDICIAL CONDUCT  
AND  
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 a circuit, district, bankruptcy or magistrate judge of the circuit. A complaint is submitted first to the Chief Judge of the Circuit, who may dismiss a complaint which is directly related to the merits of a decision or procedural ruling of the judge complained against or which is found to be frivolous. The Chief Judge also may close a complaint if appropriate corrective action has been taken.

If the Chief Judge cannot dispose of the complaint, it must be certified to the Special Investigating Committee of the Council. The Investigating Committee must conduct an investigation and prepare a report with recommendations for appropriate action by the Council. Actions which may be taken by the Council, if necessary, include certification of disability, request that a judge voluntarily retire, temporarily suspending case assignments, or public or private censure or reprimand.

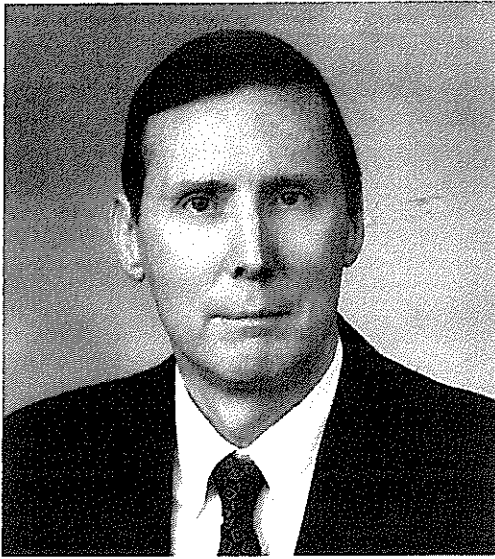
The Sixth Circuit Judicial Council has adopted Rules Governing Complaints of Judicial Misconduct or Disability, which were most recently amended in 1992. Copies of the rules are available from the circuit executive's office or from any clerk's office in the Sixth Circuit.

During the year ended December 31, 1996, 51 complaints were filed in the Sixth Circuit, and 42 complaints were terminated. No complaints filed during 1996 required the activation of the Special Investigating Committee.



**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.



*James A. Higgins*  
*Circuit Executive*

In addition to the Circuit Executive, the office is staffed by four Assistant Circuit Executives. Thomas M. D'Alessandro serves as Assistant Circuit Executive for Administration with primary responsibility for procurement and budget matters and oversight over the space and facilities functions. Kay Lockett is the Assistant Circuit Executive for Program Management, with primary responsibility for staff support to the Chief Judge in the assignment of panels for the Court of Appeals and support for the Judicial Council and its committees. She also provides staff support for Bankruptcy and Federal Public Defender Merit Selection Panels. William M. Eggemeier is Assistant Circuit Executive for Automation. He heads up the consolidated automation support unit for the Court of Appeals which operates

the case management system, provides personal computer support and training, and administration of the data communications network. Mr. Eggemeier also oversees the circuit-wide implementation of the data network and telecommunications programs and convenes the automation users from the district and bankruptcy courts throughout the circuit. Gary A. Johnson is Assistant Circuit Executive for Space and Facilities. Mr. Johnson is responsible for the management of building renovation projects for the Court of Appeals, for providing technical advice and assistance in space planning to the district and bankruptcy courts in this circuit, and for providing staff assistance to the Sixth Circuit Judicial Council on space matters requiring approval, recommendation, or oversight.

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.

The Office of the Circuit Executive also provides administrative staff support to the Chief Judge of the Circuit and to



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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.



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## JUDICIAL PERSONNEL IN THE SIXTH CIRCUIT

### DEATHS

**Don J. Young.** The Honorable Don J. Young, Senior Judge of the United States District Court for the Northern District of Ohio at Toledo died unexpectedly on May 10, 1996. Judge Young was appointed to that Court on May 22, 1965. In 1975, he presided over the Kent State shooting civil case against former Ohio Governor James Rhodes, Kent State University and the Ohio National Guard. Prior to his appointment to the bench, Judge Young practiced law in the private sector and was both a common pleas and probate court judge for Huron County, Ohio. He was considered an expert on juvenile law. He assumed senior status on July 1, 1980, and at the time of his death, Judge Young was continuing to render valuable service to the District Court.

**Carl B. Rubin.** The Honorable Carl B. Rubin, United States District Judge for the Southern District of Ohio at Cincinnati, died on August 2, 1995 following a lengthy battle with cancer. Judge Rubin was appointed to the District Court on May 20, 1971; and prior to his appointment to the Court was engaged in private practice. Judge Rubin served as Chief Judge of the

Southern District of Ohio from September 23, 1979 to March 15, 1990. He presided over several noteworthy cases including the Beverly Hills Supper Club fire and the Bendectin birth-defect case. During his tenure as Chief Judge of the District, Judge Rubin served on the Judicial Council of the Sixth Circuit. He also served on the Committee on Court Administration and the Ad Hoc Committee on the Administrative Office of the Judicial Conference of the United States.

### SENIOR STATUS

#### UNITED STATES COURT OF APPEALS

**H. Ted Milburn.** The Honorable H. Ted Milburn assumed senior status on July 1, 1996. Judge Milburn was appointed to the Sixth Circuit Court of Appeals on October 4, 1984 and was sworn in on October 9, 1984. Prior to his appointment to the Court of Appeals, Judge Milburn served as Judge of the United States District Court for the Eastern District of Tennessee; and he was Chief Judge of the District from June 24, 1984 until October 8, 1984.

#### UNITED STATES DISTRICT COURTS

**Thomas A. Wiseman, Jr.** The Honorable Thomas A. Wiseman, Jr., United States District Judge for the Middle District of

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Tennessee, assumed senior status on November 3, 1995. Judge Wiseman was appointed United States District Judge on August 11, 1978. He served as Chief Judge of the District from July 31, 1984 to August 1, 1991. Prior to his appointment to the bench, Judge Wiseman served in the Tennessee House of Representatives and as Tennessee State Treasurer. He was in private practice at the time of his appointment to the bench. Judge Wiseman served on the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States and as Vice President of the Federal Judges Association from 1987 to 1991. Judge Wiseman continues to render valuable service to the District Court.

**Julian Abele Cook, Jr.** The Honorable Julian Abele Cook, Jr. assumed senior status on December 30, 1996. He was appointed United States District Judge for the Eastern District of Michigan on September 23, 1978 and served as Chief Judge of the District from December 30, 1989 to December 29, 1996. Judge Cook serves as Chairman of the Sixth Circuit Committee on Standard Jury Instructions. During his tenure as Chief Judge he served on the Sixth Circuit Judicial Council and its Executive Committee. He also served as Chairman of the Committee on Judicial Ethics of the Judicial Conference of the

United States. Judge Cook continues to render valuable service to District Court.

**John D. Holschuh.** The Honorable John D. Holschuh assumed senior status on October 12, 1996. Judge Holschuh was appointed United States District Judge for the Southern District of Ohio on May 23, 1980. He served as Chief Judge of the District from May 15, 1990 until October 12, 1996. Prior to his appointment to the bench, Judge Holschuh was a partner with the law firm of Alexander, Ebinger, Holschuh, Fisher & McAlister. During his tenure as Chief Judge, Judge Holschuh served on the Sixth Circuit Judicial Council, and as the Circuit's district representative to the Judicial Conference of the United States. He continues to render valuable service to the District.

**Benjamin F. Gibson.** The Honorable Benjamin F. Gibson assumed senior status on July 13, 1996. Judge Gibson was appointed Judge of the United States District Court for the Western District of Michigan on September 26, 1979. He served as Chief Judge of the District from February 15, 1991 until May 1, 1995. Prior to his appointment to the bench, Judge Gibson served as Assistant Attorney General of Michigan; Assistant Prosecutor of Ingham County, Michigan; and engaged in private practice. He continues to serve his District.

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**David D. Dowd, Jr.** The Honorable David D. Dowd, Jr., United States District Judge for the Northern District of Ohio at Akron, assumed senior status on June 30, 1996. He was appointed to the Court on September 23, 1982 and was in private practice at the time of his appointment. Judge Dowd served on the Board of the Federal Judicial Center from 1989 to 1992 and still serves on the FJC Board Committee on Sentencing, Probation and Pretrial Services. In October, 1996 Judge Dowd was designated by Chief Justice Renquist to serve a five-year term on the Alien Terrorist Removal Court. Judge Dowd continues to render valuable service to the District Court.

**Sam H. Bell.** The Honorable Sam H. Bell assumed senior status on October 30, 1996. He was appointed United States District Judge for the Northern District of Ohio on December 22, 1982. Prior to his appointment to the District Court bench, Judge Bell served as Judge of Summit County, Ohio Common Pleas Court and as Judge of the Ohio Court of Appeals, Ninth District. He continues to render valuable service to the District.

#### RETIREMENT

**George La Plata.** The Honorable George La Plata retired on August 3, 1996. He

was appointed United States District Judge for the Eastern District of Michigan on April 1, 1985 and entered on duty on May 1, 1985. Prior to his appointment to the district court bench, Judge La Plata served as a circuit judge in Oakland County, Michigan.

#### RESIGNATION

**Robert A. Steinberg.** The Honorable Robert A. Steinberg resigned his position as United States Magistrate Judge for the Southern District of Ohio at Cincinnati effective January 19, 1996. He was appointed United States Magistrate Judge on January 1, 1978. Prior to his appointment he was Senior Assistant United States Attorney. He is now in private practice with the law firm of Waite, Schneider, Bayless & Chesley in Cincinnati.

#### ELEVATIONS

**Honorable Anna Diggs Taylor.** The Honorable Anna Diggs Taylor became Chief Judge of the United States District Court for the Eastern District of Michigan on December 30, 1996. She succeeds Judge Julian Abele Cook, Jr. who completed his seven year term as Chief Judge and took senior status. Prior to her appointment to the bench, Judge Taylor



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was an Assistant Solicitor of Labor in Washington, D.C.; Assistant Prosecutor of Wayne County, Michigan; Assistant U.S. Attorney for the Eastern District of Michigan; and was in private practice.

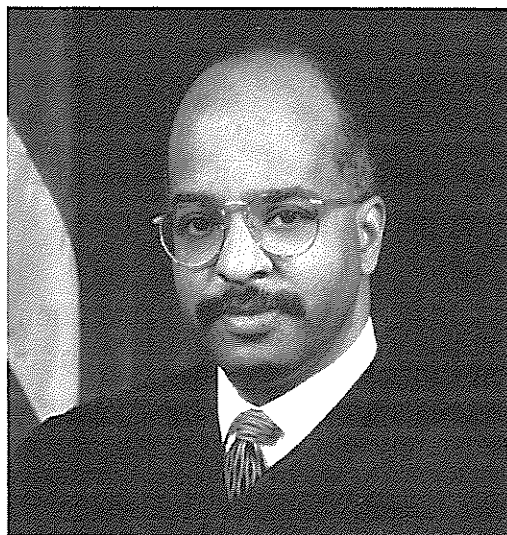
**Walter Herbert Rice.** The Honorable Walter Herbert Rice became Chief Judge of the United States District Court for the Southern District of Ohio on October 13, 1996. He succeeds Judge John D. Holschuh who took senior status on October 12, 1996. Prior to his appointment to the bench, Judge Rice served as Judge of the Montgomery County, Ohio Court of Common Pleas.

**Henry H. Dickinson.** The Honorable Henry H. Dickinson became Chief Bankruptcy Judge of the United States Bankruptcy Court for the Western District of Kentucky on January 1, 1996 succeeding Judge J. Wendell Roberts. Judge Dickinson was appointed bankruptcy judge on November 16, 1987 and is presently serving a fourteen year term. Prior to his appointment as bankruptcy judge, Judge Dickinson was in private practice.



## NEW APPOINTMENTS

### SIXTH CIRCUIT COURT OF APPEALS



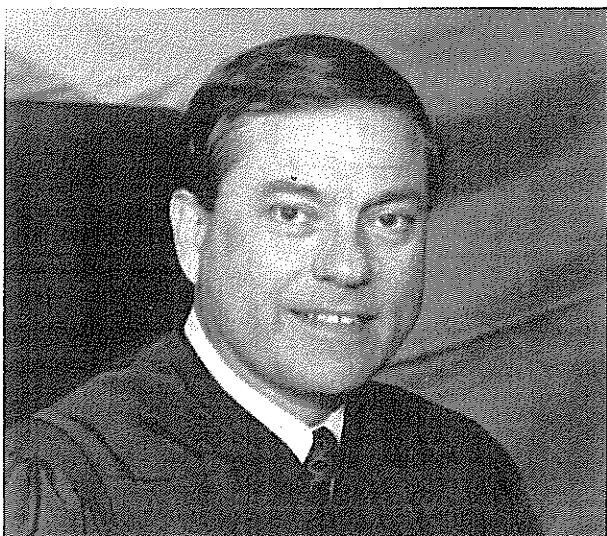
*Honorable R. Guy Cole, Jr.*

**R. Guy Cole, Jr.** The Honorable R. Guy Cole, Jr. was sworn in as Judge of the United States Court of Appeals for the Sixth Circuit on January 3, 1996. Judge Cole was appointed to fill the vacancy created by the assumption of senior status by United States Circuit Judge Nathaniel R. Jones. Prior to his appointment to the Sixth Circuit, he served as United States Bankruptcy Judge for the Southern District of Ohio at Columbus from 1987 to 1993. At the time of appointment, Judge Cole was a partner in the law firm of Vorys, Sater, Seymour & Pease in Columbus, Ohio.

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## UNITED STATES DISTRICT COURTS

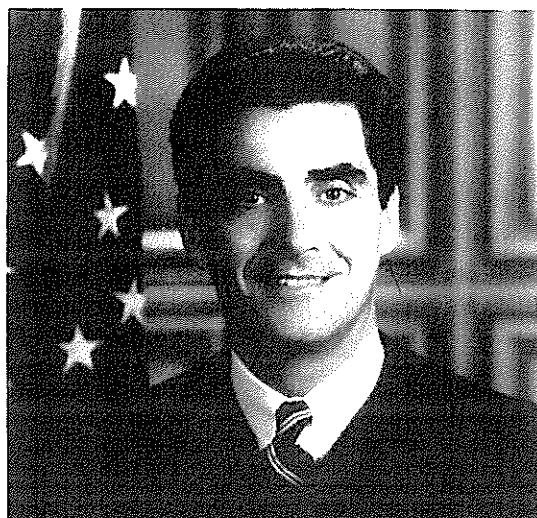
**Joseph H. McKinley, Jr.** The Honorable Joseph H. McKinley, Jr. was appointed United States District Judge for the Western District of Kentucky at Owensboro on August 25, 1995. The position was formerly held by the late Chief United States District Judge Ronald E. Meredith of Louisville. Prior to his appointment to the Court, Judge McKinley served as Circuit Judge for the Sixth Judicial Circuit, Daviess County, Kentucky.



*Honorable Peter C. Economus*

**Peter C. Economus.** The Honorable Peter C. Economus was appointed United States District Judge for the Northern District of Ohio at Youngstown on June 30, 1995 to the position which was formerly held by United States District Judge Frank J.

Battisti of Cleveland. Prior to his appointment to the bench, Judge Economus was Judge of the Court of Common Pleas for Mahoning County, Ohio.



*Honorable Donald C. Nugent*

**Donald C. Nugent.** The Honorable Donald C. Nugent was appointed United States District Judge for the Northern District of Ohio at Cleveland on June 30, 1995 to the position which was formerly held by United States District Judge Thomas D. Lambros of Cleveland. Prior to his appointment to the district court bench, Judge Nugent served on the Ohio Court of Appeals from the Eighth Appellate District and, by assignment of the Ohio Chief Justice, as a Justice of the Supreme Court of Ohio.



*Honorable Patricia A. Gaughan*

**Patricia A. Gaughan.** The Honorable Patricia A. Gaughan was sworn in as United States District Judge for the Northern District of Ohio at Cleveland on January 18, 1996 to the position which was formerly held by United States District Judge Ann Aldrich of Cleveland. Prior to her appointment to the bench, Judge Gaughan was Judge of the Court of Common Pleas for Cuyahoga County, Ohio.

**Todd J. Campbell.** The Honorable Todd J. Campbell was sworn in as Judge of the United States District Court for the Middle District of Tennessee on December 27, 1995. Judge Campbell was appointed to fill the vacancy created by the assumption of senior status by United States District Judge Thomas A. Wiseman, Jr. Prior to his appointment to the district court bench,

Judge Campbell was in private practice and served as Counsel to the Vice President of the United States.



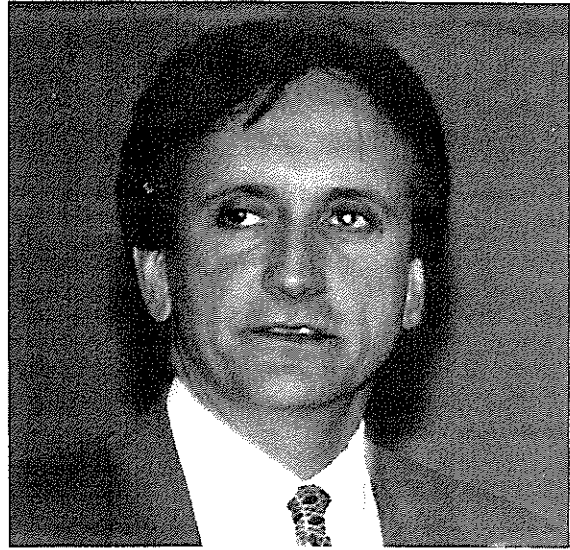
*Honorable Susan J. Dlott*

**Susan J. Dlott.** The Honorable Susan J. Dlott was sworn in as United States District Judge for the Southern District of Ohio on December 29, 1995 to the position which was formerly held by United States District Judge S. Arthur Spiegel of Cincinnati. Prior to her appointment to the bench, Judge Dlott was a partner in the law firm of Graydon, Head & Ritchey in Cincinnati, Ohio.



*Honorable Bernice B. Donald*

**Bernice B. Donald.** The Honorable Bernice B. Donald was appointed United States District Judge for the Western District of Tennessee at Memphis on December 17, 1995. Judge Donald assumed the vacancy created by the assumption of senior status by United States District Judge Odell Horton. Prior to her appointment to the district court bench, Judge Donald had served as United States Bankruptcy Judge for the Western District of Tennessee since June of 1988.



*Honorable Edmund A. Sargus, Jr.*

**Edmund A. Sargus, Jr.** The Honorable Edmund A. Sargus, Jr. was appointed United States District Judge for the Southern District of Ohio on July 22, 1996. He succeeds Judge Carl B. Rubin who passed away on August 2, 1995. Prior to his appointment to the bench, Judge Sargus served as United States Attorney for the Southern District of Ohio from May 23, 1993 until July 22, 1996.





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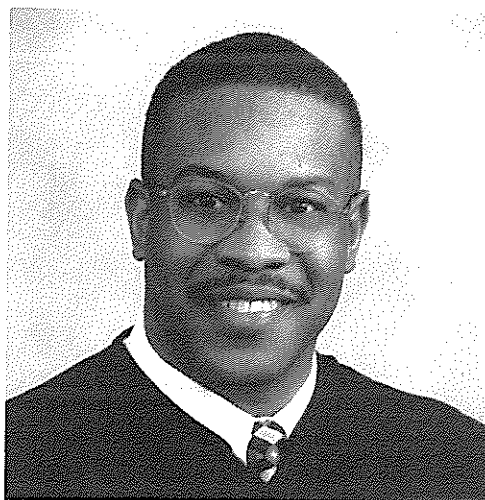
UNITED STATES BANKRUPTCY COURTS



*Honorable Pat E. Morgenstern-Clarren*

**Pat E. Morgenstern-Clarren.** The Honorable Pat E. Morgenstern-Clarren was sworn in as United States Bankruptcy Judge for the Northern District of Ohio at Cleveland on December 1, 1995. She was appointed to the bankruptcy vacancy created by the retirement of United States Bankruptcy Judge William J. O'Neill. Prior to her appointment to the bankruptcy bench, Judge Morgenstern-Clarren was a partner in the law firm of Hahn, Loeser & Parks in Cleveland.

**Jeffery P. Hopkins.** The Honorable Jeffery P. Hopkins was appointed United States Bankruptcy Judge for the Southern District of Ohio at Cincinnati effective April 1, 1996. He was appointed to the



*Honorable Jeffery P. Hopkins*

bankruptcy vacancy created by the retirement of United States Bankruptcy Judge Burton Perlman. Prior to his appointment to the bankruptcy bench, Judge Hopkins was Chief Assistant United States Attorney of the Civil Division for the Southern District of Ohio at Columbus.



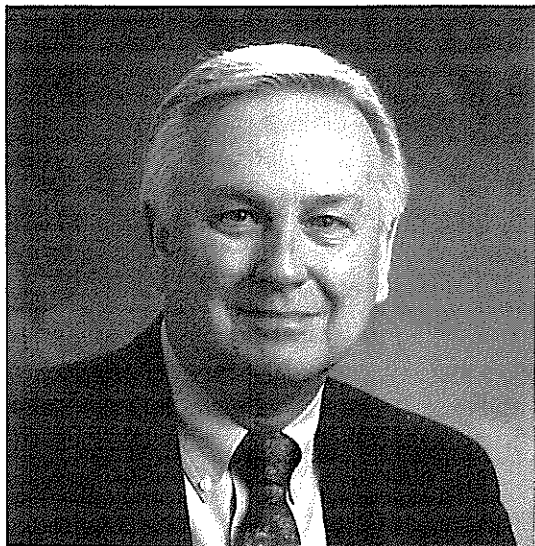
*Honorable Jennie D. Latta*

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**Jennie D. Latta.** The Honorable Jennie D. Latta was appointed United States Bankruptcy Judge for the Western District of Tennessee on March 6, 1997. Judge Latta succeeds Judge Bernice B. Donald who was appointed to serve on the United States District Court for the Western District of Tennessee. Prior to her appointment, Judge Latta was with the law firm of Krivcher, Magids, Neal, Cottam & Campbell in Memphis.

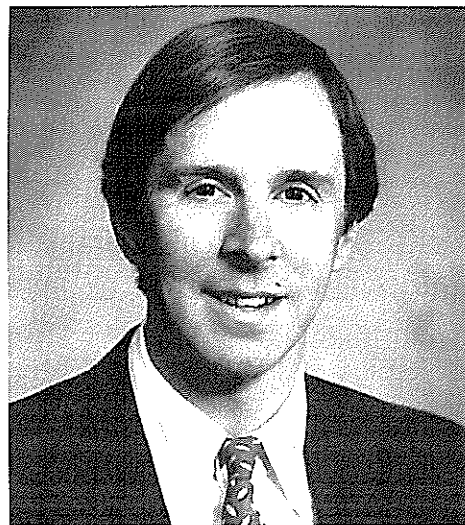
served the District as part-time magistrate judge from 1986 until the position became full-time. He served as Circuit Judge of the 34th Judicial Circuit of Kentucky from 1973 until 1984. For the past five years he was a member of the Board of Governors of the Kentucky Bar Association.

#### UNITED STATES MAGISTRATE JUDGES



*Honorable J. B. Johnson, Jr.*

**J. B. Johnson, Jr.** The Honorable J. B. Johnson, Jr. was appointed United States Magistrate Judge for the Eastern District of Kentucky at London on April 24, 1996. He was appointed to a new full-time magistrate judge position. Prior to his appointment, Magistrate Judge Johnson



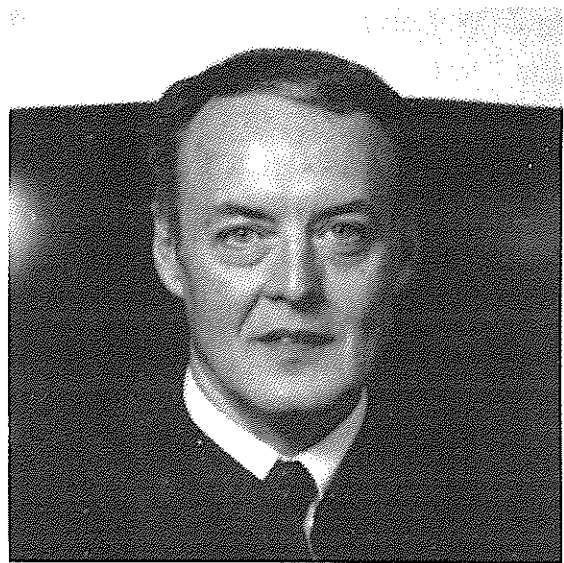
*Honorable James D. Moyer*

**James D. Moyer.** The Honorable James D. Moyer was sworn in as United States Magistrate Judge for the Western District of Kentucky at Louisville on April 29, 1996. He was appointed to fill a new full-time magistrate judge position. Prior to his appointment to the bench, Magistrate Judge Moyer was a partner with the Louisville law firm of Stites & Harbison.



*Honorable Dennis H. Inman*

**Dennis H. Inman.** The Honorable Dennis H. Inman was sworn in as United States Magistrate Judge for the Eastern District of Tennessee at Greeneville on November 14, 1995. He was appointed to the vacancy created by the retirement of United States Magistrate Judge Joe Tilson of Greeneville. Prior to his appointment to the bench, Magistrate Judge Inman served for eleven years as Chancellor of the Chancery Court for the Third Judicial District, Morristown, Tennessee.



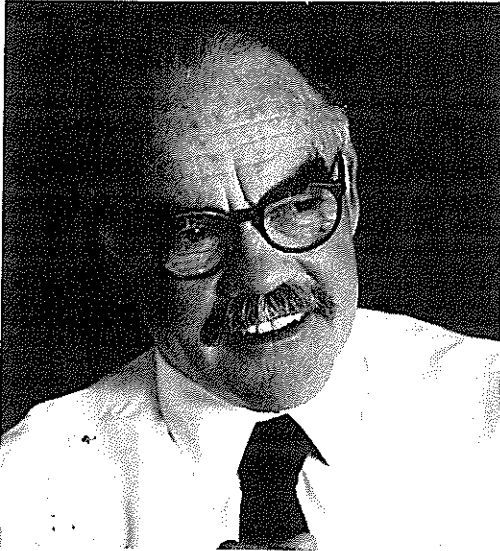
*Honorable Timothy S. Hogan*

**Timothy S. Hogan.** The Honorable Timothy S. Hogan was appointed United States Magistrate Judge for the Southern District of Ohio at Cincinnati on October 4, 1996. Judge Hogan was appointed to fill the vacancy created by the resignation of United States Magistrate Judge Robert Steinberg. Prior to his appointment, Judge Hogan served from 1994 to 1996 as Judge of the Hamilton County Court of Common Pleas, and from 1981 to 1994 as judge of the Hamilton County Municipal Court.



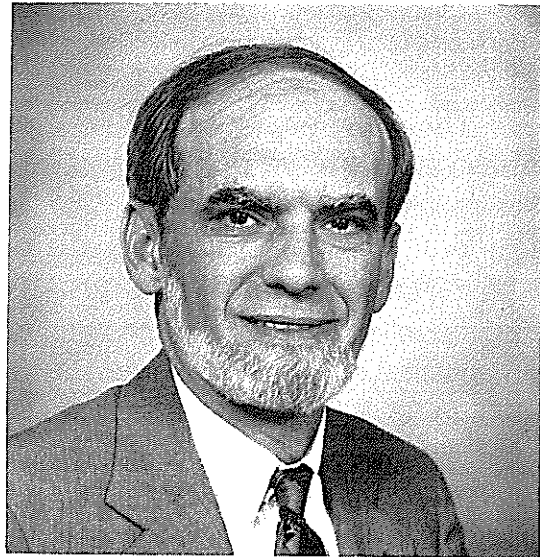
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## FEDERAL PUBLIC DEFENDERS



*Howard W. Gillingham*

**Howard W. Gillingham.** Howard W. Gillingham was appointed Federal Public Defender for the Western District of Michigan on October 13, 1995. Mr. Gillingham was appointed to a new position following approval of the establishment of a federal public defender office in the Western District of Michigan by the Judicial Conference of the United States. Prior to his appointment Mr. Gillingham was in private practice in California.



*Stephen B. Shankman*

**Stephen B. Shankman.** Stephen B. Shankman was sworn in as the Federal Public Defender for the Western District of Tennessee on July 15, 1996. He was selected for appointment by the Court of Appeals to fill the position vacancy created by the resignation of Edward C. Duke. Mr. Shankman served as Assistant Federal Defender in this office from 1977 to 1983 when he left to begin private practice. From 1983 to 1996 he was a partner in the law firm of Monroe, Shankman & Kaufman in Memphis.



# JUDICIAL WORKLOAD IN THE SIXTH CIRCUIT

## WORKLOAD IN THE DISTRICT COURTS

The total workload of the district courts increased by 10 percent from 29,100 cases in Fiscal Year 1995 to 32,112 in Fiscal Year 1996. Terminations increased by nine percent from 28,555 to 31,128 during the same period, and the number of pending cases dropped by six percent from 27,045 to 25,393.

**Filings.** All of the districts in the Sixth Circuit except the Western District of Kentucky experienced increases in their filings during 1996. The Southern District of Ohio and the Eastern District of Tennessee experienced the greatest percentage increases in filings during that period.

**Figure 1** depicts the total number of cases filed per judgeship for the district courts in the Sixth Circuit.

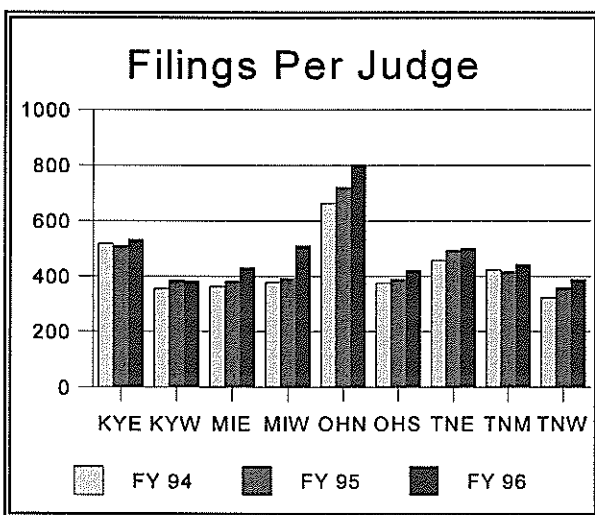


Figure 1

**Terminations.** All of the districts in the Sixth Circuit except the Eastern District of Kentucky experienced increases in their terminations during 1996. The Middle and Western Districts of Tennessee, the Eastern District of Michigan and the Northern District of Ohio all had double digit increases in terminations during that period.

**Figure 2** depicts the total number of cases terminated per judgeship for the district courts in the Sixth Circuit.

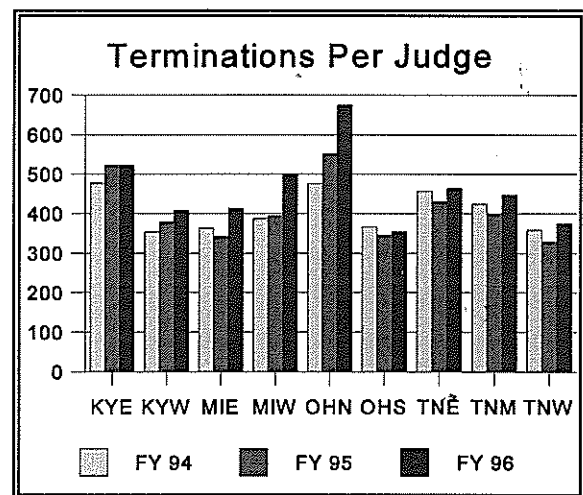


Figure 2

**Pending.** **Figure 3** shows a comparison of pending cases per judgeship in each of the districts in the Sixth Circuit. The Southern District of Ohio experienced the largest increase in pending matters, with an 18 percent increase in pending cases. The Northern District of Ohio had the largest decrease in pending cases.

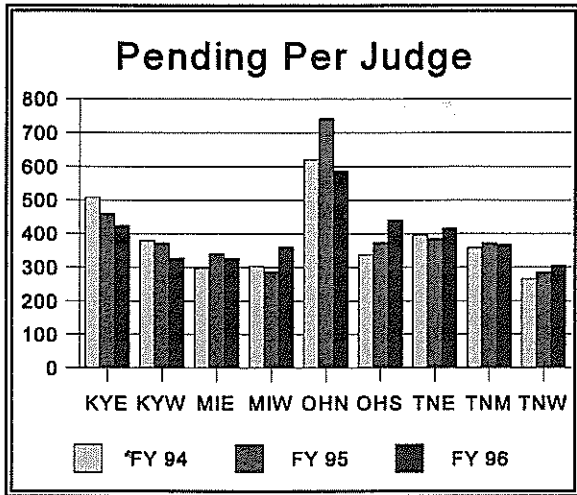


Figure.3

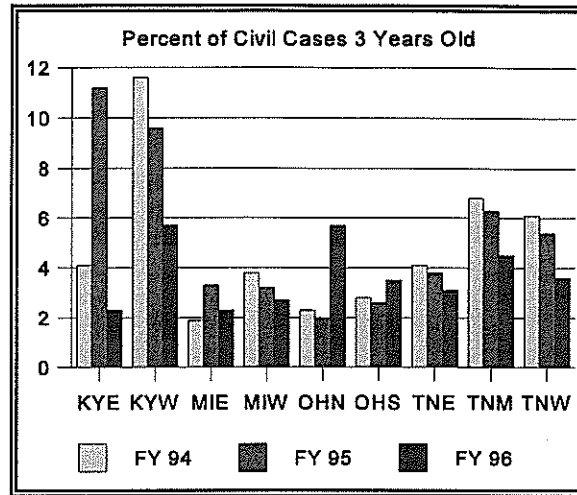


Figure 5

**Disposition Times.** Figure 4 shows the median time in months from filing to disposition for civil cases for each of the district courts in the Sixth Circuit.

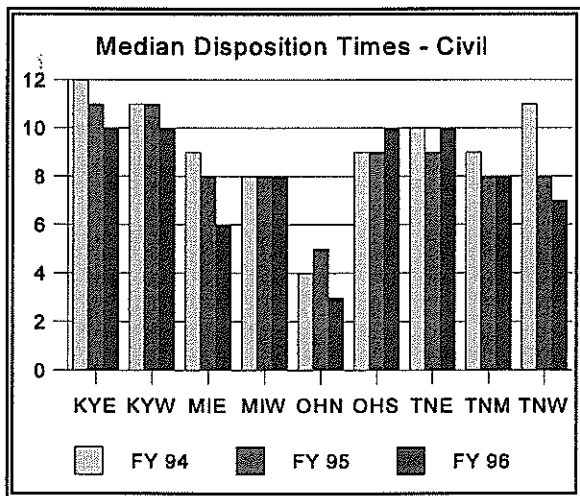


Figure 4

**Three Year Old Cases.** Figure 5 shows the average number of civil cases more than three years old for each district in the Sixth Circuit for the last three years.

#### WORKLOAD IN THE BANKRUPTCY COURTS

After several years of decreasing caseload, the filings in the bankruptcy courts in the Sixth Circuit increased dramatically from 106,602 cases in 1995 to 135,624 in 1996. Figure 6 shows the total bankruptcy filings per judge for each of the bankruptcy courts in the Sixth Circuit.

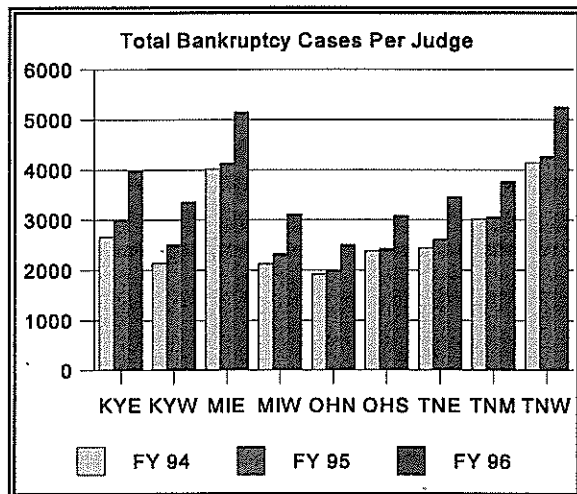


Figure 6

Chapter 7 filings increased circuit wide from 64,959 in 1995 to 85,399 in 1996. **Figure 7** shows the comparison of the Chapter 7 filings for each district of the circuit for the last three fiscal years.

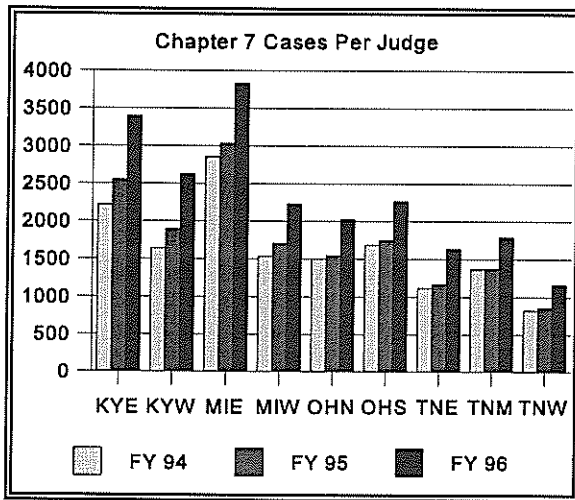


Figure 7

Chapter 11 filings circuit wide decreased slightly from 832 cases to 802 cases during fiscal year 1996. **Figure 8** shows the chapter 11 bankruptcy filings per judge for each of the bankruptcy courts in the Sixth Circuit for the last three fiscal years.

Chapter 13 cases increased from

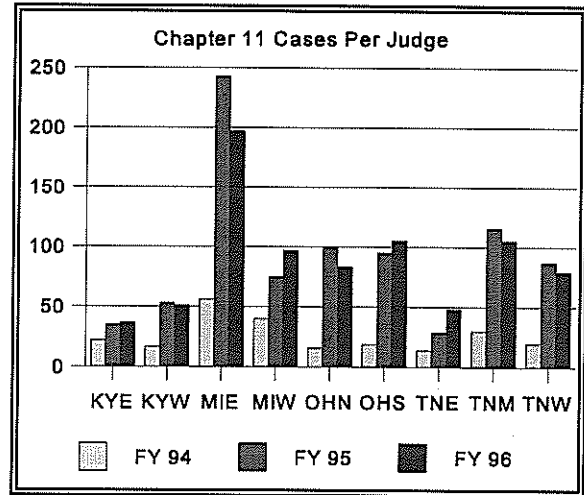


Figure 8

40,716 to 49,605 in 1996. **Figure 9** shows the chapter 13 bankruptcy filings per judge for each of the bankruptcy courts in the Sixth Circuit for the last three fiscal years.

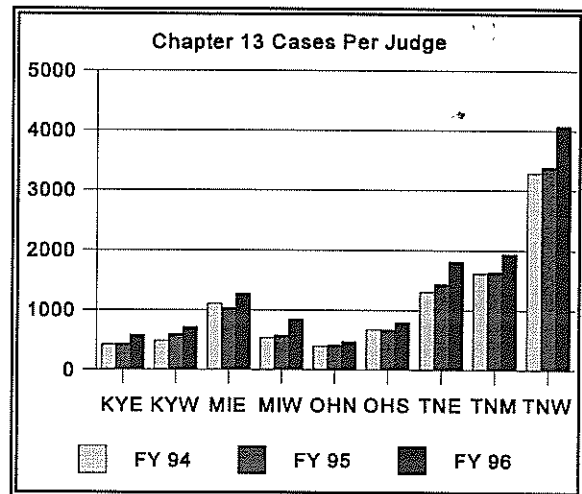
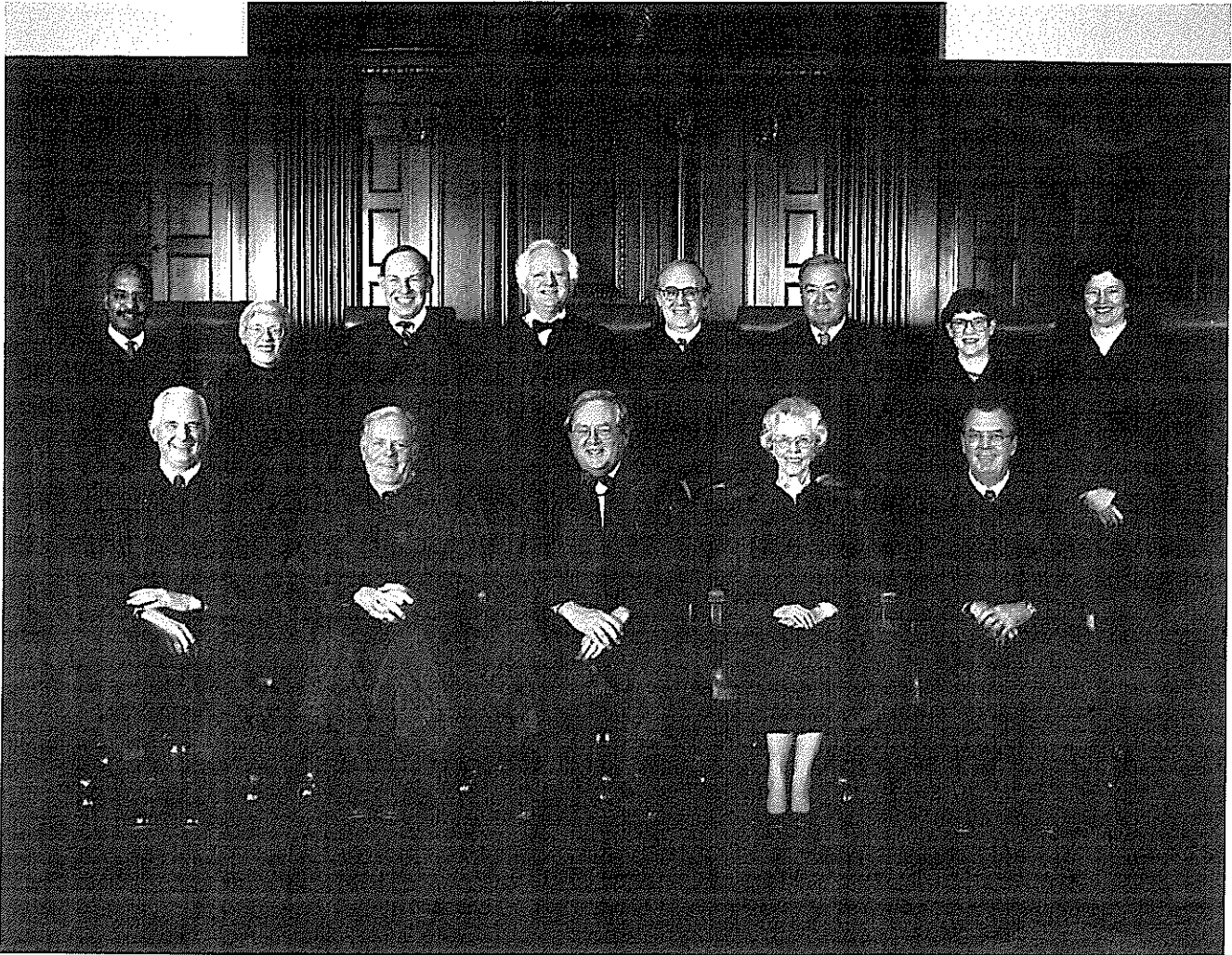


Figure 9



**REPORT OF THE  
UNITED STATES COURT OF APPEALS  
FOR THE  
SIXTH CIRCUIT**



*The active judges of the Court of Appeals*

*Sitting: Judges Nelson, Merritt, Martin, Kennedy and Ryan*

*Standing: Judges Cole, Daughtrey, Siler, Norris, Boggs,*

*Suhrheinrich, Batchelder and Moore*



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<p>FIRST ANNUAL REPORT OF THE BANKRUPTCY APPELLATE PANEL OF THE SIXTH CIRCUIT PREPARED FOR THE FIFTY-SEVENTH CONFERENCE OF THE SIXTH JUDICIAL CIRCUIT MAY 14-16, 1997 IN NASHVILLE, TENNESSEE</p>
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On January 1, 1997, the Bankruptcy Appellate Panel (BAP) established by the Sixth Circuit began operation. The members of the panel are: Chief Judge Thomas F. Waldron (Southern District of Ohio), and Judges Randolph Baxter (Northern District of Ohio), Keith M. Lundin (Middle District of Tennessee), Steven W. Rhodes (Eastern District of Michigan), and David T. Stosberg (Western District of Kentucky).

At the present time, only the Northern District of Ohio and the Southern District of Ohio have authorized appeals to the Bankruptcy Appellate Panel.

In addition to the appeals filed since January 1, 1997, the Bankruptcy Appellate Panel has agreed to accept the transfer, with the consent of all parties and the District Court, of bankruptcy appeals that were pending in a Northern or Southern Ohio District Court prior to January 1, 1997.

In the first two months of this year, the Bankruptcy Appellate Panel has had 9

appeals filed with it and has had 8 appeals transferred from Northern and Southern Ohio District Courts. These appeals are now being processed and additional information on the status of Bankruptcy Appellate Panel proceedings will be provided as part of the presentation scheduled for Thursday, May 15, 1997 at 3:15 p.m. at the Circuit Conference in Nashville.

Respectfully submitted on March 4, 1997

**THOMAS F. WALDRON**  
**CHIEF JUDGE**  
**BANKRUPTCY APPELLATE PANEL**  
**OF THE SIXTH CIRCUIT**



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**REPORT OF THE SIXTH CIRCUIT  
ADVISORY COMMITTEE ON RULES**

In 1982, when Congress required every federal court to appoint “an advisory committee for the study of the rules of practice and internal operating procedures of such court...,” 28 U.S.C. § 2077(b), the Sixth Circuit’s advisory committee on rules was already two years old. Created by then Chief Judge Pierce Lively to learn practicing lawyers’ thoughts about court practices, the committee was expanded after enactment of 28 U.S.C. § 2077(b) to provide better representation of judicial districts within the Circuit and became the Sixth Circuit Advisory Committee on Rules. In 1984, Sixth Circuit Rule 27 was adopted, prescribing the purpose, membership, terms of office and meetings of the committee.

Pursuant to Local Rule 27, the Advisory Committee is comprised of 12 lawyers, three from each of the states of the Sixth Circuit, plus a judge who sits on the Court’s Rules Committee, and the Chief Clerk of the Court, who serves as secretary. All lawyer members are appointed by the Chief Judge and may serve up to two three-year terms. The Chair is elected by the Committee. The current roster includes, besides civil practitioners in large and small firms, an



*Kathleen McCree Lewis, Chair  
Sixth Circuit Advisory Committee*

Assistant U.S. Attorney, two Federal Public Defenders, and a law school professor. Three Advisory Committee members are women and one is African American.

By rule, the Advisory Committee meets annually, in conjunction with the Sixth Circuit Judicial Conference in years when lawyers attend the conference. By recent tradition, it has met as well in the fall in Cincinnati, roughly in coordination with the meeting of the Rules Committee of the Court. Members’ travel expenses are reimbursed by the Court. The Advisory Committee does not meet with the Rules Committee of the Court, but communicates with it through its liaison to the Advisory Committee. For several years, that judge

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was the Honorable Cornelia G. Kennedy; currently, it is the Honorable Karen Nelson Moore.

The Advisory Committee took the laboring oar in compiling the Circuit's Internal Operating Procedures in 1986 and in revising them in 1991. In recent years, it has given serious consideration to and provided extensive comment on numerous new local rules and amendments proposed by the Court's Rules Committee.

A significant contribution of the Advisory Committee was the 1995 amendment of the oral argument rule to allow advocates to learn, before the day of oral argument, the identities of the judges who will hear their cases. This major departure from Sixth Circuit tradition was initiated by the Advisory Committee, which accompanied its recommendations with a comprehensive report on the policy and history of the Sixth Circuit's practice, countervailing policy considerations, the practices in other Circuits and in state courts, and the results of an unscientific lawyer survey.

The Advisory Committee's current tasks include the coordination of the numbering and organization of the Sixth Circuit's local rules with that of the Federal Rules of Appellate Procedure.

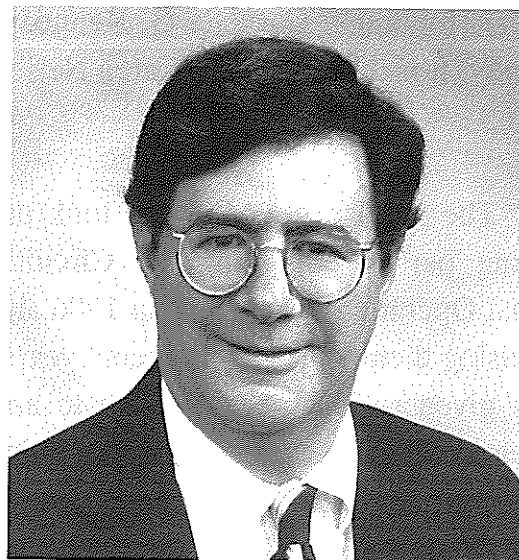
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**OFFICE OF THE CLERK**

**Leonard Green, Clerk**

**Janice E. Yates, Chief Deputy Clerk**

After two years in which filings and case dispositions remained virtually static, 1996 saw an increase in filings of 6.2% and an increase of 0.7% in dispositions. The increase in filings, although modest in relation to those in several other circuits, represents this circuit's largest percentage rise in five years.



*Leonard Green, Clerk*

	1995	1996	Change
Filings	4536	4818	+6.2%
Dispositions	4398	4427	+0.7%

The increase in filings was fueled by a sizeable increase in habeas corpus appeals, which accounted for over 80% of the net increase in new appeals. Diversity appeals showed a double-digit percentage increase, while filings in other sectors of the docket remained in approximately the same proportions as during the previous year.

The passage in April, 1996 of the Prison Litigation Reform Act and the

Antiterrorism and Effective Death Penalty Act set in motion forces which could alter significantly the course of habeas corpus and prisoner civil rights litigation in the federal courts. Presently, such cases account for more than one of every three appeals filed. Although it is still too early to assess the impact of these two legislative measures, it is clear that the implications for the court of appeals will be significant.

The Sixth Circuit Court of Appeals

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maintains its traditional commitment to the expeditious resolution of those appeals brought before it. In order to give effect to that commitment the judges of the court shoulder one of the heaviest workloads among the circuit courts. Approximately half of all appeals terminated on the merits are decided after counsel has had the opportunity to present oral argument, which the court continues to view as a fundamental element of the appellate decisional process. By virtue of proactive case management and the continuing use of telephonic oral argument in appropriate cases, the court has managed to gain ground in the last two years on the queue of appeals waiting their turn to come before the court for oral argument. The court has never enjoyed the luxury of having its full statutory complement of sixteen active judges, and it is only with a high level of participation by its own senior circuit judges and by visiting senior circuit and district court judges that the court has been able to maintain a vigorous argument calendar which results in criminal appeals being routinely argued within four to five months of the completion of briefing, and civil cases within seven to eight months.

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 procedural requirements of the Federal Rules of Appellate Procedure and the Rules and Internal Operating Procedures of the Sixth Circuit are understood and complied with. The local rules and operating procedures continue to receive the close attention of the court and the 12-member attorney Advisory Committee on Rules, currently and ably chaired by Kathleen McCree Lewis of Detroit, Michigan. The response of the bar to proposed changes to the local rules plays an important role in refining the court's processes.

The court continues to prepare for the advance into the appellate stage of significant numbers of cases raising collateral challenges to state-court imposed sentences of death. There are now well over 200 death-sentenced prisoners in Kentucky, Ohio, and Tennessee; there are approximately 50 habeas cases challenging those sentences pending in the district courts in those three states. The court of appeals continues to review its procedures to ensure that appeals in capital cases receive the full measure of expedition and consideration they require.

The clerk's office has assumed a new role in addition to its traditional one, that being providing all necessary administrative support to the Bankruptcy

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Appellate Panel of the Sixth Circuit, which began operations on January 1, 1997. The clerk's office looks forward to working with the members of the BAP, and those attorneys who come before it, as this newest forum within the Sixth Circuit family serves the needs of the bankruptcy community.

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 as efficiently and effectively as possible. The office always welcomes suggestions on how it can improve the delivery of its services.



## OFFICE OF THE STAFF ATTORNEYS

*Kenneth A. Howe, Jr.*  
*Senior Staff Attorney*

*Michael Cassady*  
*Joseph C. Merling*  
*Supervisory Staff Attorneys*

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 Office of the Staff Attorneys 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 Office of the Staff Attorneys and all of its personnel are located in Cincinnati. The senior staff attorney is responsible for the personnel, administrative, and operational activities of the office. The office has sixteen attorneys, two of whom are supervisory staff attorneys, an administrative manager, and four secretaries.

The office provides various support services to the court. The primary service



*Kenneth A. Howe, Jr.*  
*Senior Staff Attorney*

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. 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 and legal research on the facts and relevant legal issues for consideration by the court pursuant to Sixth Circuit Rule 9. This review process has been extended to counsel-represented appeals where counsel have waived oral argument.

The staff attorney office presents applications for a certificate of appealability in habeas corpus and motion to vacate cases to single judges. Rulings which deny

such applications dispose of the cases. The office also presents motions seeking permission to file a second or successive habeas corpus petition or motion to vacate to three judge panels.

The office 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.

During the calendar year, the office prepared 775 legal memoranda on the merits of cases pursuant to Sixth Circuit Rule 9 and 220 memoranda on appeals lacking proper appellate jurisdiction. The office also presented to the court 246 applications for certificates of appealability, 299 motions seeking permission to proceed on appeal *in forma pauperis*, and 295 miscellaneous motions.



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## CIRCUIT LIBRARY SYSTEM

Kathy Joyce Welker  
Circuit Librarian

Pamela Schaffner  
Deputy Circuit Librarian

**Introduction.** The Sixth Circuit Library System is comprised of the main library in Cincinnati plus nine satellite libraries dispersed throughout the circuit. The main function of the library system is to provide research support services to judges in all courts, court employees and the practicing bar. These services range from responding to reference questions to assuring that current research materials are purchased for and made available in over 300 locations in the circuit where collections are housed.

A number of library program developments have enhanced or refined the way that these services are delivered to library clientele. These enhancements include the opening of the new Chattanooga Satellite Library, the hiring of a court archivist/historian, the establishment of a Committee on Libraries, the enactment of judicious subscription costs control measures, the implementation of a new national CALR contract, the provision of LEXIS, NEXIS and Internet searching services and the movement from



*Kathy Joyce Welker  
Circuit Librarian*

planning to implementing an automated integrated library system. Each of these enumerated enhancements and refinements are described in some detail below.

**New Chattanooga Library.** The Frank W. Wilson U.S. Courts Library in Chattanooga was dedicated in April, 1996. This is the ninth satellite library to open in the Sixth Circuit Library System. The Chattanooga library directly serves all federal court employees located in the geographical area comprising the Eastern District of Tennessee. Mr. Tom Vanderloo serves as the Chattanooga Satellite Librarian. Prior to working for the Sixth Circuit Library System, he was a Librarian at the DC Circuit Library.



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**Court History Program.** Ms. Rita Wallace, Circuit Archivist/Historian, has also joined the library staff. Previously, she worked on a number of historical research, cataloging and editing projects at the University of South Carolina. Her primary duties with the Court of Appeals include providing historical court research support services to inquirers, updating the 1976 court history and interviewing judges and other court personnel for the purpose of creating oral histories related to the work of the court.

**Judicial Council Committee on Libraries.** The Sixth Circuit Judicial Council has established a committee for the purpose of making policy recommendations to the Council on library matters. Because the library system serves the circuit, district and bankruptcy courts, membership on the committee is comprised of both Circuit and District Judges who represent each District within the Circuit. To date, the committee has primarily dealt with issues of controlling lawbook continuations costs and setting uniform library user policies.

**Lawbook Cost Reductions.** In 1994 lawbook budgeting, ordering and renewal processing was decentralized to the Circuit. This has enabled the library system to report title-by-title continuations

costs for lawbook subscriptions to every judge and court office. With this information at hand, judges and other court officers have, in turn, been able to identify numerous subscriptions that were good candidates for cancellation. In the summer of 1995, over \$250,000 worth of renewals for libraries, judges and court offices was canceled reducing FY96 overall continuations costs by 9%. In 1996, an additional \$208,940 worth of renewals for all court locations was canceled with a projected additional savings in FY97 of 7%.

**New 5-year CALR Contract.** Another cost saving library program change went into effect in the fall of 1996. For the five previous years, the judiciary had a computer-assisted legal research (CALR) contract in place with two vendors (LEXIS and WESTLAW). When the new national 5-year contract was let, it was determined that we would subscribe to only one vendor, i.e. WESTLAW. Library staff organized and facilitated the transition from having two vendors to one. This process included arranging for the issuance of WESTLAW passwords and the provision of training to former LEXIS users in advance of the cessation of LEXIS availability. They continue to coordinate and monitor the provision of WESTLAW services to researchers throughout the circuit.

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**LEXIS and NEXIS Research Services.** With the elimination of LEXIS and NEXIS access, a very few essential CALR services were no longer available to the judiciary. In response, library staff initiated a program which provides LEXIS and NEXIS searching services. When needed research information is only available on LEXIS or NEXIS, librarians now search these databases for judiciary staff. These searches are done only by librarians so that the resulting high hourly charges can be kept under control.

**Internet Research Services.** The library system now offers Internet searching services to the judiciary. The Internet has become an essential source for legal and court-related information. Primarily due to cost and security concerns, Internet searching capabilities are not being provided to all court personnel on personal computers. Instead, in order to assure that the courts can obtain necessary research information, librarians are now offering Internet searching services.

**Integrated Library System.** The library system is on the verge of installing an Integrated Library System (ILS) in the Cincinnati library and in all of the satellite libraries. A national contract with an off-the-shelf vendor is expected to be awarded in March, 1997. This award will follow a 2-year effort aimed at identifying library

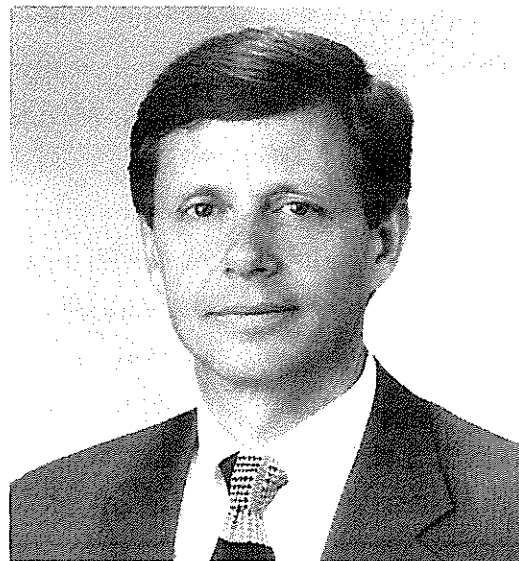
automation needs and at soliciting and evaluating competitive bids. This automated system is expected to eventually result in supplanting library card catalogs with online library catalogs accessible by judicial staff via the court's computer network (called the DCN). This same automated system will integrate the book ordering and payment processes with receipt verification and with tracking individual volumes, issues and other forms of supplementation held in library locations. The installation of the ILS will be a major endeavor by library staff in the upcoming year. When installation is completed in one to two years, a myriad of facts about our library holdings will be readily available through all networked court computers. This will enable library staff to manage library book budgets in a much more comprehensive and responsive manner as well as to provide library users with valuable research enhancing services.

**Conclusion.** The library program continues to expand services while searching out every opportunity to cut operational costs. In an era when research support sources might be chosen from a myriad of media forms, library personnel continuously evaluate and select best sources. They continue to pursue the goal of meeting ever broadening court research needs while keeping foremost the expectation that costs will be controlled.

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**CIRCUIT MEDIATION OFFICE<sup>1</sup>**  
**1996 ANNUAL REPORT**

Total Sixth Circuit Cases Mediated	1054
No. Settled <sup>2</sup>	481
Settlement Rate	46%
Cases Referred by Hearing Panels	11
No. Settled	3
Cases Referred by District Court	1
No. Settled	1



*Robert W. Rack, Jr.*  
*Chief Mediation Attorney*

Confidential settlement conferences are initiated randomly and conducted by staff

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<sup>1</sup>In January 1997, the Court changed the name of Pre-Argument Conference Attorneys' Office to the Circuit Mediation Office. Conference Attorneys now are called Circuit Mediators. This change follows a trend among circuit courts of appeals to create uniform titles that are more descriptive of the functions performed.

<sup>2</sup>The Circuit Mediation Office counts as "settlements" all cases that terminate without judicial involvement, i.e., voluntary dismissals or dismissals for want of prosecution, following the initiation of mediation activities. Clearly some of these "settlements" are cases that would have settled or voluntarily dismissed without the Office's involvement; however, it is not possible to determine precisely the number of settlements due exclusively to the Court's mediation efforts without a control group study. When this was last done in the mid 1980's, the Office was found to be disposing of more cases than would an additional circuit judge and at about half the cost.

mediators in as many new civil appeals as possible pursuant to Sixth Circuit Rule 18 and Federal Rule of Appellate Procedure 33. All fully counseled civil appeals are eligible although prisoner and agency cases, such as Tax and Social Security cases, are viewed as less amenable to negotiated outcomes and usually are not selected. Most initial settlement conferences are scheduled before briefing and are conducted by telephone with clients not required to attend. When all counsel reside in the Cincinnati area or if it appears that an in-person conference might be more conducive to settlement, initial or follow-up meetings may be scheduled in Cincinnati and clients might be required to attend. Ongoing facilitated negotiations frequently follow initial conferences until all settlement options have been explored to

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conclusion. Counsel may request mediation conferences confidentially by calling or writing the Circuit Mediation Office.

With the creation of the Bankruptcy Appellate Panel (BAP) for the Northern and Southern Districts of Ohio, the Court has agreed to make the services of the mediation office available in cases appealed to the BAP. Settlement conferences will be conducted in these cases as the resources of the mediation office allow. Parties in BAP cases may contact the mediation office to request a conference or for additional information.

Cases are sometimes referred for mediation by Court hearing panels either just before or just after oral argument. Settlement discussions in these cases, like all communications under Rule 18, are strictly confidential from the Court. The office reports back only whether the case could be settled.

Occasionally, the office accepts referrals from district courts within the Circuit of particularly troublesome cases that are likely to end up in the Court of Appeals if not resolved. Only one such case was accepted in 1996 and it was settled.

The office has four full-time mediator

positions staffed by five experienced lawyers with extensive mediation training. Their tenure with the Court ranges from 3 to 15 years. Further information may be obtained by calling the Circuit Mediation Office at (513) 564-7330.



#### **AUTOMATION SUPPORT UNIT**

William M. Eggemeier  
Assistant Circuit Executive

Michael Nagel  
Systems Manager

The Automation Support Unit provides automation training, support and maintenance for the judges and staff of the U.S. Court of Appeals for the Sixth Circuit. In the Sixth Circuit Court of Appeals there are more than 350 computers in use in the Appellate Judges' Chambers, the Office of the Circuit Executive, the Clerk's Office, the Office of the Staff Attorney, Circuit Library and its nine satellite libraries, and the Circuit Mediation Office.

In addition, the automation staff maintains the automated case management system for the court. The court uses this system to maintain the docket, track cases, help

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prepare the oral argument calendar, and provide information on cases to the judges, court staff, the lower courts, the bar and the public. The Automation Support Unit also maintains the court's appellate electronic bulletin board system, known as ABBS. For anyone with a computer and a modem, ABBS provides access to the court's published opinions, case docket sheets, the court's oral argument calendar, local rules and operating procedures, and a variety of status reports on appellate cases. Reports include listings of new cases filed, cases disposed, cases heard or submitted, orders entered. Also available are listing of cases being briefed, appellant and appellee briefs filed, lower court records filed and appendixes to briefs filed. ABBS contains a listing of all pending cases before the Sixth Circuit Court of Appeals broken down by district court of origin.

The Automation Support Unit also coordinates office automation, telecommunications and computer network activities with the district, bankruptcy, probation and pretrial offices within the Sixth Circuit. The major responsibility in this area is the management of the Judiciary's Data Communication Network (DCN) within the Sixth Circuit. The DCN ties together federal court offices throughout the country. It provides the means for sharing and exchanging information

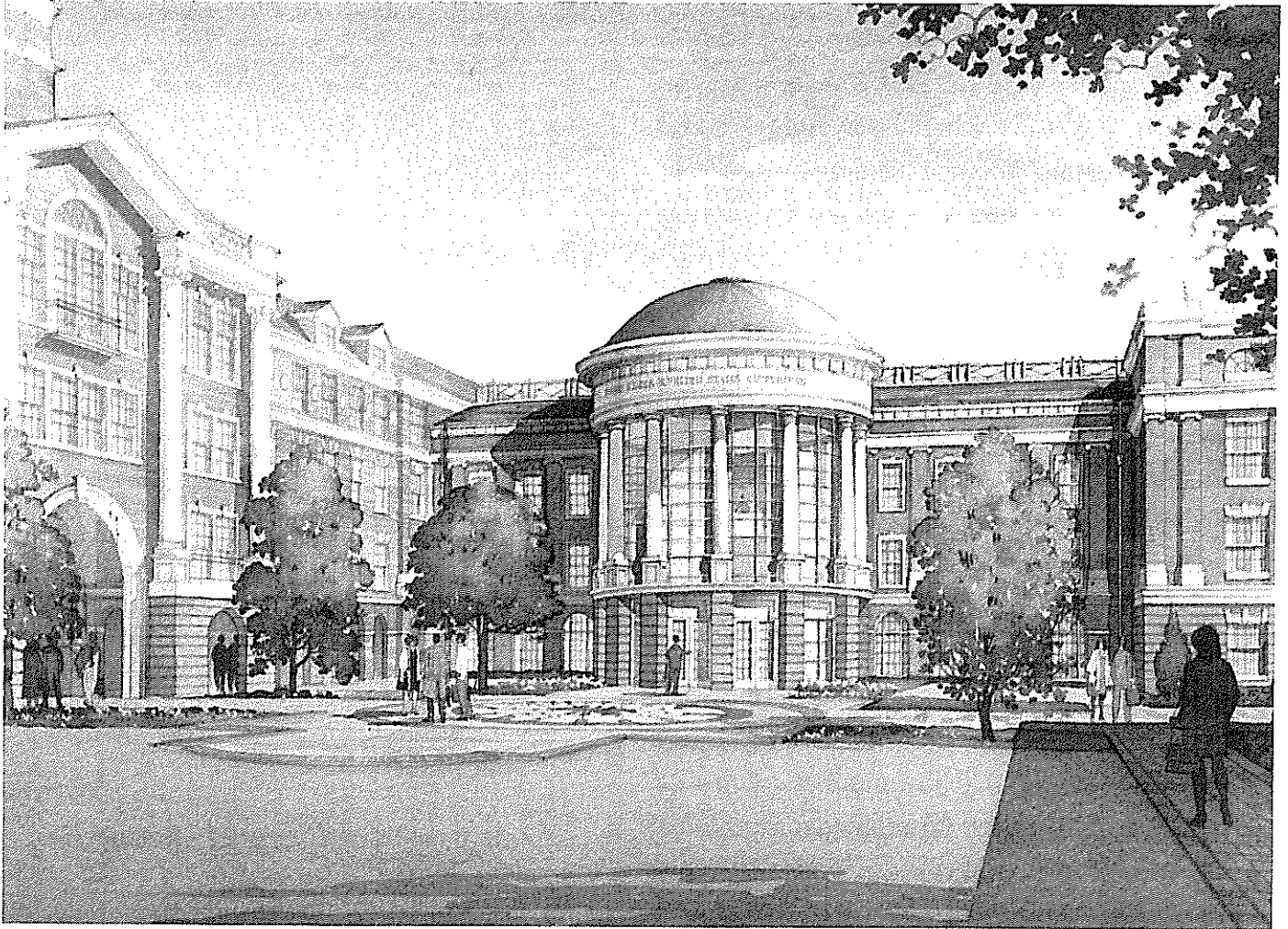


*William M. Eggemeier*  
*Assistant Circuit Executive for Automation*

electronically and access to computer assisted legal research and case management information. The staff of the Automation Support Unit oversees the day-to-day operation of the DCN in the four states that comprise the Sixth Circuit. They provide technical, managerial and administrative support to the other court units within the circuit for the DCN. They coordinate the operation of the DCN with the other circuits and the Administrative Office in Washington. As more of the judiciary's business becomes automated, the DCN is becoming the vital link within the court family and the vehicle to reach necessary information and services outside the judiciary and to communicate with the practicing bar and the public.



**REPORTS OF THE  
UNITED STATES DISTRICT COURTS**



*Rendering of the  
Howard H. Baker, Jr.  
United States Courthouse  
Knoxville, Tennessee*

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY

1996 ANNUAL REPORT

**PERSONNEL.** On April 24, 1997, the Court's Part-time U. S. Magistrate Judge, J. B. Johnson, Jr., at London, became the fourth Full-time Magistrate Judge. The Court's other three Full-time Magistrate Judges are located at Ashland, Covington and Lexington.

**WORKLOAD.** The 1996 fiscal year saw the most filing of civil cases in the past ten years. As of December 31, 1996, there had been 2244 civil cases assigned for the calendar year compared with 1984 for the preceding year or an increase of 13% or 260 cases. For the 1996 calendar year the number of filings of social security cases increased by 231 cases or a 66% increase compared with the preceding year. Early indications are that the number of pro se prisoner cases filed this calendar year have fallen fairly significantly due to the Prisoner Litigation Act which became effective on April 26, 1996. The Covington Division of the Court showed the greatest increase in civil filings for 1996.

For the 1996 calendar year there was a



*Honorable William O. Bertelsman  
Chief Judge*

slight increase in the number of new criminal cases or an increase of 3.6% in cases (10.4% increase in defendants) or 316 cases and 385 defendants increase over the preceding year. There was approximately a 5% increase in the number of drug defendants and the number of criminal trials as a percentage of total trials over the prior year.

In the Fall of 1996, the Civil Justice Reform Act Advisory Group surveyed 1,000 practitioners before the Court in civil cases since the December, 1993, modifications of FRCP Rule 26(a). Although the number of returned questionnaires was not statistically reliable, from those members of the bar responding, there showed little evidence of time

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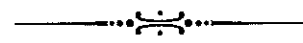
improvement or information gained because of the new rule. However, there was a definite sentiment that if the attorneys cooperate with each other, the Rule is workable and is not a burden. From the survey the Group determined that Rule 26 as amended is not a real factor in reducing cost and delay in litigation. In the same survey it was found that the settlement conference still seems to be the preferred alternative dispute resolution device used in the District. There appeared to be no demand for a formal ADR structure in the district at this time.

By Spring, 1997, the Joint Local Rules Commission for the Eastern and Western Districts of Kentucky will submit new, renumbered and more comprehensive local civil and criminal rules for Kentucky. The submission will conclude a nine month study of the Commission leading to the proposed new rules.

**COURTROOM AUTOMATION PROJECTS.** During 1996, the Covington District Courtroom was enhanced with the addition of a DOAR computer driven projection system and the introduction of windows real time court reporting. The DOAR system replaces the traditional overhead projector and screen equipment with a display system for paper exhibits by TV monitors (35" for the jury, 13" for counsel

and the Judge's bench personal computer) driven by a file server. The computer system enables counsel to call attention to various parts of an exhibit by enlargements. A career law clerk at the division serves as the technically trained support staff for the project.

**COURTHOUSE FACILITIES.** The Court has completed the final design stage for two new courthouses at Covington and London. The 110,118 square foot five story structure at Covington is located closer to the center of the city in a historic once residential area of the community. The courthouse will have four district courtrooms with chambers and one bankruptcy courtroom with chambers. The new London Courthouse will occupy 92,540 square feet with four stories and will be immediately behind the present historic courthouse connected on the surface by a plaza. The four story structure will accommodate the District Court, a Court of Appeals Chamber and a few Executive Branch agencies. The Bankruptcy Court will occupy the present courthouse. Both courthouses are projected to be completed during 1999.





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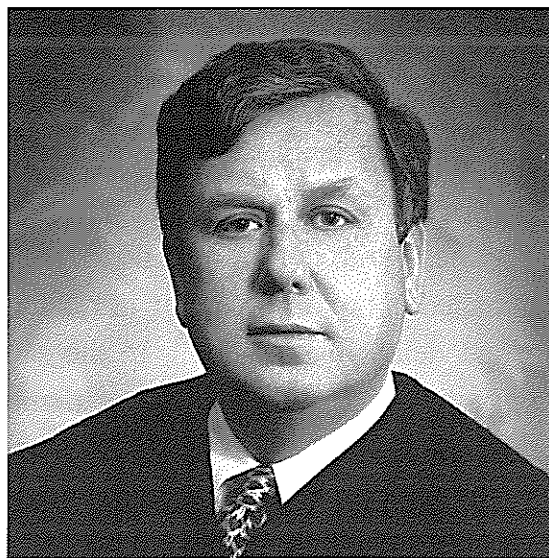
**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
1995-1996**

United States District Judge Joseph H. McKinley, Jr. joined the court in August of 1995, *vice* Ronald E. Meredith. Prior to his appointment, Judge McKinley was a state trial court judge in Owensboro where he is now stationed.

United States Magistrate Judge James D. Moyer was appointed by the court in April of 1996. Previously, he was a partner with the firm of Stites & Harbison. Magistrate Judge Moyer is stationed in Louisville.

At the end of 1996, our long-time Chief Probation Officer, Louis S. Sutherland, Jr., announced his retirement. Lou served the court faithfully and well during his many years of service. He has been asked to stay in the position on a temporary basis until a permanent Chief Probation Officer is appointed.

Our court continues to provide assistance to committees of the Judicial Conference of the United States. Chief Judge Simpson was appointed by the Chief Justice to the Committee on the Administration of the Bankruptcy System. Judge Heyburn was selected to be chair of the Committee on the Budget.



*Honorable Charles R. Simpson, III  
Chief Judge*

Our district has continued to lead in the area of automation. We have recently installed an Internet home page. The address is: <http://www.kywd.uscourts.gov>. We continue to build the page to provide useful information to the public and the bar. There are also embedded links to other Internet sites, including the web pages of the United States Supreme Court and the Sixth Circuit Court of Appeals. A local rule will be adopted to authorize electronic filing, and we anticipate implementing this on a staged basis in the near future.

Under the leadership of Judge Heyburn, the Criminal Justice Act panel of attorneys is being revamped. Because the district now has a Federal Community Defender office, restructuring of the panel became necessary.

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Civil case filings in the Western District went from 1,485 in 1993 to 1,736 in 1996, a 17% increase. Despite this increase, the number of pending civil cases actually decreased over 8% during this period due to the hard work of our judges and staff. The number of three-year-old civil cases decreased 69%. The felony criminal caseload increased over 17%.

We have several ongoing construction projects, including a courtroom and chambers for Judge Russell in Paducah, renovation of Judge McKinley's chambers in Owensboro, and relocation of the clerk's office in Louisville from the fourth floor to the first floor of the Gene Snyder United States Courthouse.

Our district continues to enjoy the valuable and selfless service of our senior judges, Charles M. Allen and Edward H. Johnstone.

## **UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN**

### **1995-1996 BIENNIAL REPORT**

**COURT CEREMONIES.** On March 13, 1995, a dedication ceremony renaming the satellite Circuit Library in Detroit the "Ralph M. Freeman Memorial Library" was held. Judge Freeman served on the District Court for 36 years, and was Chief Judge from 1967 to 1972.

On May 1, 1995, a dedication ceremony renaming the Federal Building and U.S. Courthouse in Detroit the "Theodore Levin United States Courthouse" was held. The event was attended by several congressional and local dignitaries. Judge Levin served on the District court for 24 years, and was Chief Judge from 1959 to 1967.

On June 17, 1996, at an extraordinary session of the Court in Ann Arbor, the court received the gift of a portrait of Senior United States District Judge Charles W. Joiner. The portrait was presented to the Court by Judge Joiner's wife, Ann, and current and former members of the Judge's staff. The portrait will hang in the district courtroom in the Ann Arbor Federal Building.



*Honorable Anna Diggs Taylor  
Chief Judge*

#### **JUDICIAL OFFICERS.**

District Judge Paul V. Gadola was assigned as the resident judge in Flint on September 11, 1995.

Senior District Judge John Feikens celebrated a quarter century on the bench on December 1, 1995. Judge Feikens was appointed on December 1, 1970 by President Richard Nixon.

Senior District Judge Robert E. De Mascio also celebrated 25 years on the bench on July 22, 1996. Judge De Mascio was appointed in 1971 by President Nixon.

District Judge George La Plata, who was appointed in 1985 by President Ronald

Reagan, retired effective August 3, 1996. District Judge Barbara K. Hackett was assigned as the resident judge in Ann Arbor effective October 21, 1996.

District Judge Julian Abele Cook, Jr., who served as Chief Judge for seven years, took senior status effective December 30, 1996. The Court honored Judge Cook by authorizing the attached Resolution of Appreciation.

The Court appointed Bankruptcy Judge Steven W. Rhodes as Chief Bankruptcy Judge for a four-year term beginning April 14, 1995, and ending April 13, 1999.

Chief Magistrate Judge Paul J. Komives was reappointed to a fourth eight-year term beginning February 12, 1995, and ending February 11, 2003.

Magistrate Judge Thomas A. Carlson was reappointed to a third eight-year term beginning October 4, 1995, and ending October 3, 2003.

Retired Magistrate Judge Lynn V. Hooe, Jr., was recalled during 1995 and 1996 for occasional duty not to exceed 90 days per year.

As of December 31, 1996, this Court had two vacant district judgeships.

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**DESIGNATION OF BANKRUPTCY JUDGES.**

On February 5, 1996, the bankruptcy judges of the Eastern District of Michigan were specially designated to conduct jury trials, with the express consent of all parties, if the right to jury trial applies in any proceeding that may be heard by a bankruptcy judge. The designation remains in effect until February 7, 1998, unless extended by subsequent administrative order or local rule.

**DESIGNATION OF MAGISTRATE JUDGES.**

On December 2, 1996, the magistrate judges of the Eastern District of Michigan were designated to exercise civil consent jurisdiction in accordance with 28 U.S.C. § 636(c). Jurisdiction will be exercised only with regard to a case in which (a) the parties freely consent to the exercise of such jurisdiction and (b) the district judge to whom it has been assigned enters an order specifically referring it for that purpose. Any district judge who does not intend to refer any such case (except for supervision of voir dire) may instruct the clerk not to notify the parties of the availability of a magistrate judge for that purpose in cases assigned to that judge.

**FLINT CIVIL AND CRIMINAL CASELOADS.**

On April 3, 1995, the Court approved the consolidation of the Flint civil case assignment system with the Ann

Arbor/Detroit civil case assignment system. The Flint criminal caseload remains separate from that in Ann Arbor/Detroit.

**CIVILITY PLAN.** On October 4, 1993, the Eastern District of Michigan approved a Plan for the Reduction of Expense and Delay in Civil Cases as provided in 28 U.S.C. § 471, et seq. Section VII(C) of that Plan stated that the Court would request that the Eastern District of Michigan Chapter of the Federal Bar Association and the State Bar of Michigan Committee on United States Courts propose a civility plan to the Court. The FBA and U.S. Courts Committee worked tirelessly to present recommendations to the Court. The Eastern District adopted the Civility Plan on February 5, 1996 and appointed a Joint Standing Committee consisting of Judge John Corbett O'Meara, Thomas W. Cranmer (representing the U.S. Courts Committee), and Edward M. Kronk (representing the Federal Bar Association).

**SECURITY OF FEDERAL COURT FACILITIES.** In the wake of the Oklahoma City bombing, security has been intensified at all federal court facilities in the Eastern District of Michigan. The Court has entered an administrative order requiring all persons entering a federal facility occupied by the United States District Court for the Eastern District of Michigan

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to pass through a magnetometer and have all personal belongings and packages subject to x-ray examinations by the United States Marshal Service.

In addition, the Court has entered an administrative order prohibiting firearms, knives and other weapons from any federal court facility in the district. These items are subject to confiscation. Communication devices (tape and audio recorders and dictating devices) and cellular phones are also prohibited. Laptop computers are permitted in federal court facilities, but may not be used in any courtroom without the permission of the judicial officer.

**COURT OPERATIONS DURING FUNDING LAPSE.** In October 1995, while other federal government agencies were forced to furlough their employees, the Eastern District of Michigan informed those agencies with whom it does regular business (Federal Defender, Federal Protective Service, U.S. Marshal Service, General Services Administration, U.S. Attorney) that the Court would "continue all operations and services necessary to maintain and support the exercise of the judicial power of the United States under Article III of the Constitution of the United States."

**SHANTY CREEK BENCH BAR CONFERENCE.** Federal judges and attorneys from both the Eastern and Western Districts of Michigan met at Shanty Creek on October 25-27, 1996 for the third bench/bar conference on practice and procedure in federal district court. Participants candidly discussed topics such as civility, discovery and delay, access to the court, and contact with represented parties. There was agreement that procedural uniformity between the Eastern District and the Western District and judicial consideration of the decisions of the judges in the other district could lower costs and assist in resolving cases. Magistrate Judge Virginia M. Morgan was the Eastern District Co-Chair of the 1996 Conference.

**JUROR NO-SHOWS.** The problem of juror no-shows was addressed by the Court in 1996. Potential jurors who had ignored a summons, a letter from the Clerk's Office, and a letter from the Chief Judge were brought before a magistrate judge on an order to show cause why they should not be held in contempt of court. Although a few who appeared offered excuses which were sufficient to cause dismissal of the order, most of the 32 potential jurors cited were held in contempt and sentenced to 40 hours of community service administered by the Pretrial Services Agency.

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**COURT HISTORICAL SOCIETY.** During 1995, an archive to maintain the historical documents and photograph collection of the Court Historical Society was established. The Society has engaged an Executive Director, Peggy Brann, whose talents and experience have materially facilitated the Society's pursuits. Professor Philip P. Mason continued to chronicle the Court's history through recorded interviews with judges, prominent attorneys and others who have contributed to the Court's legacy over the years. The completed oral history of Judge Horace W. Gilmore was presented to him at the Society's 1995 Annual Meeting.

In 1996, the Society initiated the "Otis M. Smith Award" to encourage and recognize scholarly research and writing on the Court. Although no winning manuscript was selected, the Society looks forward to future submissions.

In April 1996, the Society lost one of its most respected members and trustees with the death of Bradley M. Thompson. His interest and dedication to the mission of the Society will be missed.

**CASELOAD STATISTICS.** Civil cases filed in the Eastern District in 1996 increased 16% over 1995 (from 5,035 to 5,858), however, virtually all of the increase was attributable to the Dow Corning bankruptcy

related to the silicone gel breast implant litigation. Criminal case filings increased 6% from 611 to 648, however, the number of criminal defendants assigned was nearly unchanged (1,091 in 1995 as compared to 1,094 in 1996). The Eastern District had one of the lowest percentages of total caseload over 3 years old in the country (1.3% compared with a national average for districts of between 5% and 6% of caseload).

**PUBLIC ACCESS TO COURT ELECTRONIC RECORDS (PACER).** During 1996, 404 users accessed PACER 7,126 times for a total of 518 hours. Those interested in becoming new users should contact the PACER Service Center at 800-676-6856.

**FACILITIES.** During 1995 and 1996, major space and facilities projects were completed in four of five Court locations.

Detroit

- DEA, IRS and the Department of Labor moved to leased space to allow the construction phase of the Prospectus Project to begin. Construction was completed on the Clerk's Office and jury assembly and grand jury rooms on the 5th floor and five magistrate judge courtrooms and chambers on the 6th floor. Construction is nearing completion for two district judge

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- courtrooms and chambers on the 1st floor and office space for the Pretrial Services Agency on the 3rd floor. The estimated completion date is April 1, 1997.
  - The offices of the Court Administrator and Chief of Court Services relocated to the 8th floor space vacated by the U.S. Attorney. The design phase for Probation's relocation and expansion to the 9th was started. The estimated completion date is Fall, 1997.
  - In conjunction with the U.S. Marshal Service, security screening posts were centralized at each of the public entrances and on the loading dock. All persons and packages are required to pass through the screening equipment.
  - A new telephone system was installed for the Court. The system allowed the Court to reduce the number of lines leased from the local telephone company through GSA, and allows Court personnel features as required. In its first full year of operation, the new system is expected to generate savings of approximately \$100,000. The U.S. Marshal Service was added to the system to facilitate internal communications.
  - The Bankruptcy Court completed its move to leased space in late 1996. Since the entire Probation Department cannot be accommodated on the 9th floor, they will occupy a portion of the former Bankruptcy space on the 10th floor.
- Ann Arbor
- The renovation of the district judge courtroom was completed in May 1995.
- Bay City
- The renovation and restoration of the district judge courtroom and chambers was completed.
  - The former Bankruptcy Court space on the 3rd floor was renovated for the magistrate judge courtroom and chambers, Clerk's Office and Probation. Pretrial Services moved to renovated space on the 2nd floor.
- Flint
- The former Bankruptcy Court space was renovated for senior judge and magistrate judge courtrooms and chambers. Renovations were completed on the district judge chambers.
  - The General Services Administration installed an elevator in the Federal Building.

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- The IRS moved from the basement of the Federal Building to leased space. GSA funding was approved for the design and construction of expanded office space for Probation and Pretrial Services, and a jury assembly room.

**PROBATION DEPARTMENT.** The Probation Department for the Eastern District of Michigan continues to experience an annual increase of approximately 2% in the supervision caseload. This is attributed to the release of individuals who were sentenced to incarceration in the years following the implementation of sentencing guidelines.

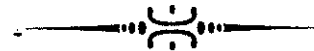
Even though there has been a decrease in the number of sentenced defendants, this increase in the supervision caseload coupled with additional changes in the laws and guidelines have led to an increase in staff over the last two years. The problem created by the staff increase is lack of space for employees. The remodeling of the 9th and 10th floors in the Theodore Levin United States Courthouse is intended to alleviate this problem in Detroit.

The Probation space in the divisional offices in Ann Arbor, Flint and Bay City has been remodeled during the past two years and should prove sufficient for the next ten years.

**PRETRIAL SERVICES AGENCY.** The Pretrial Services Agency has devised a system of case tracking to capture defendants that were pleading guilty before district judges without the benefit of pretrial services. The defendants were not being monitored and those bond statistics were not being reported for this District.

Renovations have taken place in the Flint and Bay City Federal Buildings which have allowed the Pretrial Services Agency to move into much-needed, larger space.

The Pretrial Services Agency has participated in combined Office Safety and Field Safety Training with the Probation Department, maximizing savings and minimizing duplication.





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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**RESOLUTION OF APPRECIATION**

At their regular meeting on December 2, 1996, the Judges of the United States District Court for the Eastern District of Michigan authorized the following Resolution:

**WHEREAS** Julian Abele Cook, Jr. was appointed United States District Judge by President Jimmy Carter on September 23, 1978, and has served the people of the Eastern District of Michigan with distinction for more than 18 years, and

**WHEREAS** he has served as Chief Judge of the Eastern District of Michigan from December 31, 1989 until December 30, 1996, the maximum term the law now allows, and only Arthur J. Lederle and Theodore Levin have served longer as Chief Judge, and

**WHEREAS** he has regularly reported on the State of the Court to the Federal Bar Association, and has provided leadership by his participation and example to the Trial Advocacy Workshops, the triennial Shanty Creek Bench/Bar Conferences, and the State-Federal Judicial Council, and

**WHEREAS** he has overseen the greatest renovation and improvement of federal court facilities in Ann Arbor, Bay City, Detroit, Flint and Point Huron since the Theodore Levin United States Courthouse was completed in 1934, and

**WHEREAS** he has presided over the investiture of six United States District Judges, and the appointment or reappointment of seven United States Magistrate Judges, and

**WHEREAS** he has led the Court through the implementation of the Civil Justice Reform Act of 1990, the complete revision of the Local Court Rules, the Cameras in the

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Courtroom Pilot Project, the foundation of the Court Historical Society, the approval of the Court Civility Plan and Employee Manual, and the implementation of decentralized budgeting;

**NOW THEREFORE BE IT RESOLVED** that the Judges of this Court express to Chief Judge Julian Abele Cook, Jr. their profound appreciation for his long and faithful service to the Court culminating in his Chief Judgeship and wish him good health and long life so that he may enjoy the well-deserved satisfaction and fulfillment of his Senior Status.



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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN**

**PERSONNEL.** Ronald C. Weston, Sr., former Chief Deputy Clerk for the Western District, was appointed Clerk of Court effective January 1, 1996. Judge Benjamin F. Gibson took senior status on July 13, 1996. He joins two other senior judges who continue to actively assist this and other courts. As for the district judges, currently, all authorized judgeships are filled. On November 18, 1996, the court also welcomed Phil Westerman, former Court Management Analyst for the U.S. District Court for the Southern District of Florida, as the district's new Chief Deputy Clerk.

**AUTOMATION.** During 1996, the court continued to utilize the ICMS Civil/Criminal software for docketing and case management, with new releases applied when available. Installation was completed on the Data Communications Network (DCN) for Grand Rapids and Lansing. As the DCN was expanded so was the district wide database of judicial opinions. This system utilizes the DCN, ISYS Text Search software and WordPerfect and allows the judicial officers and staff access to all opinions issued in the district.

The court also continued to enhance and improve in the area of office automation during 1996. Upgrades to Pentium based systems for court personnel were started and will be completed in early 1997. Court staff were also given the opportunity to use multimedia based training software to learn more about Microsoft Windows and CC:Mail. In addition, the Chambers Computer Users Committee received a matching grant from the Chambers and Courtroom Umbrella Group to begin work on a chambers computer users handbook.

The court continues to actively participate in the development of automation technology at the national level. Members of the staff have been involved in Novell Administration training, ICMS Civil/Criminal Forms training, and ICMS Civil/Criminal SQL/RPT programming. The automation staff participated in the Sixth, Seventh, and Eighth Circuit Office Automation Users Group, the Office Automation Users Group, a Windows 95 seminar, and a post automation review for the Middle District of Florida. The district's Systems Manager gave presentations at two Federal Judicial Center (FJC) sponsored Case Flow Management seminars.

**OPERATIONS.** The district filed 1779 civil

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cases and 231 criminal cases, for a total of 2010 cases in 1996. This represented a 6% increase over 1995's 1672 civil filings and a 4% increase over 1995's 221 criminal filings.

Criminal filings remained relatively steady throughout the year, averaging 19 cases and 32 defendants filed per month. The number of defendants filed per case was 1.65 in 1996, which is comparable to 1.7 in 1995 and 1.8 in 1994. As for civil filings, in the first seven months of 1996, the district experienced a dramatic increase in civil case filings. In 1995, the average number of civil cases filed in a month was 140. In the first seven months of 1996, the average number of civil cases filed in a month was 160, or a 14% increase over the average for 1995. Civil filings, however, dropped back to a monthly average of 131 after July. Based on figures for the entire year, the district averaged 148 civil cases filed per month.

Terminations again exceeded filings in 1996. The court adjudicated 1852 civil cases and 209 criminal cases/361 criminal defendants for a total of 2061 cases terminated for the year. The pending caseload at the end of 1996 was 1314 civil cases and 170 criminal cases for a total of 1484 cases pending. On average, the district had 1324 civil cases pending and

156 criminal cases/267 criminal defendants pending throughout the year.

During 1996, in-house training was conducted in the areas of appeals, and criminal and civil docketing. In July, court personnel participated in a two-day workshop focused on collaboration skills. The emphasis was on building teamwork. A variety of issues were also raised and discussed with representatives from the office of the U.S. Attorney, the U.S. Marshal, Probation and the Federal Public Defender.

The district's Operations Supervisor participated in the District Case Management Systems Modernization Working Group, the U.S. Probation and Pretrial Services Process Modeling Working Group, and the Speedy Trial Emergency Modification Request review team. In addition, the Western District volunteered to test a network version of an automated js-10 software program developed by the Statistics Division of the Administrative Office. The district began reporting js-10 information electronically in October.

**ALTERNATIVE DISPUTE RESOLUTION.** The court instituted a pilot program of Voluntary Facilitative Mediation in January. By year's end, 38 cases had

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completed the process. Of these 38 cases, 27 (79%) resulted in settlements. The court continued to offer other forms of alternative dispute resolution, such as "Michigan" or evaluative mediation, early neutral evaluation, court-annexed arbitration, summary jury trials, summary bench trials, mini-hearings, and magistrate judge settlement conferences. Of the 1779 civil cases commenced during 1996, 843 cases were eligible for referral to ADR. Of the 843 eligible cases, 517 were referred to ADR.

**DIFFERENTIATED CASE MANAGEMENT.** Differentiated Case Management (DCM) has received a fair demonstration in our court. The results show that the court is achieving the goal of improved civil case management while also creating a high level of satisfaction with the system from members of the bar. Much of the success is attributable to the extensive involvement of judges, magistrate judges, task force members, and court and clerk's office staff. The district's experiences have served as a model for other U.S. District Courts throughout the country, as well as courts in Japan, Australia, New Zealand and South Africa. Additionally, the CJRA Staff Attorney was invited to give presentations on Technology Support for Court Supervision of Case Progress at Workshops in Boston (First, Second and Third

Circuits); Cleveland (Fourth, Sixth and D.C. Circuits); Hyannis (First Circuit Judges); and Memphis (Chief Judges). The presentations focused on the variety of information and assistance available from ICMS once a new case management plan is implemented.

**JURY.** In 1996, the court selected petit jurors in 22 criminal cases and 22 civil cases, for a total of 44 trials. The total number of jurors present for jury orientation and selection was 1522 which compares with 2191 from 1995. Of those jurors present, 30.29% were selected, 35.55% were challenged and 34.16% were unused. The percentage of unused jurors rose 7.14% from 27.02% in 1995 to 34.16% in 1996.

**OTHER ACCOMPLISHMENTS.** The court continues to run the Hillman Advocacy Program each January to teach basic advocacy skills to new attorneys. The success of the program continues to be due to the combined efforts of the court and the Western Michigan Chapter of the Federal Bar Association.

The district's Financial Administrator continues to take part in the Financial Accounting System for Tomorrow (FAST) Working Group, which convened in 1995.

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Finally, the court's involvement with the Immigration and Naturalization Service (INS) in Detroit continues to grow as the number of people to be naturalized continues to rise. The district's naturalization program saw an increase of almost 1000 citizens from 1995 to 1996.

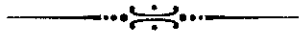
**PROBATION.** The Probation Office continued a significant growth pattern during 1996. Four new probation officers and one supervisor were added to the probation staff. The process of specializing the work functions of the probation office between pretrial services, supervision and presentence investigations continue. The workload of the Probation Office increased slightly as we ended 1996 with a caseload of 474. Pretrial Services cases remain steady with 393 new cases for the calendar year. Pretrial Services officers continue to interview and submit bond recommendations for 96 percent of the defendants appearing in court. Through automation it is our overall objective to eventually create a paperless office by enhancing our capacity for an automated workflow.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
ANNUAL REPORT**

The United States District Court for the Northern District of Ohio serves the 5,861,949 citizens of the 40 most northern counties in Ohio, making it the ninth largest district in the United States.

The district recently completed its term as a demonstration district under the Civil Justice Reform Act. While studies have questioned whether nationwide CJRA efforts were effective in reducing overall cost and delay in civil litigation, the case management techniques adopted by this Court have proven to be popular among attorneys, litigants and judicial officers and were a key factor in helping the Court maintain current dockets during a period when several of its judgeships remained vacant.

The Court temporarily reached full judicial strength for the first time in eight years early in 1996 but the creation of two district judge vacancies and a magistrate judge vacancy once again leaves the district short of its full complement of judicial officers. Moreover, the district is at great risk of losing its temporary district judgeship which, absent legislation, will lapse when the next active judge retires or takes senior status.





*Honorable George W. White  
Chief Judge*

Among the notable achievements in this district during the past year were the planning of a new court house for Cleveland, the identification and elimination of a backlog of social security reviews and the requirement that all documents in newly filed maritime asbestos cases be submitted electronically over the Internet rather than on paper. During the upcoming year, the district expects to break ground for the Cleveland Court House, develop a prototype for electronic filing in more traditional civil cases and fill the magistrate judge vacancy. The Court is also hopeful that action will be taken to fill the two district judgeship vacancies and to adopt the Judicial Conference recommendation that the temporary judgeship be extended five years.

**DISTRICT JUDGES.** The Northern District of Ohio is authorized 12 judgeships, 11 permanent and one temporary. The district now has ten active judges on board with two judgeships vacant. The Court temporarily reached full judicial strength for the first time since 1989 when Judge Patricia Ann Gaughan joined the bench in January, 1996. The district was unable to operate at full strength for long, however, as Judge David D. Dowd took senior status in June as did Judge Sam H. Bell in October, creating the two district judge vacancies.

Authorization for the district's temporary judgeship remains in jeopardy because the position will lapse with the next vacancy absent congressional approval of the Judicial Conference recommendation to extend the position for five more years. Currently, one active district judge is eligible to take senior status. Extending the term of the temporary judgeship remains one of the district's highest priorities.

The district lost the services of Senior Judge Don J. Young who passed away May 10, 1996. Judge Young was appointed by President Lyndon B. Johnson and took the oath of office on June 11, 1965, becoming the twenty-third district judge appointed to the Northern District of Ohio bench.

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In October, district and magistrate judges held the Court's third annual judicial retreat and invited national speakers on jury innovations, computer crime and strategic planning. In July, a judicial officer training seminar on Law and Literature was also conducted in Cleveland.

**MAGISTRATE JUDGES.** The Northern District of Ohio is authorized seven magistrate judges with four assigned to Cleveland and one each to Akron, Toledo and Youngstown. With the status of Magistrate Judge Joseph W. Bartunek changing to a recalled magistrate judge early in 1997, the district now has one magistrate judge vacancy in Cleveland.

The role of the magistrate judges in the management of civil cases continues to be significant. At the end of 1996, magistrate judges presided over 245 (7.5%) of the pending civil cases. Magistrate judges were the presiding judicial officers for 404 (9%) of the civil cases that were resolved in 1996, up 48.5% from the 272 civil cases magistrate judges closed in 1991.

**CIVIL DOCKET.** Non-asbestos civil case filings have remained stable over the past five years increasing nearly 7% since 1991 and less than 1% from 3,601 in 1995 to 3,621 in 1996. According to the Judicial

Caseload Profile for the year ending September 30, 1995 (the most recently available official national figures), the district's weighted filings per judgeship was 5% below the national average (424 to 448) which ranked fourth in the circuit and 40th overall. Preliminary caseload statistics for 1996 show the district ranking second in the circuit and 34th overall with a weighted caseload 12% higher than the national average (486 to 432). The number of pending non-asbestos civil cases decreased 13% from 3,740 at the end of 1995 to 3,244 at the close of 1996. The pending caseload was also 9% lower than it was when the district adopted its Differentiated Case Management Plan along with its wide menu of Alternative Dispute Resolution options at the beginning of 1992.

The Northern District of Ohio is consistently among the top five districts in the number of social security filings. In July 1995, the Court identified a growing backlog of social security cases pending 15 months or longer. Through the coordinated efforts of all judicial officers, the backlog of older social security reviews was eliminated and the pending social security docket was reduced by 60% from 745 to under 300 cases.

**CRIMINAL DOCKET.** Criminal case filings decreased 8.7% from 494 in 1995 to 451 in



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1996 but remained 4.8% above the 430 criminal cases filed in 1991. Criminal defendant filings also declined 3.1% from 736 in 1995 to 713 in 1991. Multiple defendant case filings continue to increase. The 285 criminal cases pending at the close of 1996 represented a six-year low and were 13.4% below the 329 criminal cases pending at the end of 1995. The number of pending criminal defendants remained relatively unchanged, however, declining from 518 in 1995 to 506 in 1996. There were 508 criminal defendants pending at year end in 1991.

**ELECTRONIC FILING.** The clerk's office workload has been dramatically impacted over the past decade by the district's asbestos docket. The Court currently maintains over 25,000 asbestos-related personal injury case files in addition to its traditional civil and criminal dockets. Moreover, the asbestos docket continues to grow with 6,010 new asbestos cases being filed here in 1996, an increase of 15.9% over the 5,184 asbestos cases filed in 1995. During one recent 12 month period over 500,000 asbestos pleadings were filed, nearly 10,000 per week. While Judicial Conference policy requires that pleadings be entered on the Court's docket within 24 hours of filing, a seven month backlog of about 275,000 undocketed asbestos pleadings developed at a time when the

clerk's office was required to reduce personnel during staffing equalization despite Court orders severely limiting the types of documents permitted to be filed. In addition, the Court was running out of space to store the voluminous paper files for these cases. To address the growing workload, the Court and the Technology Enhancement Office (TEO) of the Administrative Office of the U.S. Courts developed and implemented the first electronic filing system to be used in the federal system on a significant number of cases. Beginning in 1996, the Court mandated that all documents in newly filed maritime asbestos litigation be submitted electronically to the Court over the Internet rather than on paper. Since then, over 6,000 new cases and over 100,000 documents have been submitted by attorneys from their own offices via computer modem. These documents are stored in the Court's computer and are printed only if needed. Once a document is received by the Court's computer, the attorney is automatically sent a receipt, a docket entry is automatically created and the updated docket sheet, as well as the document itself, becomes immediately available to all parties. The electronic filing system has permitted the clerk's office to provide meaningful service to the parties in this litigation for the first time in years and has provided the time to eliminate the

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backlog of undocketed pleadings. While asbestos docketing is now current, it will take another nine months before file clerks can place all the previously filed paper pleadings in their case files. Building upon our initial success, the TEO team has expanded upon the prototype system to allow electronic filing in the Southern District of New York Bankruptcy Court. During the upcoming year, this Court plans to continue working with the TEO team to permit electronic filing in more traditional civil cases.

**DIFFERENTIATED CASE MANAGEMENT.**

Under the Civil Justice Reform Act of 1990, the Northern District of Ohio was designated 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." 28 U.S.C. § 482. The underlying principle of the district's DCM plan 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 judicial officer. 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 case management guidelines tailored to the general requirements of similarly situated cases and case management plans are issued to meet the specific needs of individual cases.

The Northern District of Ohio's designation as a demonstration district has now ended and the Court is reviewing the final results of various studies on CJRA activities, both here and elsewhere, conducted by the Federal Judicial Center and the Rand Corporation, as well as the district's own study of litigation costs being conducted by the CJRA Advisory Group. Although results from these studies question whether CJRA efforts have reduced the overall time of federal cases or reduced their costs, each of the studies concludes that the CJRA efforts have been well received by attorneys and litigants and that the creation of the CJRA Advisory Groups has opened a healthy dialog between the bench and the bar that has ushered in a new era of cooperative case

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management. In addition, the studies have consistently found that early and continuing judicial intervention has appropriately sped up the discovery process which many believe is the most costly aspect of litigation.

Since the inauguration of the DCM program, 5,313 cases have received track assignments including: 716 (13.5%) expedited track assignments, 2,443 (46%) standard track assignments, 223 (4.2%) complex track assignments, 54 (1%) mass tort track assignments and 1,877 (35.3%) administrative track assignments. Cases assigned to tracks are being resolved more quickly, on average, than the guidelines established by the DCM Plan. For instance, the terminated expedited track cases have been completed, on average, within eight months (9 month guideline) and standard track cases have been completed in 11 months (15 month guideline).

Without the hard work of the judicial officers in this district, assistance from visiting judges from within the circuit, particularly those from the Western and Eastern District's of Michigan, and the case management tools provided by the DCM plan and its ADR options, this Court would have been hard pressed to keep its dockets as current as it has during a period which included an 18-month stretch when five

(42%) of the district's authorized judgeships were vacant and during which judicial turnover has been so great that only one of the Court's current active district judges joined the bench before December, 1991.

**ALTERNATIVE DISPUTE RESOLUTION (ADR).** The district's DCM Plan incorporates a wide menu of Alternative Dispute Resolution options designed to provide quicker, less expensive and generally more satisfying alternatives to traditional litigation. The ADR options, which include early neutral evaluation, mediation, arbitration and summary jury and summary bench trials, have proven to be popular with litigants, counsel and judicial officers. The Court relies on its Federal Court Panel of over 300 individuals with experience, training and expertise in ADR to serve as early neutral evaluators, mediators and arbitrators. Federal Court Panel members serve the parties and the Court overwhelmingly on a pro bono basis.

During 1996, judicial officers of the Northern District of Ohio referred 347 cases to ADR. Since 1992, there have been 1,894 ADR referrals including: 697 cases to early neutral evaluation; 1,097 cases to mediation; 36 cases to arbitration; 60 cases to summary jury trial; three cases to summary bench trial; and one case to a

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mini-trial process. The results of 1,796 ADR referrals are now known; the remaining 98 cases have not yet completed the ADR process. Of the cases now completed, 424 (24%) were resolved through the ADR process by settlement or binding arbitration award. Another 248 (14%) cases were resolved after the actions were referred to ADR but before the ADR proceedings took place. Even those actions that were not resolved through ADR benefited from the process because the ADR proceedings placed those actions in shape for more efficient case processing and set the stage for future settlement negotiations.

**PENDING INVENTORY REDUCTION PLAN (PIRP).**

When the district adopted its DCM, it also implemented a Pending Inventory Reduction Plan to address the needs of previously filed and older cases. Two key goals of the PIRP are that no cases be pending which are over three years old and that no motions be pending more than six months. The results of the PIRP have been positive. The number of cases three years and older has been reduced by over 55% since the district initiated the plan and the number of motions pending six months or longer has declined by 66% from September, 1993 to September, 1996.

**JUROR UTILIZATION.** Since the close of 1989 when the Northern District of Ohio ranked last in the circuit and 93rd nationwide in the percentage of jurors called but not used, the district has placed special emphasis on improving its rate of juror utilization by implementing sound juror management techniques such as staggering trial start times, pooling jurors, using multiple voir dire and assessing jury costs for late settlements. For the year ending September 30, 1996, the Northern District of Ohio ranked 4th in the Sixth Circuit with a juror utilization percentage of 33.2%. The district continues to strive to maintain a juror utilization rate that is lower than the Judicial Conference goal of 30%.

**NATURALIZATION OF NEW CITIZENS.** The Court administered the oath of allegiance to 3,423 new citizens in the Northern District of Ohio in 1996, an increase of 871 persons from the prior year. In addition to regular bi-monthly ceremonies in Cleveland, eight additional ceremonies were conducted at locations throughout the Eastern Division. In Toledo, naturalization ceremonies were conducted monthly and five special ceremonies were held at public locations throughout the Western Division.

**CLEVELAND COURT HOUSE 2000.** The Court enthusiastically participated with the General Services Administration and

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architects from the firm Kalman, McKinnell and Wood in the design process for the new U.S. Court House in Cleveland. Tentative drawings are now being completed and the project is on schedule for construction to begin in 1997. The new courthouse is designed not only to serve as a civic icon on the Cleveland skyline but also to take the Court through the next century both technologically as well as by providing sufficient space to consolidate the entire district court family and related agencies.

**FACILITIES.** In addition to planning for the new court house, the district has prepared facilities for 10 new judicial officers during the past three years. The district is also making preparation to provide facilities for the two senior judges in Akron, who will need to relocate once the two vacant district judgeships are filled, as well as for the retired, recalled Cleveland magistrate judge who will relocate when the new magistrate judge is appointed.

**COURTROOM TECHNOLOGY.** Towards the close of 1996, the district purchased three portable audio-visual presentation systems to be used throughout the district by attorneys for the presentation of evidence in Court. The Court is experimenting with the portable systems not only to provide a valuable time and cost savings to the Court and the bar but also to help determine

which courtroom technology equipment is best suited for inclusion in the new Cleveland Court House. In addition, the district is seeking funding from the Administrative Office for a state-of-the-art system to be permanently installed in one courtroom for further analysis.

**CLERK'S OFFICE.** The success of the electronic filing system used in the maritime asbestos cases has permitted the district to return two temporary staffing additives to the Administrative Office and has eliminated the need to hire three staff from temporary agencies to assist with the backlog of asbestos docketing.

Clerk of Court Geri M. Smith received the 1996 Director's Award for Outstanding Leadership established by the Director of the Administrative Office of the U.S. Courts to recognize managerial employees who have made long-term contributions to increase managerial effectiveness and who have developed improvements in the administration of the Federal Judiciary.

**AUTOMATION.** Since the last annual report, the district installed the Data Communications Network (DCN) and a committee of judges, magistrate judges, law clerks and staff have worked to implement an Opinions Retrieval System. Training was provided to all judicial

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officers, chamber's and clerk's office staff on Introduction to the Local Area Network, cc:Mail and Lotus Organizer. Judicial officers also participated in the Judge's Office Automation Training Program offered in Cleveland by the San Antonio Training Center.

**TRAINING.** The Northern District of Ohio hosted an FJC sponsored Case Flow Management Seminar in July attended by judicial officers and staff from several districts and circuits. The FJC also conducted a seminar in Cleveland on Maintaining Your Competitive Edge for judicial secretaries. The clerk's office also held a retreat with training sessions on Customer Service and the Code of Conduct, Putting Effective Learning Skills to Work and Security Awareness.

**PROBATION OFFICE.** The Probation Office continues to focus on improving its investigative and supervision services. In particular, emphasis is being placed on developing additional correctional treatment options. During 1996, the Probation Office completed 631 presentence reports, a 12% decrease from the previous year. There were 1,341 persons under supervision at year-end, 5% more than in 1995. At the close of the year, 564 offenders had drug, alcohol or mental health treatment aftercare special conditions. A record number of offenders (236) participated in the

Probation Office's home confinement program. Probation Officers collected \$1,653,734 in fine and restitution payments and monitored 5,464 hours of community service.

**PRETRIAL SERVICES OFFICE.** The Northern District of Ohio has volunteered to participate in the Department of Justice Operation Drug Test Program--an initiative that provides voluntary screening of defendants prior to their initial appearance and treatment to those individuals with substance abuse problems. The Pretrial Services Office activated 830 new cases in FY 1996, with supervision ordered for 229 defendants. Release conditions of drug testing and/or treatment, mental health treatment and residential placement were ordered in 290 cases and cost \$19,283. Electronic monitoring was used as an alternative to detention in 49 cases and \$39,586 with defendants paying over 24% of these release costs. Staff were provided with 1,961 accumulated training hours in 62 varying programs during the past year. Increased automation skills provided both improved quality and savings in labor.

**Respectfully submitted,  
George W. White  
Chief Judge**



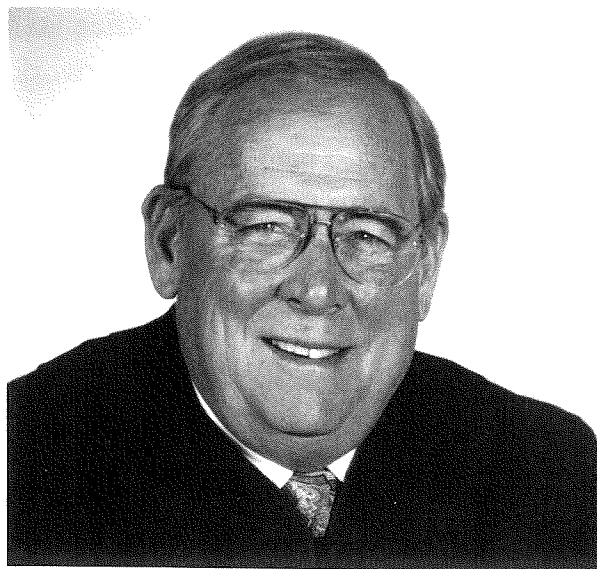
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ANNUAL REPORT  
EASTERN DISTRICT OF TENNESSEE  
1997

**NEWLY STAFFED DIVISION.** January 1997 marked a milestone for the Eastern District of Tennessee. We opened the divisional office at Winchester, Tennessee, on a full-time basis--the first time this office has ever had a deputy clerk permanently assigned to it. Heretofore, the office had been staffed only when court personnel traveled to Winchester for court sessions. We had looked forward for sometime to being able to open this office so that we could better accommodate the public and the bar in the eight counties served by this division.

Following the action by the district court, the bankruptcy court started investigating the prospects of assigning a deputy clerk to Winchester, a move that would provide that region of the district with even greater service.

**BUILDING PROGRESS.** The Knoxville offices of the court moved into marvelous new quarters in the fall of 1995, and work has begun to build six courtrooms on the site. The government acquired a four-year-old building to house the court and several court-related agencies, but the building lacked courtrooms. The courtrooms are being erected in a portion of the two-block-long courtyard at the new site.



*Honorable James H. Jarvis, II  
Chief Judge*

The design of the new construction will blend with the Williamsburg design of the existing building. The new courthouse was named the Howard H. Baker, Jr. United States Courthouse in honor of the former United States senator and White House chief of staff.

For the past 18 months, we Knoxville judges have had to walk across the street to the former United States Courthouse to hold court. This has at times presented various inconveniences, but we have not had any major problems to result. This arrangement will continue until the courtroom addition is completed, expected in the spring of 1998.

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In our Northeastern Division at Greeneville, Tennessee, a site has been selected and design is under way for a new federal courthouse there. The present courthouse was completed 92 years ago, placing it today among the oldest federal courthouses in the country. Target date for completion of the new structure is 2000.

**APPOINTMENTS.** Since our last report, United States District Judge Curtis Collier has joined our ranks, becoming the fifth district judge in the Eastern District of Tennessee. When Judge Collier took office May 22, 1995, it marked the first time that Chattanooga has had two resident judges.

Another judicial change since our last report is the retirement of United States Magistrate Judge Joe A. Tilson, who was succeeded on November 14, 1995, by United States Magistrate Judge Dennis H. Inman.

**CASELOAD.** Our civil filings followed the national upward trend in 1996, climbing to 2,356. This is the highest number of civil filings in the district since 1985, during the height of the bank failure period, when we had 2,746 filings.

**MEDIATION.** We began a mediation program in the latter part of 1994, and it has been successful. We are proud that other districts have consulted with us and

modeled their mediation programs after ours. A total of 110 cases have been referred to mediation during the two years. An independent organization evaluating our mediation program said the areas of the program evaluated most favorably were the efficiency of the mediators and the logistics of getting the mediation done successfully. Benefits reported by the participants were that the mediation brought the parties together, helped clarify the issues, helped parties evaluate their cases, provided explanations by a neutral party and avoided the disadvantages of going to court, e.g., time, money and publicity.

**AUTOMATION PROGRESS.** We are pleased that our automation unit was praised by Phoenix Training Center personnel as being one of the top 10 court units they work with. Our automation staff already had all our court personnel upgraded to 486 processors or better when the memorandum by the Administrative Office was distributed urging courts to move toward this goal--a goal stressed by the AO to get all units on the leading edge of technology. Another major accomplishment by the automation unit was getting our two largest offices networked. We were pleased that our systems manager was one of only six automation personnel in the federal court system invited to the San Antonio Training Center to be a member of a team specially chosen to test the new upgrade for CHASER/PACER. She was selected



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because she and her staff have had much success in running the latest programs offered by the center and because the unit was current with all the software updates.

**HISTORY PROGRAM.** Our historical society is well along the way toward publishing a 14-chapter history of the Eastern District of Tennessee this year. An outline of the manuscript for the book has been favorably acknowledged by three publishing firms, and the society expects to have a contract before summer. The book covers the 200-year history of the Eastern District of Tennessee. It shows that the court served as a microcosm of federal courts in general and reflects national as well as regional history.

We are proud to be one of only two courts in the Sixth Circuit and one of only a handful of courts nationally that have active historical societies. Our society and our sister Sixth Circuit historical society in the Eastern District of Michigan exchanged materials and membership information recently, believing that a cooperative effort will help both societies.

**Respectfully submitted,  
James H. Jarvis  
Chief Judge  
Eastern District of Tennessee**



**1996 ANNUAL REPORT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE**

In 1996, the Court was able to see the results of the Customized Case Management Plan, which was implemented in March of 1994. The Court had an increase in civil case assignments of 21%, and closed 39% more cases last year than in 1995. There was a significant increase in the magistrate judge in-court time of 33% over 1995. Even though the civil cases pending at the close of 1996 were 27% higher than in 1995, the fact remains that the Court closed significantly more cases than in the previous year. The case management system allowed the district judges to spend less time in court trying cases and more time analyzing and ruling upon dispositive motions.

This success was not without cost. The magistrate judges' in-court time increased 33% over 1995; and the remainder of their workload increased proportionately. After the completion of a study by the Administrative Office, it was recommended that the Middle District be approved for a third full-time magistrate judge. The Judicial Council is expected to consider this new position in the Spring of 1997.

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The criminal caseload has increased 39% over last year. Pending criminal cases also increased 38% over 1995.

Construction has begun on Phase I of the renovation of the seventh floor of the courthouse to build two senior judges' chambers and a courtroom, which they will share. Senior Judge Wiseman and Judge Nixon, who is eligible to take senior status in 1998, are looking forward to the completion of Phase I, scheduled in July of 1997. Phase II is to begin shortly after the completion of Phase I and will include a chambers suite for a third senior judge as well as a courtroom.

Also, in 1996, the systems personnel upgraded all our PC's in the Clerk's Office and chambers to pentium processors. The Clerk's Office also converted from DOS to a Windows 3.1 environment. In order to make the courtroom and hearing schedules more uniform and more readily accessible to those who need that information, the court calendars were converted to Lotus Organizer. In 1997, our goal is to switch to the Windows 95 operating system and either WordPerfect 6.1 or 7.0, depending on user preference.

Finally, the Clerk's Office has hired three new employees. Trish Crohan started in October and is working in the docket

room. Recently, Joyce Brooks and Alicia Hunter have joined the intake staff. Each of these new additions have progressed very quickly enabling us to give faster service to our clients. Last but certainly not least, LaRhonda Howard has become the new Financial Administrator. DiAnna Tindall, a 17-year veteran, resigned to start her own business.

In the coming year, we hope to have a third magistrate on board. We are also looking forward to new challenges that increased automation of court services will bring. We will be studying and evaluating electronic imaging in preparation for electronic filing which is on the horizon for the U.S. Court system. All of these new developments will require more and better training initiatives to prepare us for the 21st Century.

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**ANNUAL REPORT OF THE  
U.S. DISTRICT COURT  
FOR THE WESTERN DISTRICT OF  
TENNESSEE**

During 1996 the United States District Court for the Western District of Tennessee experienced several changes, among these, an addition on the bench when The Honorable Bernice Bouie Donald took

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the Oath of Office on January 22. Also, significant new programs and initiatives were introduced, and changes in filings occurred.

Compared to 1995, civil filings in 1996 increased a substantial twenty percent, while criminal filings decreased 22 percent. The median time from filing to disposition decreased from eight to seven months, and from filing to trial decreased from 22 to 21 months when compared to the previous year. Only three percent of the civil inventory is three years or older.

In September, the court by local rule adopted mediation as a principal alternative dispute resolution method. This court's mediation plan was derived from a recommendation of district's Civil Justice Reform Act Advisory Group. It includes use of court-certified mediators.

In automation, the district court consolidated resources by creating a single automation unit to serve court-wide needs in chambers, the clerk's office, and Pretrial and Probation offices through use of a "Help Desk." Also, the Clerk's Office developed a new automated leave program that tracks both compensatory time (consistent with 1996 revisions to compensatory time in the Guide to Judiciary Policies and Procedures) and sick leave, pursuant to the Federal Employee Family Friendly Leave Act.

During the year, specifications for a Solicitation for Office were developed in furtherance of construction of a new courthouse in Jackson, Tennessee, the district's Eastern Division. Under an October 1996 lease-construction contract, occupancy is scheduled for June 1998. On a smaller scale, a Federal Building FitCenter opened in May. With the court as a driving force in establishing the center, and with the approval of the Sixth Circuit Court of Appeals, space was acquired for the purpose of providing to all federal employees a fitness-program opportunity.

In February, the court participated in its first district-wide strategic planning session. With the assistance of the Federal Judicial Center, judicial officers of the district and bankruptcy courts met with court executives and key support staff to develop a now-defined vision statement and goals toward achieving it. Efforts are on-going in this area.

The court continued its outreach efforts, co-sponsoring with the Memphis/Mid-south Chapter of the Federal Bar Association (FBA) a "Federal Practice Seminar" in the fall, and coordinating with the FBA speakers for the "Continuing Legal Education" lunch-time series offered throughout the year.



**REPORTS OF THE  
UNITED STATES BANKRUPTCY COURTS  
OF THE SIXTH CIRCUIT**



**Swearing in on January 30, 1997**

**of the First Sixth Circuit Bankruptcy Appellate Panel**

**Left to right: Judges Stosberg, Baxter, Waldron, Rhodes, Lundin and Martin.**

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**ANNUAL REPORT  
TO THE SIXTH CIRCUIT  
OF THE  
UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF  
KENTUCKY**

March 1997

On March 3, 1997, Jerry D. Truitt was appointed Clerk of the Bankruptcy Court succeeding Betty L. Jennette who retired on September 30, 1996, after 36 years of service with the court.

Mr. Truitt comes to the court from the Lexington law firm of Sturgill, Turner & Truitt.

Mr. Truitt received a B.A. degree from the University of Kentucky Patterson School of Diplomacy and International Commerce in 1964. From 1964 until 1968 he served as a Communications and Electronics Officer in the U.S. Air Force, attaining the rank of Captain. He obtained his law degree from the University of Kentucky School of Law in 1971. He served on the Moot Court Board, Student Bar Association Board of Governors, the College Admissions Committee and the Alumni Board.

During 1971-72 he served as General Counsel to the University of Kentucky College of Agriculture. He joined the Sturgill firm in 1972, and practiced law, primarily bankruptcy law, with the firm for a period of approximately 25 years, during which he served for several years on the panel of bankruptcy trustees.

Mr. Truitt is a former President of the Fayette County Bar Association. He is presently a member of the Board of Governors of the Kentucky Bar Association. He is also a member of the American Bankruptcy Institute and a Fellow of the American College of Bankruptcy.

**FILINGS.** During 1996, 8,288 bankruptcy cases were filed in the district, the highest number ever. This was 1,103 cases more than the previous high of 7,185 cases filed in 1991. Filings were up 32% over the 6,291 cases filed in 1995. There are two bankruptcy judges in the district.

**INFORMATION ACCESS.** During 1996 we installed VCIS (Voice Case Information Services), an electronic voice synthesizer connected to the court's electronic docketing computer. The system provides information about the status of cases without involving court personnel in answering telephone queries.

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We also installed PACER (Public Access to Court Electronic Records), which permits law firms and others with a computer or terminal with a Hayes compatible modem to access court records and obtain full docket and claims information on cases and a listing of new cases filed during the previous seven days. This service also reduces the involvement of court personnel in responding to inquiries concerning cases.

**COURT AUTOMATION.** All court employees now have Pentium 133 computers. We have moved from Novel to Windows NT Server for networking. We are in the process of developing our own Intranet as a prelude to providing the public with Internet access to court information. We will soon have the ability to provide the public with a locally developed BANCAP query program. This is a Microsoft Windows program providing access to live, complete case data, a more detailed and efficient system than PACER. Eventually with scanning, electronic filing and the Internet we hope to be able to provide the public access to documents filed in the court 24 hours a day without using court staff.

**BIENNIAL REPORT FOR THE U. S.  
BANKRUPTCY COURT  
WESTERN DISTRICT OF KENTUCKY**

**1995-1996**

Similarly to other Bankruptcy Courts across the nation, this court experienced a phenomenal increase in case filings for the past two years which presented numerous challenges to the court. For the first time in the history of the court, yearly filings broke the 10,000 mark for a total of 10,519 cases filed for 1996 and monthly filings broke the 1000 mark for a total of 1035 cases filed in October.

Instead of immediately hiring permanent employees to address the increasing case load, we obtained temporary employees from a local temporary employee agency. In some instances, these employees have been very helpful and in two cases have been hired into more permanent positions in the office. However, in a number of cases, we found temporary employees to be somewhat unreliable and required a considerable time commitment from existing staff to properly train even on simple filing tasks.

With the new fiscal year, we have shifted to hiring our own temporary employees on appointments that may not

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exceed the end of the fiscal year. Our permanent pool of staff can be supported by approximately 7000 yearly case filings without being in jeopardy. Our "not-to-exceed" staff brings our staffing level to 84%.

**CASE PROCESSING AWARD.** For six years, this court along with only one other Bankruptcy Court, rated well above the national average in all case processing measures and received commendation from the Director of the Administrative Office of the Courts for the achievement.

**VIDEOTAPE TRAINING FOR JUDGES.** Judge J. Wendell Roberts worked with the Federal Judicial Center in preparing a training videotape for all new Judges. The tape features Judge Roberts' approach to managing cases and discusses methods used by this court to improve case management.

**TEAM-BASED MANAGEMENT.** After training, a visit to another court with team-based management and analysis, the Clerk's office converted to teams in February, 1996. As this conversion process and the necessary physical changes in the office took place, case filings skyrocketed. With one year into this style of management, it is too soon to determine whether team-based management can actually produce better results than the

system of specialists that were in place prior to the conversion. By all accounts though, team-based management is well received by the staff. As we continue to develop more methods of measuring our progress, a thorough assessment of this type of management will be made.

**BANKRUPTCY NOTICING CENTER.** This office was one of the first to take advantage of the BANCAP Mentoring Program by using the services of Guy Weeks, System Manager - Indiana Northern Bankruptcy Court, to assist in the conversion to the Bankruptcy Noticing Center. We continue to develop more and more noticing that can be handled by the BNC.

**CHANGES TO SPACE AND FACILITIES.** In the fall of 1996, the renovation of the first floor of the U. S. Courthouse in Owensboro was completed. This court takes special pride in the completion of this project since we have been actively engaged in bringing the renovation to completion for over seven years. Judge David T. Stosberg played an instrumental role in advocating for this project and Judge J. Wendell Roberts willingly worked for a year in adverse conditions while construction ensued. The result of their efforts is a facility that preserves much of the original design of this outstanding example of early 1900's federal

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architecture and meets the current needs of both the Bankruptcy Court and the District Court.

The original design of our Clerk's office did not adequately provide security for our staff. In the wake of the Oklahoma disaster it was imperative that we close off our working areas from the public and identify a separate public viewing area. With financial support from the Sixth Circuit Executive's Office we were able to achieve increased security for staff and simultaneously more fully utilize what had previously been circulation space.

Our facilities in Paducah have been temporarily moved to the basement of the courthouse while construction on the first floor of the Paducah courthouse is underway. Upon completion in this year of the first floor project, renovation of the third floor will take place and we hope to be relocated in offices on the third floor.

The Bowling Green Divisional Office is settled in their present facility on the third floor of the Bowling Green Courthouse. New bookcases have been added to the chamber's conference room and a jury box has been added to the courtroom.

**PARTICIPATION IN THE METHODS ANALYSIS PROGRAM II.** Karen Cothran, Team Leader for a case administration team, worked with Susan Craven on the Work Measurement Analysis and were both invited to participate once again in another phase of that project. Due to other commitments, Susan was unable to continue working on the project but Karen has been an integral part of the development of the "MAP II" program.

**PARTICIPATION IN THE FEDERAL COURT LEADERSHIP TRAINING PROGRAM.** Donnie Nealy, Human Resources Manager, was selected to participate in the Federal Court Leadership Training Program. Donnie has completed the first year of the program and is focusing her study on methods of increasing productivity. Donnie's work draws on the experience of this court in using teams and, along with her work on her MBA, Donnie has provided valuable information during team conversion.

**HEALTHY COMPANY ANALYSIS.** Based on the work of Dr. Robert Rosen and his book "The Healthy Company," the Clerk's Office performed a baseline assessment of health in the work place in June of 1995. At the urging of both Chief Judge Henry H. Dickinson and Judge J. Wendell Roberts, the Clerk's office is now working with Jewish Hospital in follow-up training



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and assessment. The training is set up as "Lunch and Learn" events for the entire court unit.

**CUSTOMER SURVEY.** In 1995, the Bankruptcy Court produced its first Customer Survey which was mailed to all listed members of the practicing Bankruptcy Bar. The survey sought information about present service and needs that the bar would like addressed. We were pleased to verify that our service to the bar is not only well received but greatly appreciated and that, in their view, we provide outstanding service as compared to other courts with which they have experience. The survey also pointed to a need for some type of after hours facility for filing papers. As a result of the survey, in 1996, the Bankruptcy Court installed a "Clock and Drop" for both convenience and for after-hours filings. The "Clock and Drop" is available for use during the hours that the courthouse is open and therefore extends access to filing by three additional hours.

**LOCAL RULES REVISION.** In 1995, the Bankruptcy Court selected a Local Rules Committee to review necessary changes to the Bankruptcy Local Rules. As a part of the revision, the rules were completely reorganized in a fashion that hopefully is more easily accessible to the public and

members of the bar. In addition, in compliance with the requirements of uniform numbering, uniform numbers were added. The Local Rules are ready for review and approval by the District Court.



**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN**

**REPORT TO THE SIXTH CIRCUIT  
FOR THE CALENDAR YEAR 1996**

**STATISTICS.** The growth in case filings continued in 1996 with a record number of petitions filed in the district. The number of petitions reached 21,725, up 27% from 1995. Despite the high number of cases filed and pending, the disposition of cases continued in an expeditious manner.

**ADDITIONAL JUDGESHIP.** The process of requesting an additional judge for the district was resumed in 1996. The Chief Judge of the Circuit has notified the Committee on the Administration of the Bankruptcy System that the request for an additional judge continues to be justified by the weighted filings per judge in the district.

**VISITING JUDGES.** At the Court's request, the Circuit assigned judges from the

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Western District of Michigan and the Northern and Southern Districts of Ohio to provide assistance to the district in 1996 because of the continuing need for an additional judgeship in Eastern Michigan. The visiting judges disposed of approximately 210 adversary proceedings during 1996.

**SPACE AND FACILITIES.** In 1996, the final relocation project for the district was completed with the Detroit offices of the court moving into commercial leased space. In 1995, the Flint and Bay City divisional offices relocated into new facilities also leased by the General Services Administration.

The Court would like to thank the United States District Court, under the leadership of former Chief Judge Julian Abele Cook, Jr., for all its support to the Bankruptcy Court in our relocation efforts.

**MEDIATION.** A mediation process was created in 1996 to promote the resolution of disputes in bankruptcy matters. A panel of thirteen mediators was selected representing a variety of experience in mediation throughout the district. Mediation can be ordered on the Court's own initiative, upon written agreement of the parties or upon motion by any party-in-interest. Mediation training is scheduled for February 1997 with implementation of

the program shortly thereafter.

**PRO BONO.** A formal program to provide *pro bono* representation in bankruptcy was established in 1996 in an effort to give substance to the concept of equal justice under the law. At this time the program is limited to adversary proceedings in which creditors object to the discharge of individual debtors or claim the nondischargeability of certain debts. *Pro bono* representation would also cover those cases in which an indigent former-spouse (creditor) sues the debtor regarding the dischargeability of the obligations in the judgment for divorce. Training for attorneys enrolled in the *pro bono* program is scheduled for March 1997.

The Court would like to thank the United States District Court for its support and assistance in the implementation of the bankruptcy *pro bono* program.

**LOCAL RULES.** The major task of amending the local rules continued in 1996 by an Advisory Committee subcommittee with representatives from the Court, Office of the Clerk, Office of the United States Trustee, and bankruptcy practitioners. The process of establishing new and amended local rules is expected to be completed by the spring of 1997.

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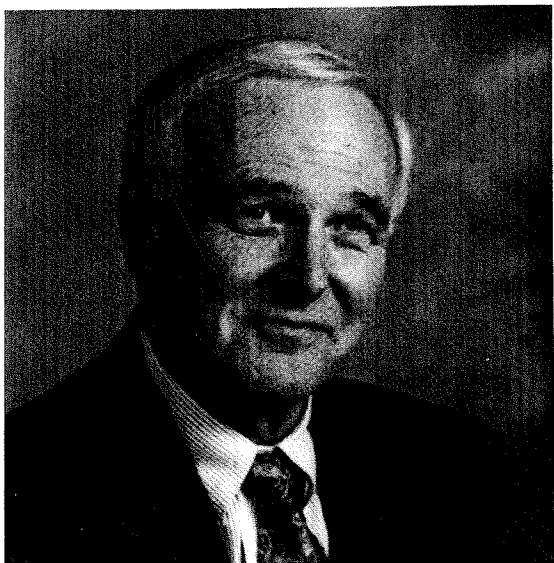
**JURY TRIAL DESIGNATION.** In 1996, the United States District Court specially designated all bankruptcy judges of the district to conduct jury trials, with the express consent of all parties, if the right to a jury applies in any proceeding that a bankruptcy judge may hear. The designation applies to all bankruptcy cases filed on or after October 11, 1994, and remains in effect until February 7, 1998.

**TRAINING.** In 1996, the court continued to strive to provide quality training to all employees by completing 2,433 hours of training for all levels of staff. Programs included HIV/AIDS Awareness, Code of Conduct, and Sexual Harassment Awareness. In addition to the on-the-job training in operations and automation, training was provided in the areas of presentation and working skills, achieving balance, and a supervisory series on stress reduction, goal setting and performance appraisal.

**ANNUAL REPORT OF THE  
BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF MICHIGAN**

In 1996 this court experienced the rapid growth of consumer bankruptcy filings which has been reported across the country. Total cases increased from 7241 cases in 1995 to 9842 cases in 1996 - an increase of 36%. Business cases, on the other hand, actually declined slightly during the same period. Because business cases demand more judicial time and resources, the increase in consumer filings did not affect this court's ability to deal in a timely manner with dispute resolution activities. However, the increases have added to the work load pressures felt by many court employees. Although the number of deputy clerks was not increased during 1996, the Clerk now anticipates the need for several new employees who will be hired in the immediate future.

In December of 1996 the court opened a new courtroom in Traverse City, Michigan. This facility is located in leased space and is the only federal courtroom in the northwest corner of the lower peninsula of Michigan. Approximately 900 cases are filed annually by debtors residing in surrounding counties. The debtors and creditors and associated attorneys will be



*Honorable Laurence E. Howard  
Chief Judge*

the primary beneficiaries of this facility which is located 140 miles from Grand Rapids. The court is also proceeding with a plan to move the present courtroom from leased space in Kalamazoo, Michigan to vacant space which currently exists in the federal building there. All judges of this court are still located in Grand Rapids, but cases are heard in Marquette, Traverse City, Lansing and Kalamazoo.

The current challenge for the court is to both fully utilize existing automation technology and to implement new applications to increase the effectiveness and quality of court operations. This court has used the BANCAP docketing program since 1989 and has fully implemented the VCIS and PACER information systems. A recent and very helpful innovation is the

Bankruptcy Noticing Center through which the court now mails all standard notices. We are in the process of setting up a court home page to furnish information about the court and court activities to Internet users. We are also seeking to create a videoconferencing link with our divisional office in Marquette, Michigan. This technology will be used for both judicial and administrative functions, and the equipment and facilities will be shared as a joint project with the U.S. District court and Probation Office. In the more distant future we anticipate the advent of document imaging technology which will allow the maintenance of electronic files which will be available to the Public and Bar as well as the electronic filing of cases and pleadings.

Laurence E. Howard  
Chief Bankruptcy Judge



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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO**

The Bankruptcy Court for the Northern District of Ohio welcomed its newest judge to the Cleveland bench, Hon. Pat E. Morgenstern-Clarren, on December 1, 1995. Judge Morgenstern-Clarren succeeds Judge William J. O'Neill who retired after 34 years of distinguished service.

Bankruptcy filings nationally reached record levels in 1996 and Ohio Northern reflected this trend, experiencing a 30% increase over calendar year 1995. The greatest increase came in the Chapter 7 consumer cases. The increased filing trend is expected to continue into 1997.

A significant challenge to human resource management was successfully met when the court converted to the new Court Personnel System (CPS) in mid-year. The smooth progression into CPS was aided by the preparation and training of management and extensive communication with staff. We reaped the benefits of full budget decentralization, realizing a savings in funds which were deployed to implement a Tuition Assistance Program.

Although our staffing level continues to be lower than in the past, we success-



*Honorable James H. Williams  
Chief Judge*

fully managed a higher caseload, thanks to improved technology, systems upgrades and concerted training activities. Of the 1196 training hours provided to staff, over 55 % was devoted to automation training. Participants were exposed to training through a variety of media and forums, including multi-media equipment, seminars sponsored by the Federal Judicial Center and the district's inter-court unit training committee and internally developed programs.

All staff-operated computer terminals have been upgraded to at least 486 PCS, providing greater speed and more convenience in generating reports. The five locations of our court operate on 90 MHZ pentium speed Novell servers allowing all programs to be housed in one

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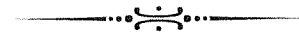
location. This improves maintenance of the system and permits daily backup of all data files from one computer. Bar Coding hardware has been placed in all five court locations. Using the Records Management System (RMS) software, case files are tracked using bar code labels. All offices are now connected to the Data Communications Network (DCN) which links our Judges and staff to other judiciary agencies.

Three judges, our clerk and two members of her staff attended a national strategic planning workshop in June, 1996. Techniques learned there will be applied to the development of greater efficiency and improved service to those who come before the court. To facilitate that goal, the leaders of the national workshop have, under the sponsorship of the Federal Judicial Center, come to our district to provide intensive training in a workshop setting.

We believe our court has established an enviable record of efficiency in the disposition of the tens of thousands of cases that have come before it in recent years. As in all institutions, particularly those facing the challenges of greater work loads with fewer resources to meet them, there is

always room for improvement. We intend to be ready for those challenges as they arise.

James H. Williams  
Chief Bankruptcy Judge  
Northern District of Ohio



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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO**

The Bankruptcy Court for the Southern District of Ohio continued to meet the challenges presented by greatly increased case filings during 1996 and 1997. Both chambers staff and clerk personnel accomplished special projects while managing the large regular workload.

**NEW BANKRUPTCY JUDGE SELECTED.**

Jeffery P. Hopkins was appointed by the United States Court of Appeals for the Sixth Circuit to serve as a United States Bankruptcy Judge for the Southern District of Ohio at Cincinnati. Judge Hopkins was formerly an Assistant United States Attorney in Columbus, Ohio. He has enthusiastically met the challenges of his office.

**RECALLED BANKRUPTCY JUDGE.** Judge Burton Perlman's term as Recalled Bankruptcy Judge was extended in 1996. His services have been invaluable in dealing the increased caseload in the district.

**BANKRUPTCY APPEALS PANEL.** Judge Thomas F. Waldron, who has served on this district's bench for eleven years, was appointed by the Circuit Council to the Circuit's newly-created Bankruptcy



*Honorable William A. Clark  
Chief Judge*

Appellate Panel (BAP). Judge Waldron will serve as the panel's first Chief Judge.

**NEW LOCAL BANKRUPTCY RULES.** With the tireless assistance of an advisory rules committee, composed of district-wide bankruptcy lawyers and chaired by Judge Barbara J. Sellers, the Judges of the United States Bankruptcy Court for the Southern District of Ohio adopted new Local Bankruptcy Rules and Forms effective on March 10, 1997. Utilizing the latest technology, the court made the rules available on Pacer, diskette and the conventional printed material.

**SMOKE-FREE POLICY.** The court approved a smoke-free policy when the courts moved into new court locations in Cincinnati, Columbus and Dayton in 1995.

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**WORKLOAD AND STATE OF THE DOCKET.**

In 1996 the filing of bankruptcy petitions increased dramatically. During the year almost 23,000 bankruptcy petitions were filed in the Southern District of Ohio. This represented an increase of nearly 30% in filings over the previous year. The entire increase consisted of consumer bankruptcy filings. Despite the 30% increase in filings, the cases pending on the court's docket at the end of the year were only 11% more than those pending at the end of the previous year.

**PERSONNEL.** Because of the increased number of bankruptcy filings, the Clerk added new employees to his staff for the first time since downsizing occurred several years ago. Recognizing the dangers of too hurriedly increasing the size of the staff, the Clerk's staff is at 80% of the formula provided by the Administrative Office, although it has been funded at 84% of that formula.

**TRAINING.** The court provided more than 1,600 hours of classroom training for ninety-six employees during 1996. The employees learned a variety of automation applications, including Windows 95, WordPerfect, UNIX, and cc:Mail. Employees also attended training on the Code of Conduct, and managers and supervisors received training on Awareness of Sexual Harassment in the Workplace.

**AUTOMATION.** Each year brings changes in computer technology, and courts must carefully decide how much and how quickly to adopt those changes. This year the Systems Department supplied new 486 and pentium computers throughout the district as well as installing Windows 95 and cc:Mail. In addition, the local area network (LAN) was extended to each case administrator.

**CLERK'S LEADERSHIP ROLE.** This court's clerk, Michael D. Webb, was installed as the President of the National Conference of Bankruptcy Clerks on November 1, 1996. Mr. Webb served one year as Vice President before assuming the President's chair.

**NEW PROCEDURES AND PROGRAMS.** During the year the Administrative Office for the United States Courts conducted a post-automation review of our clerk's office. The report -- which will be utilized by this court in 1997 -- emphasized the importance of establishing a strong quality control program to obtain the maximum effectiveness of our automated programs.

A workshop was held with representatives from all of the district's units in order to encourage mutual cooperation and to obtain the optimal level of administrative services (specifically, financial, personnel and automation



services). It was agreed that district-wide automation training for all of the district's units would be established in the district's bankruptcy court. Plans were also begun to provide district-wide retirement training. We are pleased to make our internal resources available for the benefit of all units.



**REPORT OF THE  
U. S. BANKRUPTCY COURT  
FOR THE  
EASTERN DISTRICT OF TENNESSEE**

**March 6, 1997**

The court saw its highest number of filings ever during 1996 when 14,802 bankruptcy cases were filed. This total exceeded by 3,601 the number of cases filed during 1995 and by 2,234 cases 1991's previous high of 12,568 cases. Over fifty percent of the cases filed throughout the district during 1996 were filed under Chapter 13 and the two Chapter 13 Trustees distributed approximately \$78,500,000 to creditors. The increased workload continues to be efficiently handled by the judges, a dedicated staff, an experienced clerk, and hardworking deputy clerks. Filings have continued to increase

during January and February 1997, with a 17% increase over the comparable two months of 1996.

The district is pleased that in honor of the Centennial Anniversary of the Chattanooga Bar Association, a panel of the Sixth Circuit will sit in session on April 14, 1997, at the Historic United States Courthouse in Chattanooga. A calendar of cases will be heard and an opportunity will be afforded attorneys to be admitted to practice before the Sixth Circuit. The Historic Courthouse, finished in 1893, houses the United States Bankruptcy Court for the Eastern District of Tennessee. After renovation in 1988, the bankruptcy court occupied the structure in 1991. The original two courtrooms, chambers areas, and clerk's offices continue to be used by the court.



**U.S. BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF  
TENNESSEE**

**THE CIRCUIT SITS IN NASHVILLE.** This year the bankruptcy court hosted three panels of circuit judges in Nashville sitting in honor of outgoing Chief Judge Gil Merritt and celebrating the advent of Chief Judge Boyce Martin's eunure. Sonny Ray,



*Honorable George C. Paine, II  
Chief Judge*

the clerk of court, did yeoperson service successfully locating and servicing the nine circuit judges and their staffs in the Customs House. The bankruptcy judges were extremely grateful to the Circuit Executive and Clerk of Court who did a superb job organizing this event and coordinating with the bankruptcy clerk's office.

The celebration of former Chief Judge Merritt and Chief Judge Martin was a huge success but the impact the visit of the court had on the legal community was far greater. Practicing lawyers and law students from the two local law schools thoroughly appreciated the onsite education on how to try or not try a circuit appeal and the chance to interact with circuit judges from throughout the jurisdiction.

The Nashville legal community received tremendous benefit and much positive feeling was engendered from the visit. Hopefully, the court will ride circuit again to give other venues this great experience.

**JUDICIAL EVALUATION.** The bankruptcy judges with the sponsorship of the Nashville Bar Association and the federal courts library fund is undertaking a comprehensive judicial evaluation with a professional consultant. Over 300 lawyers will be asked their detailed opinions about all areas of judicial performance, as well as that of the judges' staffs and of the clerk's office. This study will be done anonymously and is solely for the benefit of the judges. The judges are particularly appreciative to the district court for their generous support through the library fund of this study and the efforts of Sonny Ray, bankruptcy court clerk, who is staffing much of it.

**LUNDIN TO THE BAP.** Judge Keith Lundin has been appointed to the circuit's BAP which should be covered elsewhere in the annual report. He also was selected by the congressionally mandated National Bankruptcy Review Commission to serve as a consultant to its year-long deliberations. The district's Chapter 13 trustee, Hank Hildebrand, was also selected as an advisor to the Commission.

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The other two judges have rearranged the rotation of cases and have taken all of Judge Lundin's adversary proceedings since October to aid him in his unselfish and worthwhile efforts. The additional work for the other judges is really minimal in light of the benefit to the bankruptcy system in the circuit and nationwide from Judge Lundin's endeavors.

**STATISTICS.** While Chapter 11 cases were down slightly in 1996, they are now increasing. Consumer cases rose approximately 50 percent and over 11,900 new cases were filed last calendar year. Because of the efficiency of the court's internal systems and the efforts of the bankruptcy court clerk, the impact has been minimized considerably.

**LOCAL RULES COMMITTEE.** The judges continue to have frequent meetings with the bankruptcy bar's local rules committee to reassess, refine and update the court's procedures and local rules. Over the years, the local rules committee has been particularly helpful in identifying areas that can be improved upon or made more efficient and both sides benefit from the constant communication within the committee.

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
1996 ANNUAL REPORT**

Calendar year 1996 was an eventful year for the Bankruptcy Court for the Western District of Tennessee. In January 1996 Bankruptcy Judge Bernice B. Donald was sworn in as a District Judge, filling the vacancy created by Senior District Judge Odell Horton. The search process then began to fill Judge Donald's vacant seat on the Bankruptcy Court bench. Mrs. Jennie Latta, Esquire, of Memphis, Tennessee was selected and appointed to the Bankruptcy Court in March 1997.

During CY 1996, the court received 21,886 new case filings as compared to 17,736 new case filings in CY 1995. This change represented an increase of 23.4%. Chapter 13 filings rose by 21% to reach 17,017 filings. Chapter 13 case filings continue to represent roughly 78% of the district's filings.

An increase of 36% in chapter 7 case filings was noted for a total filing level of 4,802 cases. Total filings in chapter 11 and chapter 12 cases were down with these cases representing .3% and .01% respectively of the district's overall new case filings. The court also received 1,802 adversary proceedings for CY 1996 while closing 1,816 during the year. During CY





*Honorable David S. Kennedy  
Chief Judge*

1996 the court also closed a total of 19,138 cases, representing 3,086 more case closings than the previous year. This figure ranked the Western District of Tennessee in the top 20% of Bankruptcy Courts in the nation in total case closings. Please see the attached charts.

The Bankruptcy Court for the Western District of Tennessee entered CY 1996 at a staffing level of approximately 71% (75 positions). During CY 1996, the court was permitted to staff up to 96 positions (at 84% of formula) and did bring its staffing up to approximately 70% (78 positions). The salary savings for these positions were used to complete necessary projects in the Bankruptcy Court as well as transfer monies to the District Court for the Western District of Tennessee for unfunded projects. The Administrative Office of the United States Courts also benefitted from these positions not being filled by not

having to contribute to health and life insurance coverage which they otherwise had budgeted for the positions. Additionally, the Clerk returned to the Administrative Office, \$130,000, for a net gain to the Judiciary of nearly a quarter million dollars.

The Western District of Tennessee continued to participate as a pilot district in the Judicial Conference of the United States study of the effect of waiving the filing fee in chapter 7 bankruptcy cases for individual debtors who were unable to pay the fee in installments. During CY 1996 the district received 14 applications to waive the filing fee, of which 13 were granted.

The Bankruptcy Court for the Western District of Tennessee ranked first in the nation in weighted filings per judge (2345) as of June 30, 1996 according to statistics compiled by the Administrative Office. Based on this and other pertinent information, the Bankruptcy Court with the approval of Chief District Judge Julia S. Gibbons and Chief Circuit Judge Boyce Martin, requested that the Judicial Conference Bankruptcy Committee and the Bankruptcy Judges Division of the Administrative Office send a survey team to the district to evaluate the need for an additional bankruptcy judgeship. After the survey team's onsite visit, the recommendation was made to approve the request for an additional judgeship. This request is now pending before the Judicial

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Conference for further action at its March 1997 meeting.

During CY 1996, the General Services Administration (GSA) released a Solicitation For Offers (SFO) for a lease construct project in the Court's Eastern Division Office, located in Jackson, Tennessee. It was anticipated that the facility would be a court building housing both the District and Bankruptcy Courts. A successful bidder was named by GSA and the project commenced. It is anticipated that the project will be completed and the Courts occupy the new facility by June 1998.

FOR THE COURT

Jed G. Weintraub  
Clerk of Court

Approved by:  
Chief Judge David S. Kennedy



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Statistical Tables of the  
United States Bankruptcy Court  
for the  
Western District of Tennessee

**UNITED STATES BANKRUPTCY COURT**  
**Western District of Tennessee**

**PETITIONS FILED FOR**  
**Twelve Month Periods**  
**BY DIVISION**

<b>Jan. 1, 1994 - Dec. 31, 1994</b>			
	Memphis	Jackson	Total
Chapter 7	2,456	627	3,083
Chapter 11	36	34	70
Chapter 13	10,846	2,019	12,865
Chapter 12	-	2	2
<b>TOTAL</b>	<b>13,338</b>	<b>2,682</b>	<b>16,020</b>

	% of Filings by Chap by Div		Chapter % of
	MEM	JAX	Total Filings
Chapter 7	80%	20%	19.24%
Chapter 11	51%	49%	0.44%
Chapter 13	84%	16%	80.31%
Chapter 12	0%	100%	0.01%
<b>TOTAL</b>	<b>83%</b>	<b>17%</b>	<b>100%</b>

<b>Jan. 1, 1995 - Dec. 31, 1995</b>			
	Memphis	Jackson	Total
Chapter 7	2,778	750	3,528
Chapter 11	39	46	85
Chapter 13	11,621	2,499	14,120
Chapter 12	-	3	3
<b>TOTAL</b>	<b>14,438</b>	<b>3,298</b>	<b>17,736</b>

	% of Filings by Chap by Div		Chapter % of
	MEM	JAX	Total Filings
Chapter 7	79%	21%	19.89%
Chapter 11	46%	54%	0.48%
Chapter 13	82%	18%	79.61%
Chapter 12	0%	100%	0.02%
<b>TOTAL</b>	<b>81%</b>	<b>19%</b>	<b>100%</b>

<b>Jan. 1, 1996 - Dec. 31, 1996</b>			
	Memphis	Jackson	Total
Chapter 7	3,810	992	4,802
Chapter 11	36	29	65
Chapter 13	13,665	3,352	17,017
Chapter 12	1	1	2
<b>TOTAL</b>	<b>17,512</b>	<b>4,374</b>	<b>21,886</b>

	% of Filings by Chap by Div		Chapter % of
	MEM	JAX	Total Filings
Chapter 7	79%	21%	21.94%
Chapter 11	55%	45%	0.30%
Chapter 13	80%	20%	77.75%
Chapter 12	50%	50%	0.01%
<b>TOTAL</b>	<b>80%</b>	<b>20%</b>	<b>100%</b>

<b>1996 Over 1995</b>			
	Memphis	Jackson	Total
Chapter 7	1,032	242	36%
Chapter 11	(3)	(17)	-24%
Chapter 13	2,044	853	21%
Chapter 12	1	(2)	-33%
<b>TOTAL</b>	<b>3,074</b>	<b>1,076</b>	<b>23%</b>

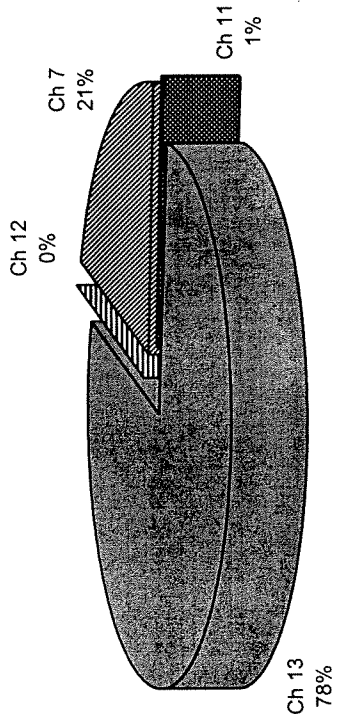
<p><b>Overall Growth</b>  <b>1995 to 1996</b>  <b>(Both Divisions)</b></p> <p><b>23.399%</b></p>
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<b>1996 Over 1995</b>		
	Jackson	Total
Chapter 7	242	32.27%
Chapter 11	(17)	-36.96%
Chapter 13	853	34.13%
Chapter 12	(2)	-66.67%
<b>TOTAL</b>	<b>1,076</b>	<b>32.63%</b>

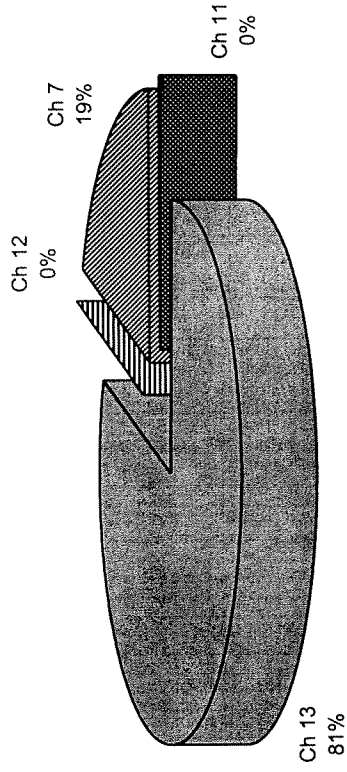
<b>1996 Over 1995</b>		
	Memphis	Total
Chapter 7	1,032	37.15%
Chapter 11	(3)	-7.69%
Chapter 13	2,044	17.59%
Chapter 12	1	-
<b>TOTAL</b>	<b>3,074</b>	<b>21.29%</b>

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

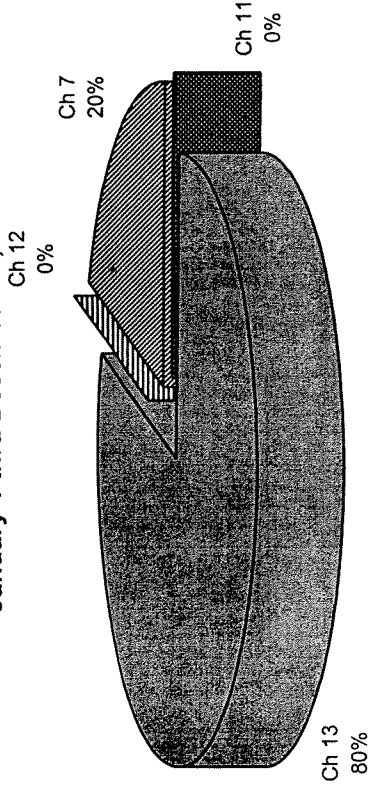
**Bankruptcy Case Filings  
January 1 thru December 31, 1996**



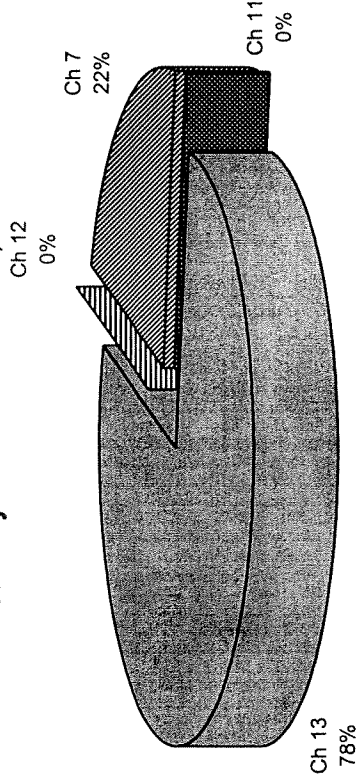
**Bankruptcy Case Filings  
January 1 thru December 31, 1995**



**Bankruptcy Case Filings  
January 1 thru December 31, 1994**

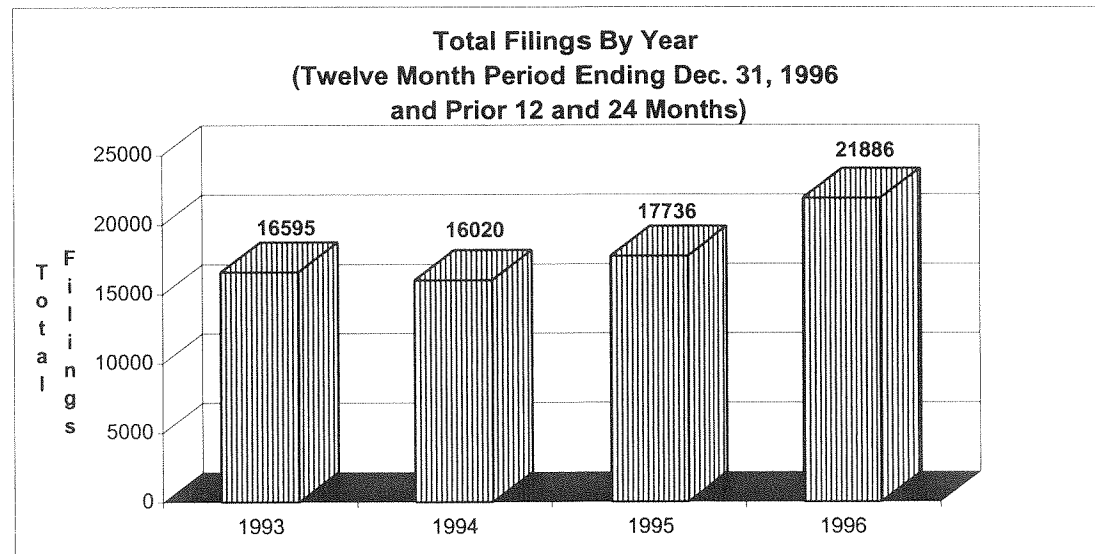
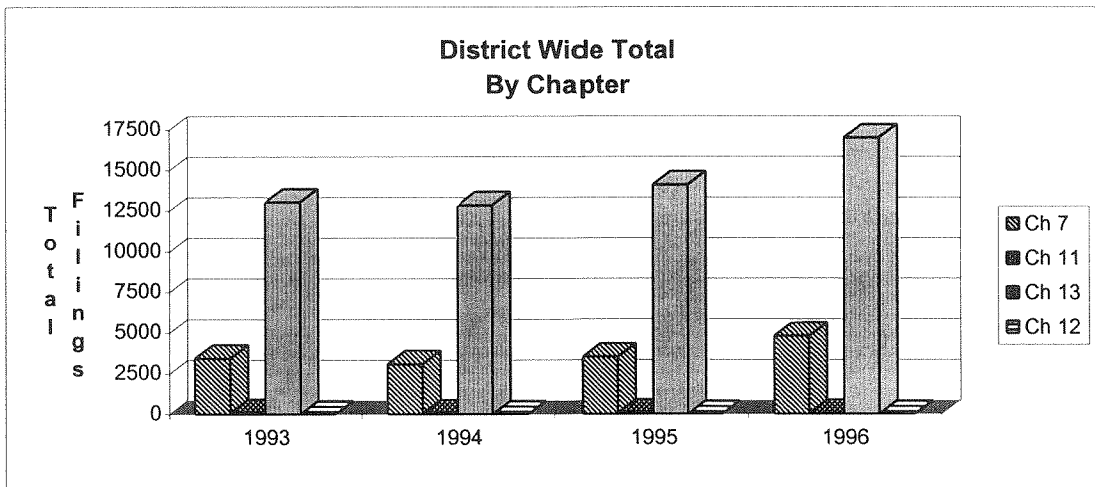
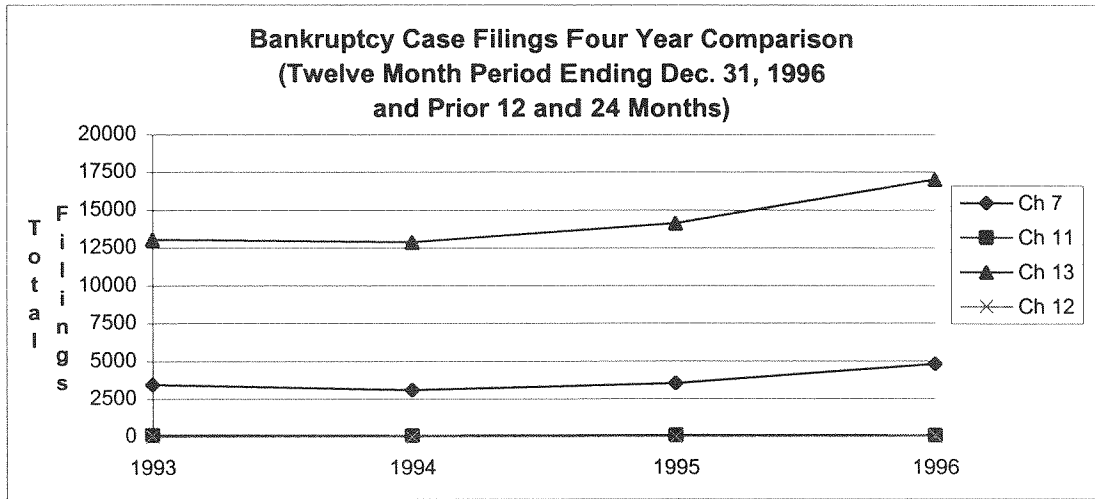


**Bankruptcy Case Filings  
January 1 thru December 31, 1993**

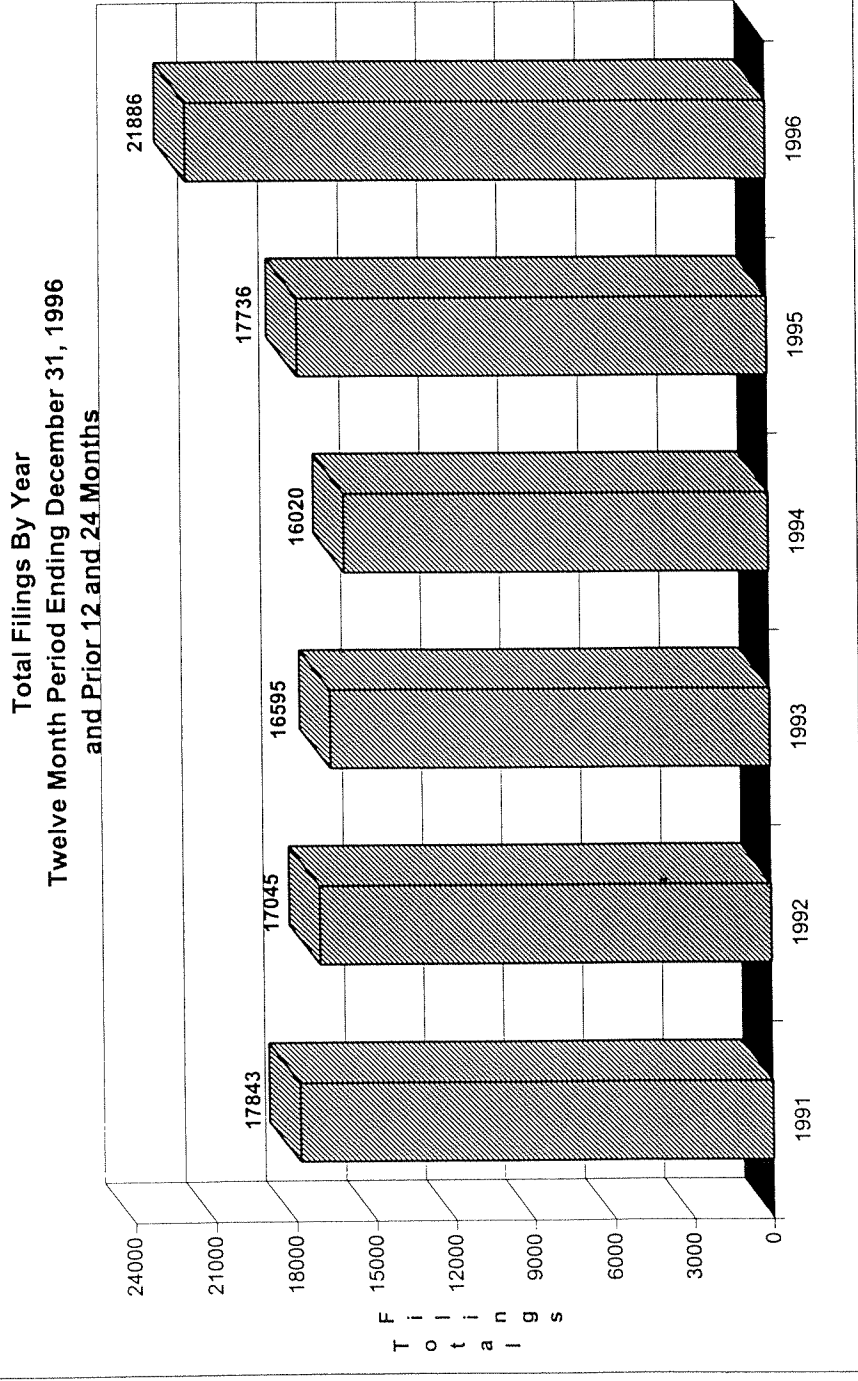




## United States Bankruptcy Court Western District of Tennessee



United States Bankruptcy Court  
Western District of Tennessee



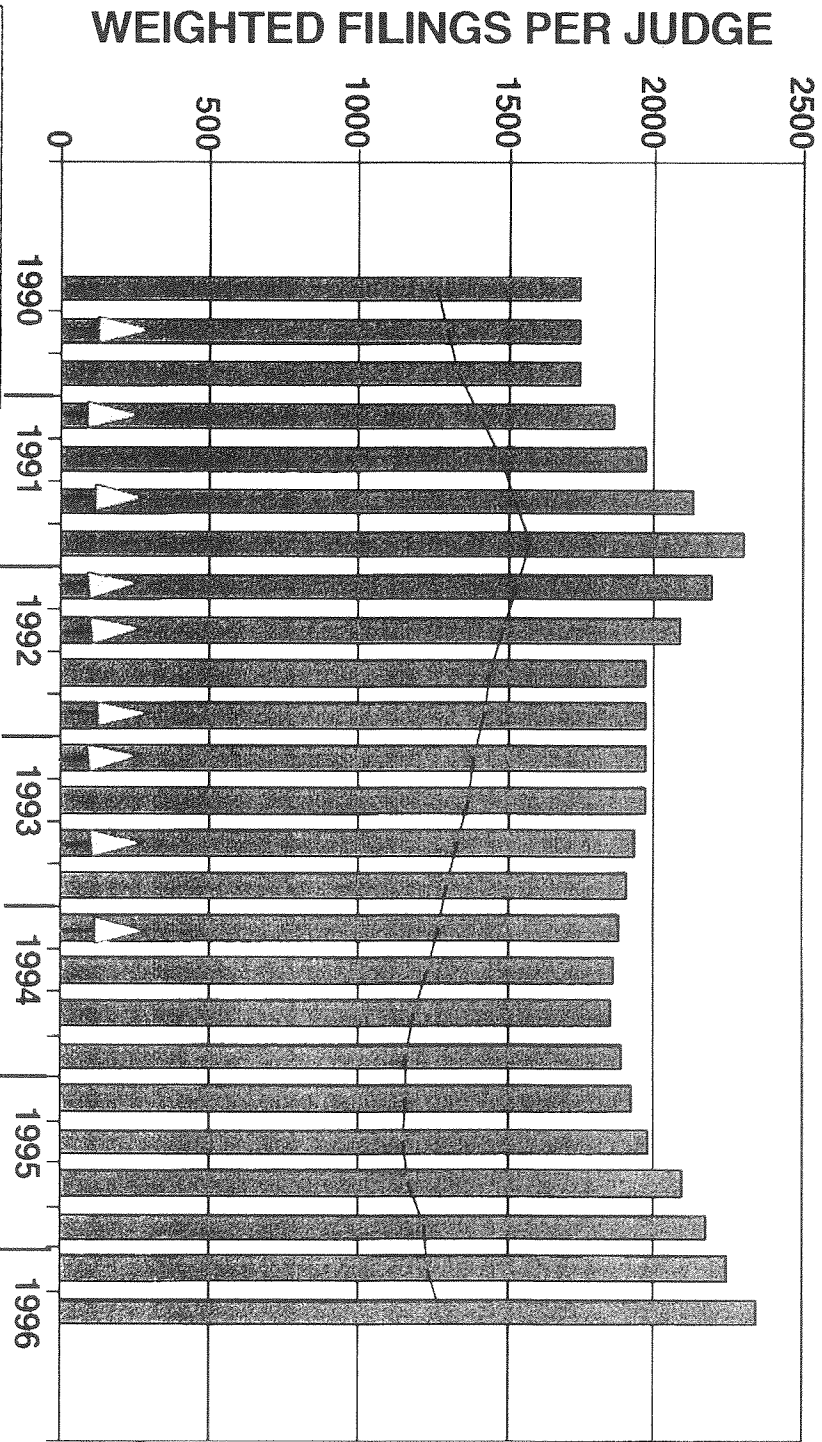
## BANCAP Case Filings And Closings for Calendar Year 1996

<b>1996</b>			<b>1995</b>		
	<b>FILINGS</b>	<b>CLOSINGS</b>		<b>FILINGS</b>	<b>CLOSINGS</b>
ADVERSARY	<b>1802</b>	<b>1816</b>	ADVERSARY		
Memphis	1478	1435	Memphis	1328	1279
Jackson	324	381	Jackson	235	277
CHAPTER 13	<b>16521</b>	<b>13683</b>	CHAPTER 13	<b>14120</b>	<b>11648</b>
Memphis	13235	11313	Memphis	11621	9419
Jackson	3286	2370	Jackson	2499	2229
CHAPTER 7	<b>5006</b>	<b>5362</b>	CHAPTER 7	<b>3528</b>	<b>4317</b>
Memphis	3944	4261	Memphis	2778	3455
Jackson	1062	1101	Jackson	750	862
CHAPTER 11	<b>55</b>	<b>85</b>	CHAPTER 11	<b>85</b>	<b>78</b>
Memphis	35	49	Memphis	39	45
Jackson	20	36	Jackson	46	33
CHAPTER 12	<b>2</b>	<b>8</b>	CHAPTER 12	<b>3</b>	<b>9</b>
Memphis	1	1	Memphis	0	0
Jackson	1	7	Jackson	3	9
<b>PENDING AS OF 12/31/96</b>			<b>PENDING AS OF 12/31/95</b>		
Memphis Chapter 13	<b>26145</b>		Memphis Chapter 13	<b>24114</b>	
Memphis 7,11,12	<b>1933</b>		Memphis 7,11,12	<b>2511</b>	
Jackson Chapter 13	<b>6094</b>		Jackson Chapter 13	<b>5906</b>	
Jackson 7,11,12	<b>613</b>		Jackson 7,11,12	<b>679</b>	

# FILING TRENDS IN TENNESSEE WESTERN (BY QUARTER) 1991 -- 1996



# WEIGHTED FILINGS PER JUDGE WESTERN DISTRICT OF TENNESSEE



△ = Estimate based on statistics for preceding and following quarter.

■ NATIONAL AVERAGE    ■ TENNESSEE (W)

QUARTER & YEAR

# Appendix

Statistical Tables of the  
United States Court of Appeals

### FILINGS BY CASE TYPE

	1992	1993	1994	1995	1996
<b>TOTAL CIVIL</b>	3346	3244	3252	3318	3598
Prisoner Petitions	1376	1456	1383	1486	1699
Civil Rights	650	606	635	630	684
Social Security	160	144	154	121	105
Diversity	443	418	403	356	425
Other Civil	717	620	677	725	685
<b>BANKRUPTCY</b>	108	100	105	83	93
<b>CRIMINAL</b>	972	1035	911	910	878
<b>ORIG. PROCEEDINGS</b>	45	35	37	34	35
<b>AGENCY</b>	265	309	217	191	214
<b>TOTAL CASES FILED</b>	4736	4723	4522	4536	4818

## SUMMARY OF DISPOSITIONS

	1992	1993	1994	1995	1996
<b>ORAL ARGUMENT</b>	1501	1628	1611	1506	1473
<b>SUMMARY DISPOSITIONS (Rule 9)</b>	1468	1627	1445	1448	1401
<b>VOLUNTARY DISMISSALS</b>	364	335	267	306	356
<b>DISMISSALS FOR WANT OF PROSECUTION</b>	612	715	599	675	692
<b>SETTLEMENT PROGRAM</b>	195	326	405	403	427
<b>OTHER</b>	61	45	64	60	79
<b>TOTAL</b>	4201	4676	4391	4398	4428



## SOURCE OF FILINGS

		1992	1993	1994	1995	1996
<b>OHIO</b>	Northern	649	656	672	731	752
	Southern	627	581	547	532	534
	TOTAL	1276	1237	1219	1263	1286
<b>KENTUCKY</b>	Eastern	350	319	334	383	345
	Western	277	287	273	271	306
	TOTAL	627	606	607	654	651
<b>MICHIGAN</b>	Eastern	1198	1118	984	982	1113
	Western	352	478	474	412	501
	TOTAL	1550	1596	1458	1394	1614
<b>TENNESSEE</b>	Eastern	330	271	288	321	343
	Middle	260	260	289	270	311
	Western	391	407	406	394	351
	TOTAL	981	938	984	985	1005
<b>Agency, Tax Court &amp; Original Proceedings</b>		302	346	254	240	262
<b>TOTAL</b>		4736	4723	4522	4536	4818

# NOTES

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