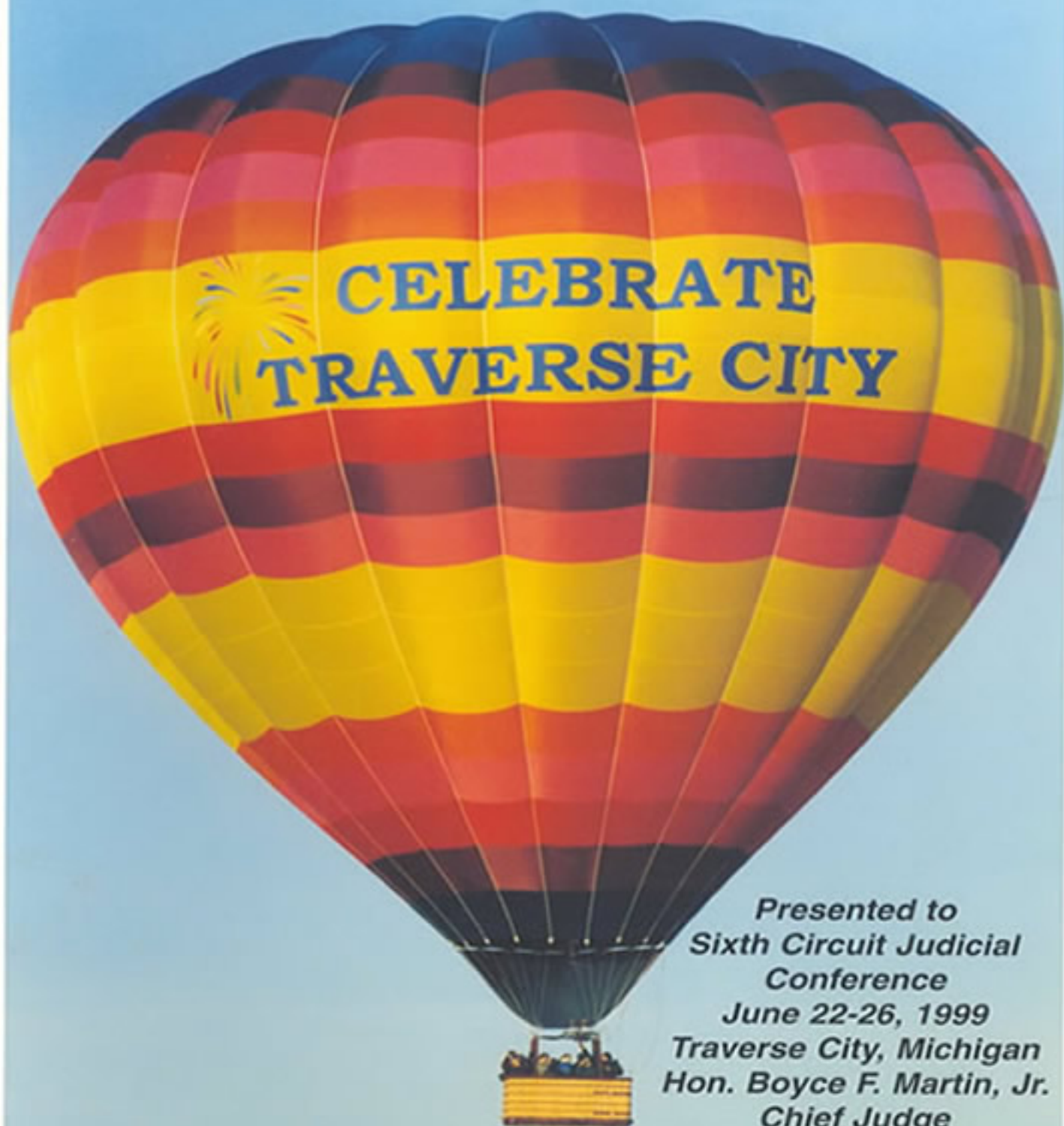


# *1999 Annual Report*



*Presented to  
Sixth Circuit Judicial  
Conference  
June 22-26, 1999  
Traverse City, Michigan  
Hon. Boyce F. Martin, Jr.  
Chief Judge*



# *A Message From the Chief Judge*

## **OVERVIEW**

It is my great pleasure to welcome the judges, life members and delegates to this our fifty-ninth conference. The conference planning committee, chaired by Judge Leon Jordan, has given us an outstanding group of topics and speakers. I am looking forward to both the substantive program and the social and recreational activities afforded by the scenic Traverse Bay area.

The overall state of the judiciary in the Sixth Circuit is quite good. With the cooperation of the senators from the four states of our circuit, we have not experienced, particularly at the district court level, the serious problem of prolonged judicial vacancies. At the end of 1998, we were fully staffed in the district courts. As of the date of the writing of this report, there are four district court vacancies in the Sixth Circuit, but each vacancy is quite recent, and none of these new vacancies have created any workload problems at this time.

Unfortunately, the record is not quite as good for the Court of Appeals, where we have had a judgeship vacant since May of 1995. As discussed below, the workload of the court has continued to increase during the time this vacancy has existed, and the court has concluded that it is necessary to increase the number of cases heard despite the judgeship shortage. Accordingly, the court will, by necessity, return to the practice of relying heavily on the use of visiting judges to fill out our panels. I anticipate that during the second half of this year, and probably continuing into next year, there will be one visiting judge on every panel.

## **WORKLOAD**

The following are some of the highlights of the workload of the circuit, district and bankruptcy courts in the Sixth Circuit for the twelve-month period ending September 30, 1998.

### **Court of Appeals**

- New filings increased by nearly 7 percent to 4,787 cases. The largest

increase in filings was in state and federal habeas corpus cases, which increased by over 31 percent in 1998. Federal question cases increased by 21 percent, while diversity cases dropped by 13 percent.

- Appeals terminated declined by 3 percent to 4,380.

### **District Courts**

- Circuit-wide, civil filings decreased by nearly 26 percent. Most of this decrease is attributable to a return to a more normal level of filings in the Eastern District of Michigan following the large increase in that district due to the breast implant litigation.
- Civil terminations increased by 27 percent over 1997, with the greatest increase in the Northern District of Ohio.
- Criminal filings were up by 9 percent in the Sixth Circuit during 1998.

### **Bankruptcy Courts**

- After several years of double digit increases, total bankruptcy filings increased by slightly less than 2 percent in 1998.
- The largest increases occurred in the Northern District of Ohio, and the largest decrease in new cases

occurred in the Western District of Tennessee.

- Bankruptcy terminations increased by 2.6 percent circuit-wide, and the number of pending bankruptcy cases rose by nearly 1.4 percent.

## **BANKRUPTCY APPELLATE PANEL**

The Bankruptcy Appellate Panel (BAP) began operations on January 1, 1997 for appeals arising from the Northern and Southern Districts of Ohio. It is one of six BAPs that have been established in the country, and it already has achieved a position of leadership in developing the policies and procedures for BAPs.

The BAP is staffed by only five sitting bankruptcy judges who have volunteered for BAP duty in addition to their regular dockets. Unlike several other BAPs, the Sixth Circuit BAP has no separate clerk's office or other staff. Instead, the Clerk of the Court of Appeals also serves as clerk of the BAP, and the Circuit Mediation Office provides mediation services to litigants before the BAP.

The Sixth Circuit is indebted to the five original BAP judges for all of their work in getting the BAP organized and functioning in 1997: Hon. Thomas F. Waldron, Chief Judge of the BAP, S.D. Ohio, Hon. Randolph Baxter, N.D. Ohio, Hon. Keith M. Lundin, M.D. Tennessee, Hon. Steven W. Rhodes, E.D. Michigan, and Hon. David T. Stosberg, W.D.

Kentucky. Judges Baxter and Lundin completed their terms on the BAP on December 31, 1998. They were replaced, respectively, by Hon. Patricia Morgenstern-Clarren of the Northern District of Ohio and Hon. William Brown of the Western District of Tennessee.

## CHALLENGES AHEAD

Although the judiciary in general enjoys a very satisfactory financial condition, due in large part to the effective work of Judge John Heyburn and the Budget Committee, there are several areas of serious concern.

**Funding Impasse.** The judiciary is an innocent bystander in a dispute between the executive and legislative branches of government about how to conduct the 2000 census. As a result of this dispute, Congress has imposed a June 15, 1999 cutoff on the judiciary's authority to obligate funds. Actions are being taken on many fronts to seek an exemption for the judiciary, but, as of the writing of this report, no resolution appears imminent.

**Courthouse Construction.** For the third year in a row, the Administration has failed to request funding for new building construction. This is creating a serious problem throughout the nation and is having an impact on the Sixth Circuit as badly needed new court facilities have been delayed. Some relief was provided in Fiscal Year 1999, when Congress provided funding for courthouse construction despite the failure of the Administration to ask for funds. We are hopeful that

Congress will respond to the judiciary's request again this year.

**Panel Attorney Compensation.** Inadequate compensation for court-appointed attorneys in federal criminal cases hampers the ability of judges to recruit qualified attorneys to provide effective representation to defendants in federal criminal prosecutions. The rate of pay that court-appointed attorneys receive has been held down to the unconscionable levels of \$65 for in-court work and \$45 for out-of-court work for many years. This is despite an 1986 law that authorized the Judicial Conference of the United States to set hourly rates of up to \$75, which the Conference has done for 93 of the 94 judicial districts. The judiciary's budget request for FY 2000 will again request full funding to compensate panel attorneys at the \$75 rate for all services. We hope that Congress will give favorable consideration to this important request.

**Judicial Compensation.** January of 1999 marked the fifth time in six years that Congress has denied a cost of living salary adjustment to federal judges. In 1989 Congress sought to resolve the long-term problem of voting salary increases for its own members by enacting a law which provides for annual cost of living salary adjustments for members of Congress, federal judges, and certain top officials in the Executive Branch. Under that law those positions would receive the same cost of living adjustments that career government employees receive, less one half of one percent. Congress permitted the law to take effect from 1990 until 1993. Thereafter, with the exception of

one year, Congress has affirmatively voted to deny the cost of living adjustment to its members, federal judges and top government executives. Since January of 1993, the value of these salaries have declined by 16 percent as measured by the Consumer Price Index. The law providing for the annual cost of living adjustments should be permitted to operate as intended.

## ACCOMPLISHMENTS

**Life Members.** In returning to the traditional format for this year's conference, I take great satisfaction in the enhanced role that the life members have taken in the planning and execution of this conference. This year the Life Members are responsible for a two-hour segment of the Conference program. In addition to this, I have appointed an Advisory Committee of Life Members chaired by G. Wilson Horde and asked that committee for its recommendations as to the role the Life Members should have as a continuing part of the Sixth Circuit Judicial Conference, with particular reference to the size, composition and purpose of the Conference.

**Sixth Circuit in Cyberspace.** The Sixth Circuit Court of Appeals has been selected to be the pilot circuit court to implement the PACER (Public Access to Court Electronic Records) project on the Internet. This will provide the convenience of Internet access to the wide range of court information that has been available up until now only through a dial-up bulletin board system. The information will include opinions, which are available

immediately upon public release, docket sheets, court calendars, rules, forms and other valuable information about the court and the Sixth Circuit. More information about the new Sixth Circuit web site is available in the Court of Appeals' Automation portion of this report.

**Commission on Circuit Restructuring.** The Commission on Structural Alternatives for the Federal Courts of Appeals, on which Judge Gilbert S. Merritt served, issued its final report late last year. While most of the Commission's report focused on the proposed restructuring of the Ninth Circuit Court of Appeals, the report offers valuable insights and proposals applicable to all federal appellate courts. Of particular interest is the separate statement authored by Judge Merritt and retired Justice Byron R. White, who chaired the Commission, that describes the core functions of federal courts, the role federal courts should appropriately have in criminal matters, and the factors that should be considered before assigning new responsibilities to the federal courts.

## CONCLUSION

Again, I welcome each of you to this Conference and thank the many judges, life members and delegates who have worked so hard to make this a great Conference and a great circuit. With your continued support, dedicated work and good will, I am confident that we will respond to all of our current challenges and will be well prepared to meet the challenges of the new millennium.

# **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.

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 is the current representative of the Sixth Circuit.

The spring and fall meetings of the Conference are only a small part of the total work of the Conference. Much of the work of the Conference is done by standing and ad hoc committees. Membership on the committees is by appointment by the Chief Justice and is not limited to members of the Conference. In addition to the regular committees of the Conference, a seven-member Executive Committee oversees the assignment of matters to the substantive committees, sets the agenda for the Judicial Conference sessions, and acts for the Conference in between formal sessions. 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 Sixth Circuit continues to be well represented by the many judges who serve on the committees of the Judicial Conference of the United States and other special assignments for the improvement of justice. Several judges in the Sixth Circuit serve in key administrative positions within the judiciary's Judicial Conference committee structure. Chief Judge Martin serves as a member of the Executive Committee. 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 request to Congress. The complete roster of conference members from the Sixth Circuit is as follows:

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

Hon. Bernice Bouie 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. R. Allan Edgar  
Eastern District of Tennessee  
*Committee on Court Administration  
and Case Management*

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

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

Hon. Julia Smith 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. 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. 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*

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

Henry L. Martin, Esq.  
Federal Public Defender  
Middle District of Tennessee  
*Advisory Committee on Criminal Rules*

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

Hon. Eugene E. Siler, Jr.  
Sixth Circuit  
*Committee on Federal-State Jurisdiction*

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

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



## **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 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 Danny J. Boggs  
Circuit Judge David A. Nelson  
Circuit Judge James L. Ryan  
Circuit Judge Alan E. Norris  
Circuit Judge Eugene E. Siler, Jr.  
Circuit Judge Alice M. Batchelder  
Circuit Judge Eric L. Clay  
Circuit Judge Ronald L. Gilman  
Chief District Judge Henry L. Wilhoit, Jr.  
Eastern District of Kentucky  
Chief District Judge Charles R. Simpson III  
Western District of Kentucky  
Chief District Judge Lawrence P. Zatkoff  
Eastern District of Michigan  
Chief District Judge Richard A. Enslen  
Western District of Michigan  
Chief District Judge Paul R. Matia  
Northern District of Ohio  
Chief District Judge Walter H. Rice  
Southern District of Ohio  
Chief District Judge R. Allan Edgar  
Eastern District of Tennessee  
Chief District Judge Robert L. Echols  
Middle District of Tennessee  
Chief District Judge Julia S. Gibbons  
Western District of Tennessee

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

Chief Bankruptcy Judge David T. Stosberg  
Western District of Kentucky

Magistrate Judge Peggy E. Patterson  
Eastern District of Kentucky

### **Executive Committee**

Honorable Boyce F. Martin, Jr.,  
Chair  
Honorable Danny J. Boggs  
Honorable Alan E. Norris  
Honorable Eugene E. Siler, Jr.  
Honorable Julia Smith Gibbons  
Honorable R. Allan Edgar  
Honorable Robert L. Echols

### **Investigating Committee**

Honorable Boyce F. Martin, Jr.,  
Chair  
Honorable James L. Ryan  
Honorable R. Guy Cole  
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, 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.

## **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.

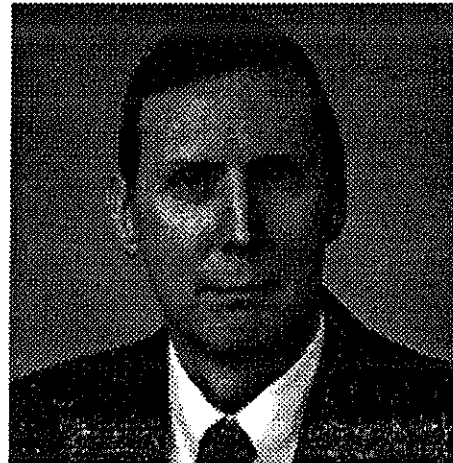
During the year ended December 31, 1998, 73 complaints were filed in the Sixth Circuit, and 88 complaints were terminated by dismissal. One complaint filed during 1998 required the activation of the Special Investigating Committee, and it also was dismissed after investigation.



## 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.

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



*James A. Higgins*  
*Circuit Executive*

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 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.



## *Judicial Personnel in the Sixth Circuit*

### *Deaths*

*Paul C. Weick.* The Honorable Paul C. Weick, Senior Judge of the United States Court of Appeals for the Sixth Circuit, died on May 22, 1997 at the age of 97. Judge Weick was appointed to the United States District Court for the Northern District of Ohio in 1956 by President Eisenhower, and was appointed to the Sixth Circuit on September 10, 1959. Judge Weick served as Chief Judge of the Sixth Circuit from November 21, 1963 to August 25, 1969. Judge Weick assumed senior status on December 31, 1981, and retired from the bench on April 30, 1989.

*Anthony J. Celebrezze.* The Honorable Anthony J. Celebrezze, Senior Judge of the United States Court of Appeals for the Sixth Circuit, died on October 29, 1998 at the age of 88. Judge Celebrezze was appointed to the Court on August 19, 1965 and assumed senior status on October 1, 1980. He continued to render valuable service to the Court until his retirement on February 20, 1996. During his long career in public service, Judge Celebrezze was elected Mayor of Cleveland five times beginning in 1953 and ending in 1962 when he was appointed by President John F. Kennedy to be Secretary of the Department of Health, Education and Welfare.

*L. Clure Morton.* The Honorable L. Clure Morton, Senior Judge of the

United States District Court for the Middle District of Tennessee, died on April 11, 1998 at the age of 82. Judge Morton was appointed to the District Court on October 26, 1970. He served as Chief Judge of the District from July 15, 1977 until July 31, 1984 when he assumed senior status. He continued to render valuable service to the District Court until his retirement on August 1, 1996.

*Robert E. DeMascio.* The Honorable Robert E. DeMascio, Senior Judge of the United States District Court for the Eastern District of Michigan, died on March 23, 1999 at the age of 76. He was appointed to the District Court on July 22, 1971 and assumed senior status on January 16, 1988. After taking senior status, Judge DeMascio continued to render valuable service to the district court.

### *Senior Status*

#### *Sixth Circuit Court of Appeals*

*Cornelia G. Kennedy.* The Honorable Cornelia G. Kennedy, United States Circuit Judge for the Sixth Circuit, assumed senior status on March 1, 1999. Judge Kennedy was appointed to the Sixth Circuit Court of Appeals on September 26, 1979. Prior to her appointment to the Sixth Circuit, she served as United States District Judge for the Eastern District of Michigan from 1970 to 1979. She served as the District's Chief Judge from

November 22, 1977 to October 3, 1979. Judge Kennedy continues to render valuable service to the Court of Appeals.

### *United States District Courts*

*Anna Diggs Taylor.* The Honorable Anna Diggs Taylor, United States District Judge for the Eastern District of Michigan, assumed senior status on December 31, 1998. Judge Taylor was appointed to the District Court on November 2, 1979, and she served as the District's Chief Judge from December 31, 1996 to December 31, 1998. Prior to her appointment to the bench, Judge Taylor served as an Assistant Wayne County Prosecutor; an Assistant United States Attorney; and Assistant Corporation Counsel for the City of Detroit. Judge Taylor continues to render valuable service to the District Court.

*John T. Nixon.* The Honorable John T. Nixon, United States District Judge for the Middle District of Tennessee, assumed senior status on August 15, 1998. Judge Nixon was appointed to the District Court on May 12, 1980, and he served as Chief Judge of the District from August 1, 1991 to July 31, 1998. Prior to his appointment to the District Court, Judge Nixon served as General Sessions Judge of the Tenth Judicial Circuit of Tennessee. Judge Nixon continues to render valuable service to the District Court.

*Thomas A. Higgins.* The Honorable Thomas A. Higgins, United States District Judge for the Middle District of Tennessee, assumed senior

status on February 28, 1999. Judge Higgins was appointed to the District Court on October 4, 1984. Prior to his appointment to the bench, Judge Higgins was in private practice in Nashville. He continues to render valuable service to the District Court.

*Barbara K. Hackett.* The Honorable Barbara K. Hackett, United States District Judge for the Eastern District of Michigan, assumed senior status on April 8, 1997. Judge Hackett was appointed United States District Judge on April 7, 1986. Prior to her appointment to the District Court, Judge Hackett was in private practice. She served as United States Magistrate Judge in the Eastern District of Michigan from 1973 until 1984. Judge Hackett continues to render valuable service to the District Court.

### *Elevated*

*Henry R. Wilhoit, Jr.* The Honorable Henry R. Wilhoit, Jr. became Chief Judge of the United States District Court for the Eastern District of Kentucky on September 20, 1998 succeeding Judge William O. Bertelsman whose term expired. Judge Wilhoit was appointed to the District Court on September 28, 1981. Prior to his appointment to the District Court, Judge Wilhoit was in private practice in Grayson, Kentucky.

*R. Allan Edgar.* The Honorable R. Allan Edgar became Chief Judge of the United States District Court for the Eastern District of Tennessee on November 23, 1998 succeeding Judge James H. Jarvis, II

whose term expired. Judge Edgar was appointed to the District Court on April 16, 1985. Prior to his appointment to the bench, he was in private practice.

*Lawrence P. Zatkoff.* The Honorable Lawrence P. Zatkoff became Chief Judge of the United States District Court for the Eastern District of Michigan on January 1, 1999 succeeding Judge Anna Diggs Taylor who assumed senior status on December 31, 1998. Judge Zatkoff was appointed to the District Court on March 4, 1986. Prior to his appointment to the bench, he served as a judge of the Circuit and Probate Courts in Macomb County, Michigan.

*Paul R. Matia.* The Honorable Paul R. Matia became Chief Judge of the United States District Court for the Northern District of Ohio on February 27, 1999 succeeding Judge George W. White who retired from the bench. Judge Matia was appointed to the District Court on November 18, 1991. Prior to his appointment, he was Judge of the Cuyahoga County Common Pleas Court.

*Robert L. Echols.* The Honorable Robert L. Echols became Chief Judge of the United States District Court for the Middle District of Tennessee on August 1, 1998 succeeding Judge John T. Nixon whose term expired. Judge Echols was appointed to the District Court bench on April 16, 1992. Prior to his appointment, he was in private practice in Nashville.

*Richard L. Speer.* The Honorable Richard L. Speer became Chief

Bankruptcy Judge for the Northern District of Ohio on July 1, 1997 succeeding Judge James H. Williams. Judge Speer was initially appointed bankruptcy judge on September 2, 1975. He was appointed to his current term on October 1, 1986. Prior to his appointment, Judge Speer was in private practice.

*Arthur J. Spector.* The Honorable Arthur J. Spector became Chief Judge of the United States Bankruptcy Court for the Eastern District of Michigan on April 14, 1999. He succeeds Bankruptcy Judge Steven W. Rhodes whose four year term as Chief Judge expired. Judge Spector was first appointed Bankruptcy Judge on March 29, 1984 and is presently serving a fourteen year term to which he was appointed on March 25, 1988. Prior to his appointment as bankruptcy judge, he served as Assistant District Attorney in New York County, New York, from 1974-1976, and was in private practice in Bay City, Michigan from 1976 to 1984.

*Thomas F. Waldron.* The Honorable Thomas F. Waldron became Chief Judge of the United States Bankruptcy Court for the Southern District of Ohio on May 1, 1999. Judge Waldron succeeds Bankruptcy Judge William A. Clark who retired on April 29, 1999. Judge Waldron was appointed bankruptcy judge on July 8, 1985 and will begin serving his second fourteen year term on July 8 of this year. Prior to his appointment to the bench, Judge Waldron was in private practice.

*James D. Gregg.* The Honorable

James D. Gregg became Chief Judge of the United States Bankruptcy Court for the Western District of Michigan on March 4, 1998 succeeding Judge Laurence E. Howard who retired. Judge Gregg was appointed bankruptcy judge on June 1, 1987 and is presently serving a fourteen year term. Prior to his appointment as bankruptcy judge, Judge Gregg was in private practice in Grand Rapids.

*David T. Stosberg.* The Honorable David T. Stosberg became Chief Judge of the United States Bankruptcy Court for the Western District of Kentucky on January 1, 1999. He succeeds Judge Henry H. Dickinson who is retiring on July 4, 1999. Judge Stosberg was appointed Bankruptcy Judge on June 30, 1989. Prior to his appointment, Judge Stosberg was in private practice in Louisville.

*William S. Howard.* The Honorable William S. Howard became Chief Judge of the United States Bankruptcy Court for the Eastern District of Kentucky on October 1, 1997 succeeding Judge Joe Lee. Judge Howard was appointed bankruptcy judge on March 19, 1990 and is presently serving a fourteen year term. Prior to his appointment as bankruptcy judge, Judge Howard was in private practice.

### *Retirements*

*George W. White.* The Honorable George W. White, United States District Judge for the Northern District of Ohio, retired on February 26, 1999. Judge White was appointed to the bench on May 23,

1980, and he served as Chief Judge of the District from February 9, 1995 until his retirement. Prior to his appointment to the District Court, Judge White served as Judge of the Ohio Court of Common Pleas in Cleveland.

*Joe Lee.* The Honorable Joe Lee retired on September 30, 1997 as United States Bankruptcy Judge for the Eastern District of Kentucky. Judge Lee was initially appointed bankruptcy judge on September 1, 1961; and at the time of his retirement, he was serving a fourteen year term to which he was appointed on October 1, 1986. Judge Lee served as Chief Judge of the Bankruptcy Court from 1984 until his retirement. He continues to serve the Eastern District of Kentucky as a recalled judge.

*James H. Williams.* The Honorable James H. Williams, United States Bankruptcy Judge for the Northern District of Ohio, retired on February 28, 1999. Judge Williams was first appointed Bankruptcy Judge on June 5, 1972 and was serving the tenth year of a fourteen year term when he retired. He served as Chief Bankruptcy Judge from November 12, 1987 to June 30, 1997. Prior to his appointment as bankruptcy judge, he served as an Assistant U. S. Attorney for the Southern District of Ohio and was in private practice. Judge Williams continues to serve the Court as a recalled bankruptcy judge.

*Laurence E. Howard.* The Honorable Laurence E. Howard, United States Bankruptcy Judge for the Western



District of Michigan, retired on February 28, 1999. Judge Howard was initially appointed United States Bankruptcy Judge on January 14, 1976. He was in the last year of a fourteen year term when he retired. Judge Howard served as Chief Judge of the Western Michigan Bankruptcy Court from October 1, 1986 until March 3, 1998. Prior to his appointment to the bench, he was in private practice.

*William A. Clark.* The Honorable William A. Clark, United States Bankruptcy Judge for the Southern District of Ohio, retired on April 29, 1999. Judge Clark completed his fourteen year term on that date. He served as Chief Bankruptcy Judge from May 1, 1993 until his retirement. Prior to his appointment to the bench, he was in private practice. Judge Clark continues to render valuable service to the Court as a recalled bankruptcy judge.

*Donald E. Calhoun, Jr.* The Honorable Donald E. Calhoun, Jr., United States Bankruptcy Judge for the Southern District of Ohio, retired on May 1, 1999. Judge Calhoun was appointed to a fourteen year term on May 2, 1985 and completed that term on the date he retired. Prior to his appointment to the bench, Judge Calhoun was in private practice. He continues to render valuable service as a recalled bankruptcy judge.

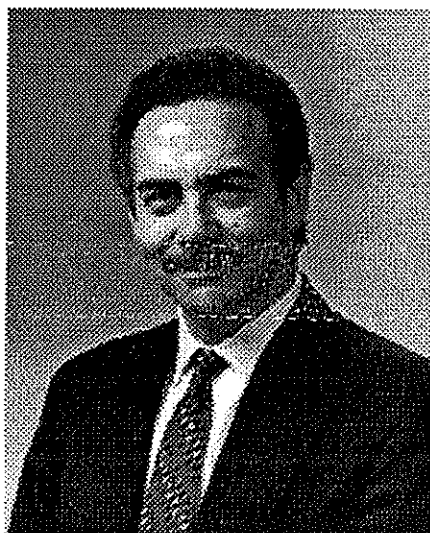
*Paul J. Komives.* The Honorable Paul J. Komives, United States Magistrate Judge for the Eastern District of Michigan, retired on July 12, 1997. He was

appointed United States Magistrate Judge on February 11, 1971 and was serving his fourth eight-year term at the time of his retirement. Judge Komives continues to render valuable service to the District as a recalled magistrate judge.

*John M. Dixon, Jr.* The Honorable John M. Dixon, Jr. retired on March 31, 1998. Judge Dixon was appointed United States Magistrate Judge for the Western District of Kentucky in 1971 and for the Middle District of Tennessee in 1974. These were part-time appointments. On March 10, 1992, Judge Dixon was appointed to a new full-time magistrate judge position in the Western District of Kentucky at Bowling Green. Prior to his appointment to the full-time position, Judge Dixon, in addition to his part-time magistrate duties, was in private practice.



*New Appointments  
Sixth Circuit Court of Appeals*



*Hon. Eric L. Clay  
Circuit Judge*

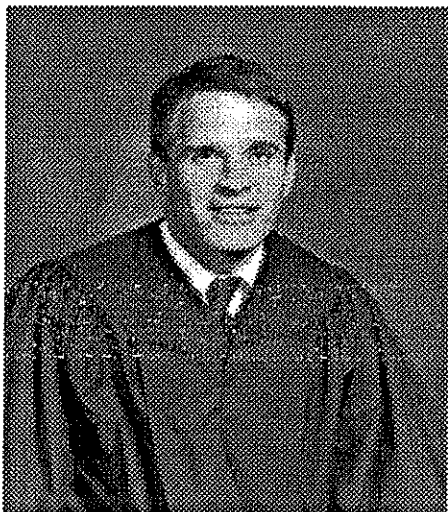
*Eric L. Clay.* The Honorable Eric L. Clay was appointed Judge of the United States Court of Appeals for the Sixth Circuit on August 1, 1997. Judge Clay was appointed to fill the vacancy created by the assumption of senior status by United States Circuit Judge Ralph B. Guy, Jr. Prior to his appointment to the Sixth Circuit, Judge Clay was in private practice with the Detroit firm of Lewis, Clay & Munday where he was in charge of the litigation department. Following his graduation from law school, Judge Clay clerked for Circuit Judge Damon J. Keith who was then a Judge of the United States District Court for the Eastern District of Michigan.



*Hon. Ronald L. Gilman  
Circuit Judge*

*Ronald L. Gilman.* The Honorable Ronald L. Gilman was sworn in as a Judge of the United States Court of Appeals for the Sixth Circuit on November 21, 1997. Judge Gilman was appointed to fill the vacancy created by the assumption of senior status by United States Circuit Judge H. Ted Milburn. Prior to his appointment to the Sixth Circuit, he was a partner in the law firm of Farris, Matthews, Gilman, Branan and Hellen in Memphis, Tennessee. Judge Gilman is also a past president of both the Memphis and Tennessee Bar Associations.

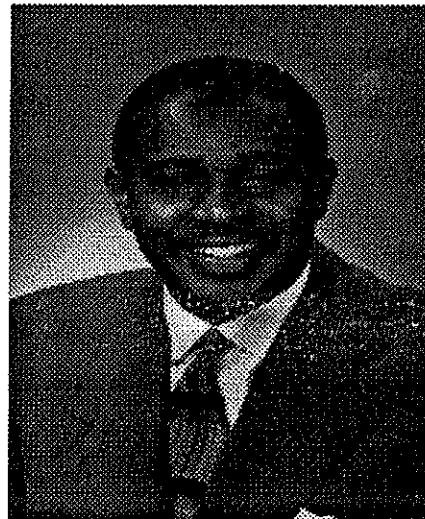
*New Appointments  
Sixth Circuit District and Bankruptcy Courts*



*Hon. James S. Gwin  
District Judge*

*James S. Gwin.* The Honorable James S. Gwin was appointed United States District Judge for the Northern District of Ohio at Akron on November 7, 1997. This position was formerly held by United States District Judge Sam H. Bell. Prior to his appointment to the Court, Judge Gwin was a Judge of the Court of Common Pleas for Stark County, Ohio from April 1989 until his appointment.

*Algenon L. Marbley.* The Honorable Algenon L. Marbley was appointed United States District Judge for the Southern District of Ohio at Columbus on November 11, 1997. The position was formerly held by United States District Judge John D. Holschuh. Prior to his appointment to the Court, Judge Marbley was a partner at Vorys, Sater, Seymour and

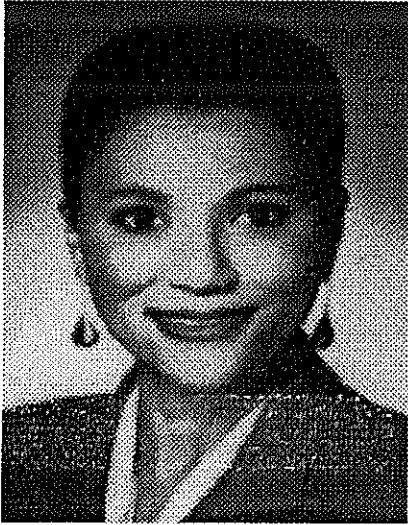


*Hon. Algenon L. Marbley  
District Judge*

where he specialized in commercial litigation, product liability and employment litigation.

*Arthur J. Tarnow.* The Honorable Arthur J. Tarnow was appointed United States District Judge for the Eastern District of Michigan on May 26, 1998. He fills the vacancy created by United States District Judge Julian Abele Cook, Jr.'s assumption of senior status. Prior to his appointment to the bench, Judge Tarnow was in private practice.

*Victoria A. Roberts.* The Honorable Victoria A. Roberts was confirmed as United States District Judge for the Eastern District of Michigan on June 26, 1998. Judge Roberts was appointed to fill the vacancy created by the retirement of United States District Judge George LaPlata. Prior to her appointment,



*Hon. Victoria A. Roberts  
District Judge*

Judge Roberts was in private practice and also served as a court appointed special master and arbitrator in pending litigation matters. Judge Roberts also served as the 62nd President of the State Bar of Michigan completing her term in September, 1997.



*Hon. George Caram Steeh  
District Judge*

*George Caram Steeh III.* The Honorable George C. Steeh III was

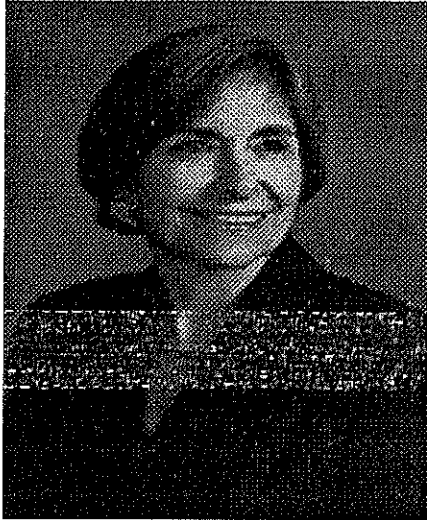
appointed United States District Judge for the Eastern District of Michigan on July 2, 1998. Judge Steeh was appointed to fill the vacancy created by the taking of senior status by United States District Judge Barbara K. Hackett. Prior to his appointment, Judge Steeh served as a state District Court Judge for two years and Circuit Court Judge for eight years in Macomb County, Michigan. He is President of the Arab American Bar Association in Michigan.



*Hon. Don Aaron Polster  
District Judge*

*Dan Aaron Polster.* The Honorable Dan Aaron Polster was appointed United States District Judge for the Northern District of Ohio on August 3, 1998. He was appointed to the vacancy created when United States District Judge David Dowd assumed senior status. Prior to assuming the bench, he served as a federal prosecutor in Cleveland for 22 years, first as a trial attorney with the Department of Justice, Antitrust Division, and then for 16 years as an Assistant U.S. Attorney,

handling a wide variety of fraud and corruption cases.

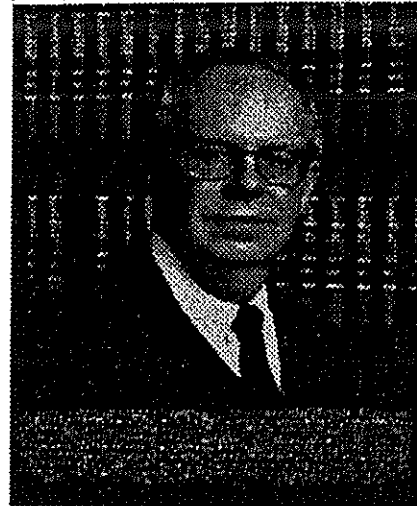


*Hon. Aleta A. Trauger  
District Judge*

*Aleta A. Trauger.* The Honorable Aleta A. Trauger was appointed United States District Judge for the Middle District of Tennessee at Nashville on December 1, 1998. The position was formerly held by Judge John T. Nixon. For five years prior to her appointment to the District Court, Judge Trauger served as a United States Bankruptcy Judge for the Middle District of Tennessee at Nashville. Before her appointment to the bankruptcy bench, she was a partner in the Nashville law firm of Wyatt, Tarrant & Combs.

#### *United States Bankruptcy Judge*

*Joseph M. Scott, Jr.* The Honorable Joseph M. Scott, Jr. was appointed United States Bankruptcy Judge for the Eastern District of Kentucky on March 29, 1999. He was appointed to the bankruptcy vacancy created by the retirement of United States Bankruptcy



*Hon. Joseph M. Scott, Jr.  
Bankruptcy Judge*

Judge Joe Lee. Prior to his appointment to the bankruptcy bench, Judge Scott was a partner in the law firm of Stoll, Keenon & Park, LLC in Lexington.

#### *United States Magistrate Judges*

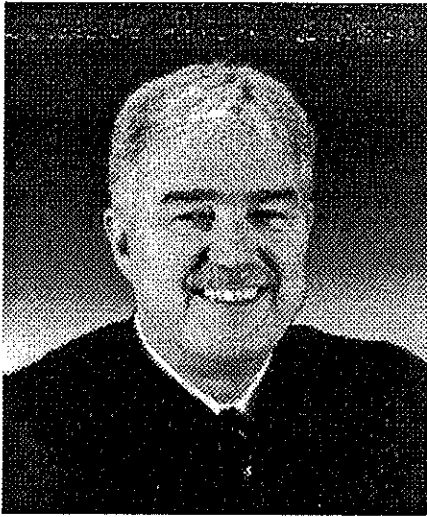


*Hon. Nancy A. Vecchiarelli  
Magistrate Judge*

*Nancy A. Vecchiarelli.* The Honorable Nancy A. Vecchiarelli was appointed United States Magistrate Judge for the Northern District of Ohio at

Cleveland on April 20, 1998. She was appointed to fill the vacancy created by the retirement of United States Magistrate Judge Joseph W. Bartunek on February 16, 1997. Prior to her appointment, Ms. Vecchiarelli was an Assistant United States Attorney for the Northern District of Ohio and served as Computer Crimes Coordinator and Violent Crimes Coordinator for that office.

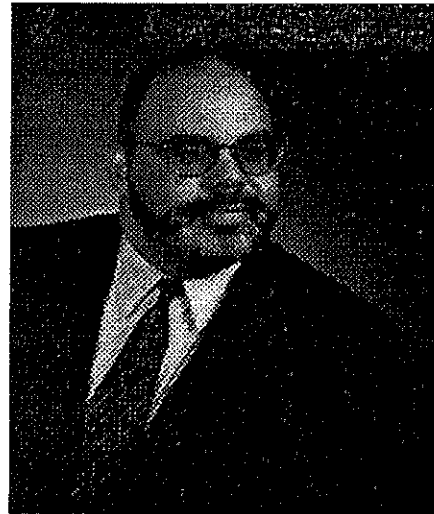
Tennessee at Nashville on August 3, 1998. He was appointed to fill a new magistrate judge position approved by the Judicial Conference of the United States. Prior to his appointment, Judge Brown served as United States Attorney for the Middle District of Tennessee from 1981 to 1991 and was serving as a Special Assistant U.S. Trustee at the time of his appointment.



*Hon. E. Robert Goebel  
Magistrate Judge*

*E. Robert Goebel.* The Honorable E. Robert Goebel was appointed United States Magistrate Judge for the Western District of Kentucky on May 11, 1998. Judge Goebel succeeds United States Magistrate Judge John M. Dixon who retired on March 31, 1998. Prior to his appointment as Magistrate, Judge Goebel was a District Judge for the Sixth Judicial District of Kentucky.

*Joe B. Brown.* The Honorable Joe B. Brown was appointed United States Magistrate Judge for the Middle District of



*Hon. Wallace Capel, Jr.  
Magistrate Judge*

*Wallace Capel, Jr.* The Honorable Wallace Capel, Jr. was appointed United States Magistrate Judge for the Eastern District of Michigan at Flint on May 10, 1999. He was appointed to the vacancy created by the elevation of United States Magistrate Judge Marc Goldman to Executive Magistrate Judge. Prior to his appointment to the bench, Judge Capel was a Deputy Defender for the Federal Defender's office for 3-½ years. Previous to that he was an Assistant Attorney General for the Virgin Islands Department of Defense.

*Federal Public Defender*



*Christopher P. Yates  
Federal Public Defender*

*Christopher P. Yates.* Christopher P. Yates was sworn in as the Federal Public Defender for the Western District of Michigan on September 19, 1998. Mr. Yates came to the Federal Public Defender Office from the United States Attorney's Office for the Eastern District of Michigan, where he worked for seven years as an Assistant U.S. Attorney. His legal experience also includes clerkships with U.S. Circuit Judge Ralph Guy of the Sixth Circuit and Chief Judge James Churchill of the Eastern District of Michigan.



# Judicial Workload in the Sixth Circuit

## Workload in the District Courts

The total workload of the district courts decreased by 15 percent from 43,620 cases in 1997 to 37,800 cases in 1998. Terminations increased by 14 percent from 28,569 to 32,682 during the same period.

**Filings.** Only the Eastern District of Kentucky experienced an increase in filings per judge in 1998. The filings in most of the other districts remained level or declined slightly, with the exception of the Eastern District of Michigan, which experienced the largest decline in filings per judge of any of the districts in the Sixth Circuit.

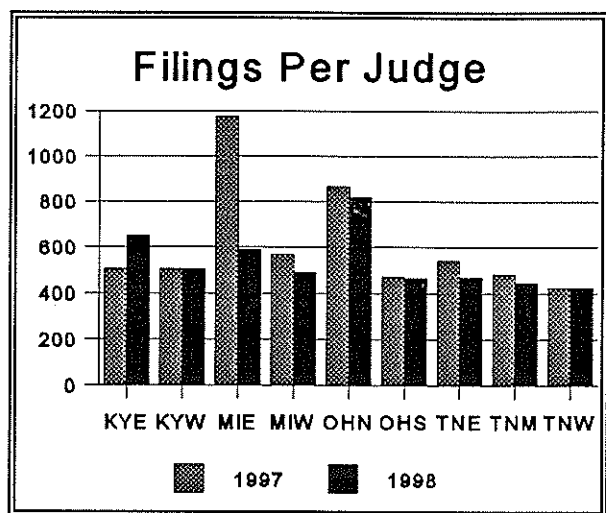


Figure 1

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

**Terminations.** The Northern District of Ohio and the Eastern District of Kentucky had the greatest increase in terminations in 1998. All of the other districts had slight increases in terminations except the Western District of Kentucky and the Middle District of Tennessee, which experienced slight decreases in their terminations during 1998.

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

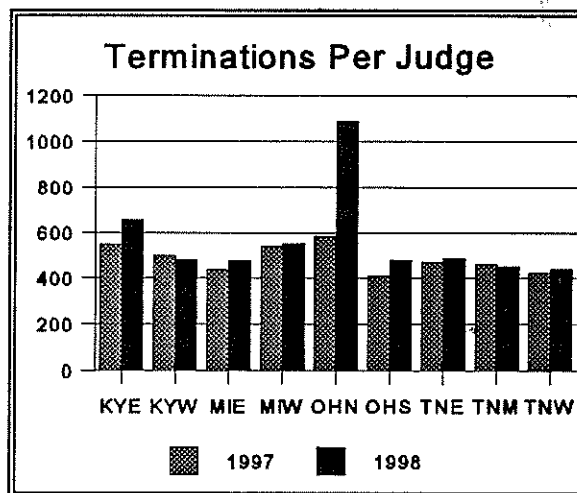


Figure 2

**Pending.** Figure 3 shows a comparison of pending cases per judgeship in each of the districts in the Sixth Circuit.



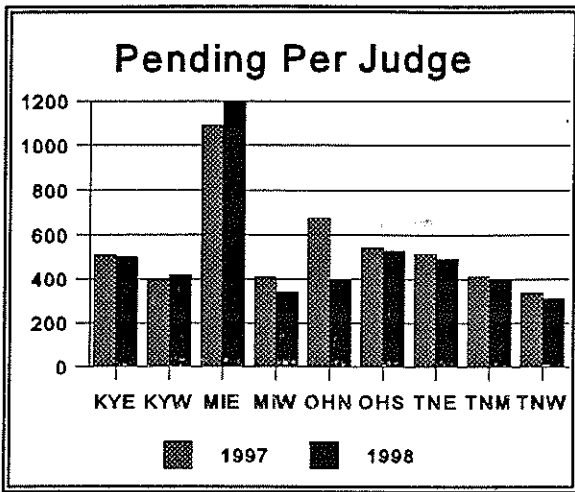


Figure 3

**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 for fiscal years 1996 and 1997, the most recent years for which data are available.

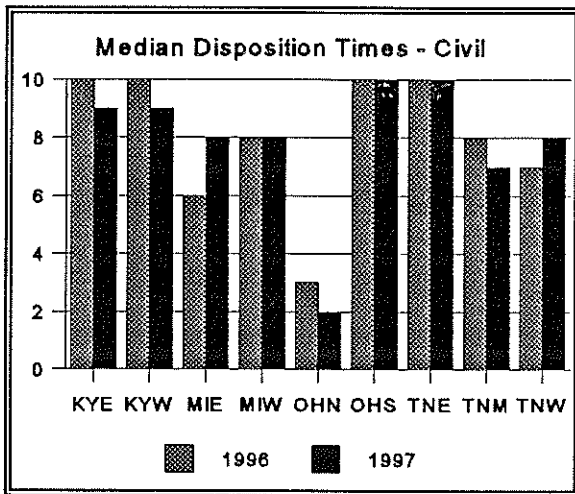


Figure 4

**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 same two fiscal years.

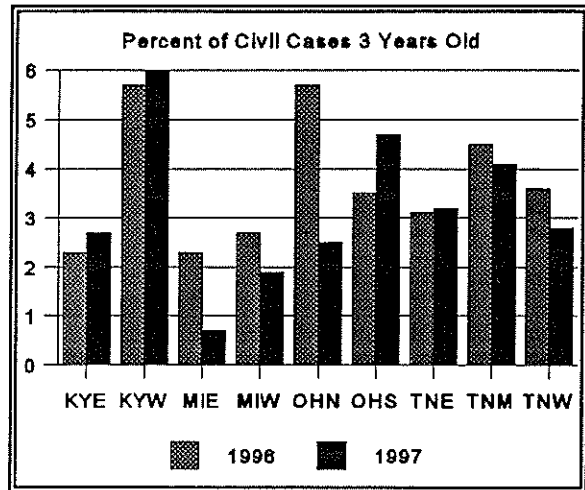


Figure 5

### Workload in the Bankruptcy Courts

Although the rate of increase declined slightly in 1998, filings in the bankruptcy courts in the Sixth Circuit continued to increase to more than 170,000 cases in 1998. Figure 6 shows the total bankruptcy filings per judge for each of the bankruptcy courts in the Sixth Circuit.

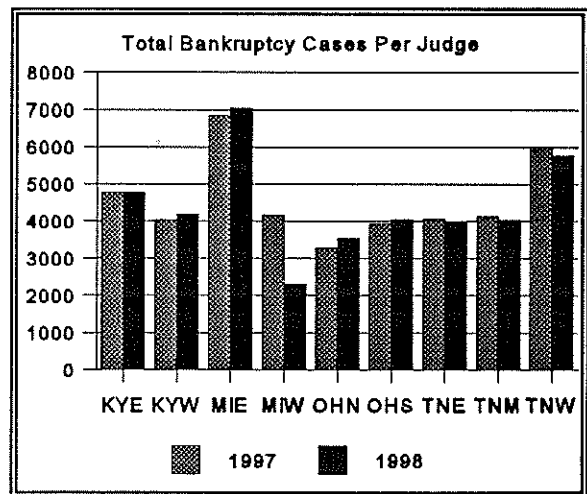


Figure 6

Chapter 7 filings increased circuit wide by approximately five percent in 1998. **Figure 7** shows the comparison of the Chapter 7 filings per judgeship for each district of the circuit for the last two years.

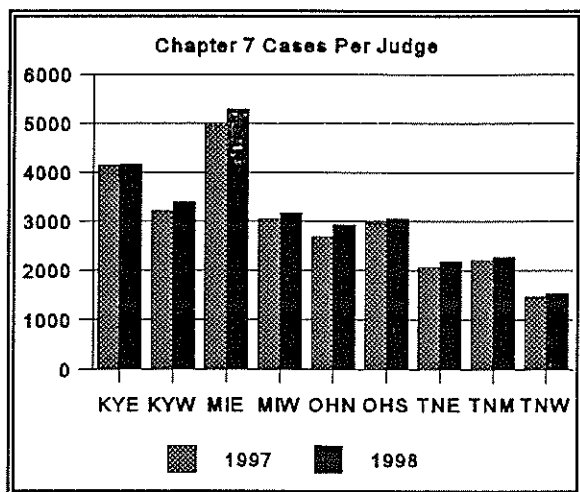


Figure 7

Chapter 13 cases also decreased slightly during 1998. **Figure 9** shows the chapter 13 - bankruptcy filings per judge for each of the bankruptcy courts in the Sixth Circuit for the last two years.

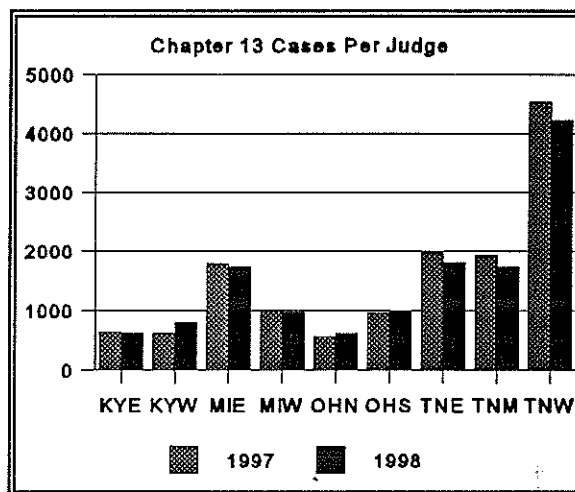


Figure 9

Chapter 11 filings circuit wide decreased by nearly 24 percent in 1998. **Figure 8** shows the chapter 11 bankruptcy filings per judge for each of the bankruptcy courts in the Sixth Circuit for the last two years.

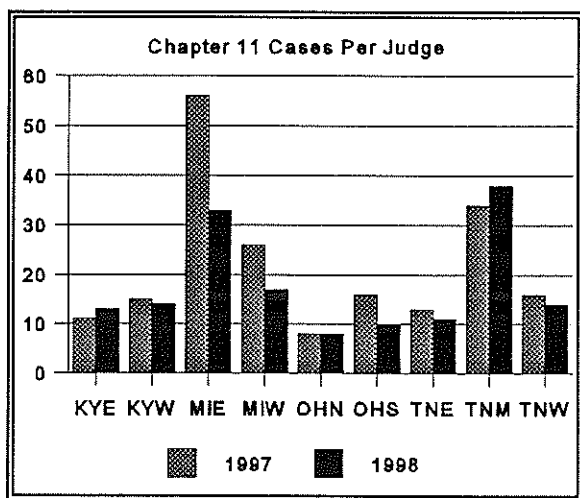
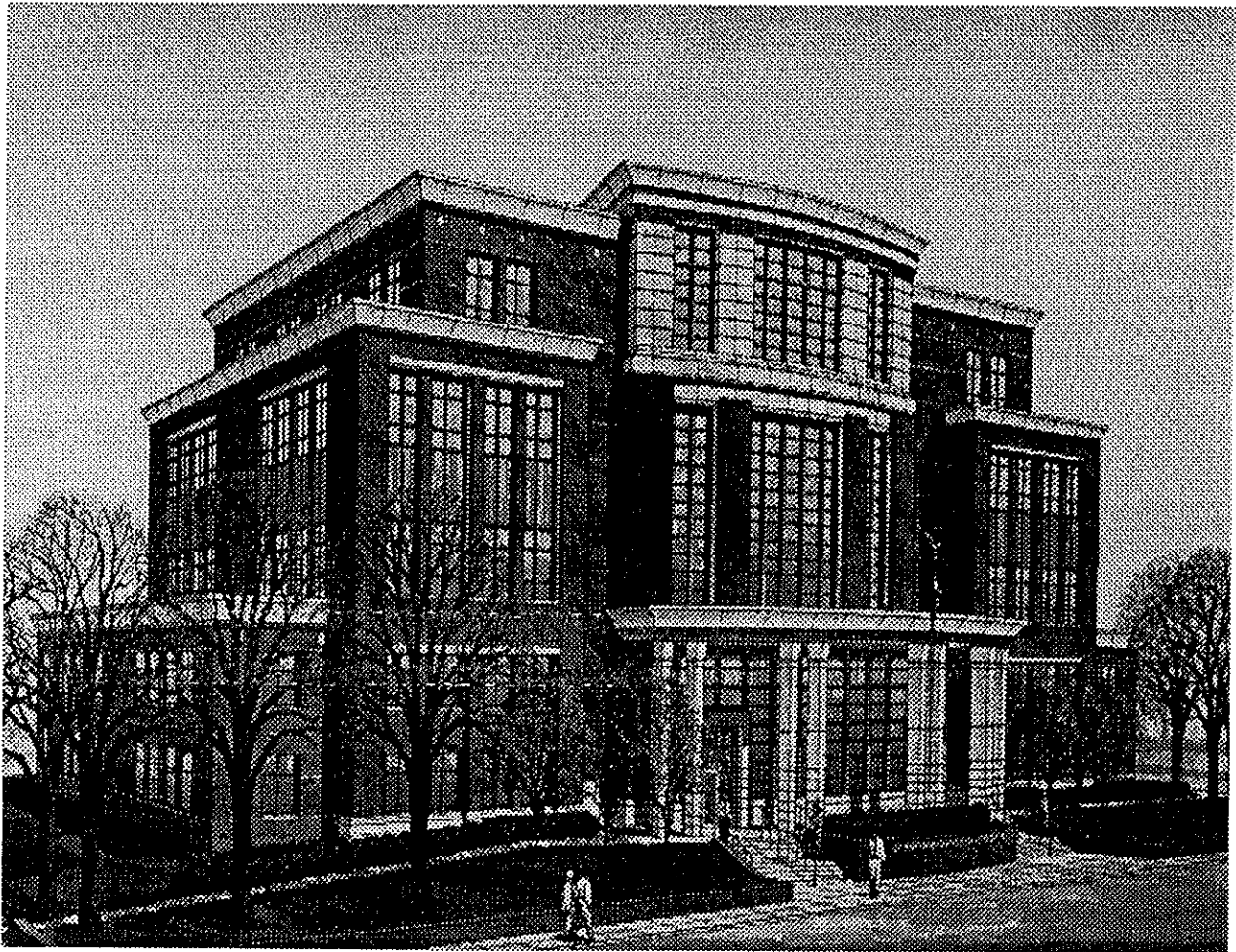


Figure 8

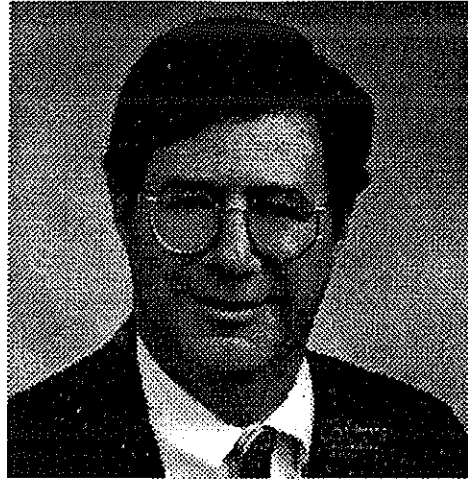
*Report of the  
United States Court of Appeals  
for the  
Sixth Circuit*



*Rendering of the new United States Courthouse  
in Covington, Kentucky*

**OFFICE OF THE CLERK**

Leonard Green, Clerk  
 Janice E. Yates, Chief Deputy Clerk



*Leonard Green, Clerk*

Led primarily by surges in federal question and habeas corpus appeals, the court's filings rose in 1998 by nearly 7% from the previous year's level, while case terminations decreased by approximately 3% during the year. Statistics reported by the Administrative Office of the U.S. Courts show the Sixth Circuit as having the largest proportionate rise in case filings of any of the circuits in 1998. The total of 4787 new appeals fell less than three dozen cases short of the court's high watermark of 4818 established in 1996. The slight decline in terminations brought the court back toward the level maintained from 1994 through 1996, after a slight increase in 1997.

sity filings decreased by 13% and several of the lessor sectors of the docket experienced a reduced level of filings, these declines collectively fell far short of offsetting the overall increase.

Pro se and prisoner-related filings continue to account for an increasing proportion of the appeals filed with the court:

	<u>FILINGS</u>	<u>TERMINATIONS</u>		<u>Prisoner &amp; Pro Se/Total</u>	<u>Prisoner &amp; Pro Se</u>
1998	4787	4380			
1997	4475	4510	1998	2199/4787	46%
1996	4818	4427	1997	1956/4475	44%
1995	4536	4398	1996	2231/4818	46%
1994	4523	4391	1995	1937/4536	43%
			1994	1870/4523	41%

The most significant docket development was the 31.5% percent increase in appeals filed by prisoners seeking post-conviction relief pursuant to 28 U.S.C. §§2241, 2254, and 2255. In addition, appeals brought under federal question jurisdiction increased by 21% over the previous year. Although diver-

A significant addition to the workload which must be borne by three-judge panels are petitions brought by prisoners seeking writs of mandamus or prohibition and applications for leave to file in the district court a second or successive petition for habeas corpus relief, as mandated by the

Prison Litigation Reform Act of 1996; during 1998 there were 71 of the former and 258 of the latter filed with the court.

In the face of this rising caseload the court continues to honor its long-standing commitment to bring to as expeditious as possible a resolution those appeals brought before it. In order to continue to be able to offer the opportunity for oral argument in as many cases as possible, the court continues to supplement its regular argument calendar with telephonic argument panels, hearing over 230 cases in this manner during 1998. The court continues to operate with less than its full statutory complement of sixteen active judges, and it is only because of the high level of participation by its own senior circuit judges and by visiting senior circuit and district court judges that it can maintain this vigorous argument calendar.

Death penalty appeals are now starting to come before the court in increasing numbers, although the expected deluge has yet to hit in full force. With over 225 death-sentenced prisoners in Kentucky, Ohio, and Tennessee, and with close to 60 habeas corpus challenges currently pending in the district courts in those three states and inexorably making their way toward the court of appeals, the court has taken pains to ensure that its rules, procedures, and practices will guarantee that these appeals receive the full measure of expedition and attention they require.

In order to provide an environ-

ment in which appeals proceed smoothly through the various procedural stages and on to submission on the merits, the clerk's office works closely with counsel, district court personnel, court reporters, and other necessary parties to ensure that the requirements of the Federal Rules of Appellate Procedure and the Rules and Internal Operating Procedures of the Sixth Circuit are understood and complied with. On December 1, 1998 a completely renumbered and revised version of the court's Rules and Operating Procedures took effect, complementing the amended federal rules which went into effect on the same date. The local rules and procedures were the product of a lengthy and comprehensive effort of the Advisory Committee on Rules, a 12-member body charged with bringing the perspective of the practicing bar to the court's consideration of matters of rule and procedure. The court deeply appreciates the dedication of the members of the Advisory Committee.

The clerk's office continues to provide technical, administrative, and logistical support to the Bankruptcy Appellate Panel, as it has since that tribunal commenced operations in January, 1997. The office looks forward to its continuing relationship with the BAP as that body continues its contribution to the jurisprudence of the circuit.

The clerk's office remains strong in its commitment to provide the highest level of service to the court and to those who bring cases before it. To that end the office welcomes suggestions on how it can improve the delivery of its services.

## OFFICE OF THE STAFF ATTORNEYS

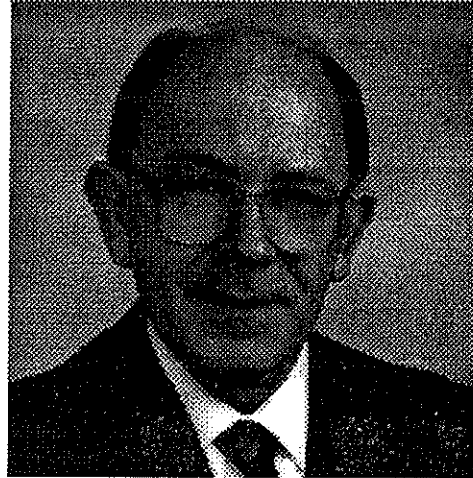
*Kenneth A. Howe, Jr.*  
*Senior Staff Attorney*

*Michael Cassidy*  
*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 eighteen 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 is to review all *pro se* and prisoner-related appeals and to prepare legal research memoranda for



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

those cases which do not appear to require oral argument. The criteria used in this review process are set forth in Sixth Circuit Rule 34(j) 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 34(j). 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 a single judge. 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. In 1998, the staff attorneys also assisted the court by preparing research (bench) memoranda on cases argued telephonically before a hearing panel.

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 698 legal memoranda on the merits of cases pursuant to Sixth Circuit Rule 34(j), 105 bench memoranda, and 302 memoranda on appeals lacking proper appellate jurisdiction. The office also presented to the court 607 applications for certificates of appealability, 44 motions seeking permission to file a successive petition, and 180 miscellaneous motions.



## CIRCUIT LIBRARY SYSTEM

Kathy Joyce Welker  
Circuit Librarian

Pamela Schaffner  
Deputy Circuit Librarian

The number of libraries within the Sixth Circuit Library System remained constant throughout 1997-98. Comprised of a main library in Cincinnati plus nine satellite libraries in the four states of the circuit, the library system continues to provide research support services to judges in all federal courts, court employees and members of the practicing bar. Program enhancements have included the implementation of the acquisitions and cataloging modules of the Integrated Library System, the re-implementation of LEXIS services to the courts, the release of an electronic version of the History of the Sixth Circuit, and the development of the extensive library Intranet website.

A national contract for an Integrated Library System (ILS) was awarded to the SIRSI corporation in 1997. Since that time, the Sixth Circuit Library has implemented two basic modules of that integrated system. The cataloging module (implemented in late 1997) forms the basis of the ILS, maintaining exhaustive bibliographical records for holdings in locations throughout the circuit. With this implementation, card catalogs housed in the circuit libraries were abandoned and the catalog is now only accessible via library computer terminals. Using the bibliographical records in the

catalog as the basis, the acquisitions module manages, throughout the circuit, the processes of ordering and receiving books and renewing subscriptions. This module also tracks expenditures of book funds. The acquisitions module was fully implemented in October, 1998, which was the beginning of FY99. Planning is now taking place for the implementation of the serials module and of the web-access catalog module. When the Administrative Office makes the web-access catalog module available to the circuit, an online library catalog will become a reality for all court personnel. They will then be able to access the online catalog on every court computer that is attached to the court's data communications network.

After the elimination of LEXIS-NEXIS access in the federal courts due to cost constraints, LEXIS-NEXIS offered to provide these services again free-of-charge. Pursuant to acceptance of this gift from LEXIS-NEXIS, the librarians administered the re-introduction of these services to the judiciary. They arranged for refresher training, distributed passwords to appropriate personnel, and worked with automation units throughout the circuit to install the appropriate LEXIS-NEXIS software on all computers needing such access. Court researchers again have access to both the WESTLAW research system and to the LEXIS-NEXIS system.

The electronic version of the History of the Sixth Circuit was added to the circuit court's website in 1998.



*Kathy Joyce Welker  
Circuit Librarian*

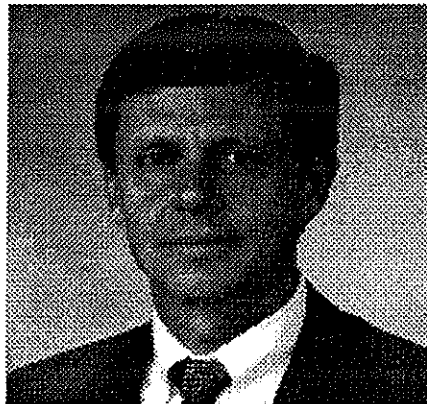
Updating and greatly enhancing the 1976 history of the court, this new electronic version can now be viewed from every court computer that is attached to the court's data communications network. Given its electronic format, it is now possible to continuously update and enhance the court's history. This history, a library publication, will be a valuable resource for researchers throughout the courts and beyond the courts now and into the future.

The library system's Intranet website has now become a major venue for supporting court research activities within the circuit and within the federal judiciary as a whole. Developed and constantly updated by librarians throughout the circuit, the website has become the major repository for collecting information that supports research activities. Common research questions are answered on the website. Via the library website, links are provided to numerous Intranet and Internet sites that are often the only place to locate essential information in support of the court's work. The website also contains in-depth analysis of the authority and veracity of various electronic



sources in order to help researchers assure that their research is accurate and current. This Intranet website is also serving as a prototype for a library Internet website that is expected to be released to the general public in the near future. The librarians will continue to use this venue as a means to further enhance the quality of research being performed in support of the work of the courts.

As the library continues to enhance its research support services to the courts, librarians continue to enhance their own research skills. They are using and providing all forms of media (from print to electronic) to reach the desired objective — improving all of our abilities to locate accurate, authoritative, verifiable information that helps the courts fulfill their missions effectively. Librarians look forward to continuing this process with the court's mission foremost in their planning.



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

## **CIRCUIT MEDIATION OFFICE**

### **1998 ANNUAL REPORT**

In 1998, our office completed work in 961 fully-counseled civil appeals. This approximately represents a cross section of the Court's civil docket minus the prisoner and agency cases. Our cases ranged from multi-million dollar contract disputes to complex anti-trust actions to very small sanctions appeals. As always, the largest categories are employment and civil rights cases. The length of our involvement ranged from a few days to many months and the depth ranged from just an initial conference call to more than twenty-five conversations.

The total number of cases mediated and settled is down a little from the average of prior years, due to the mid-year departure of one of our mediators. It is higher than expected, however, due to the outstanding performances of the rest of our staff. Everyone in the office matched or exceeded their previous personal settlement records. I was very pleased with our work for the year.

## AUTOMATION SUPPORT UNIT

*William M. Eggemeier*  
*Assistant Circuit Executive*

*Michael Nagel*  
*Systems Manager*

Total Cases Mediated	961
No. Settled	432
Settlement Rate	45%
BAP Cases	55
No. Settled	32
Settlement Rate	58%
Cases Referred	
by Hearing Panel	7
No. Settled	5
Settlement Rate	71%

Our contribution to the work of the Bankruptcy Appellate Panel (BAP) last year was fairly significant; thirty-two cases settled. The relatively high settlement rate in BAP cases continues to confirm everyone's initial expectation that these cases would be particularly amenable to mediation. The volume of BAP cases still is not overwhelming our resources at this time. As previously discussed, however, the addition of other districts to the BAP could trigger a need for an additional mediator.

Chief Justice Moyer of the Supreme Court of Ohio has announced he will seek an appropriation from the Ohio Legislature to fund a six-year program to start mediation programs in all of the state's courts of common pleas. These programs are being designed in significant measure around the experience and recognized success of this Court's program. We take pride in this example of the leadership our Court has provided in the field of mediation.

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 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 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 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.

Public Access to Appellate Court Information: 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 case docket information, published opinions, the court's oral argument calendar, local rules and operating procedures, and a variety of status reports on appellate cases. While there is a charge for case docket information, the other information can be accessed without charge. The cost for docket information on ABBS is \$.60 a minute.

Internet Access to Appellate Court Information: The information currently available on ABBS will soon be available on the Internet. Like ABBS there will be a charge for docket information but published opinions and

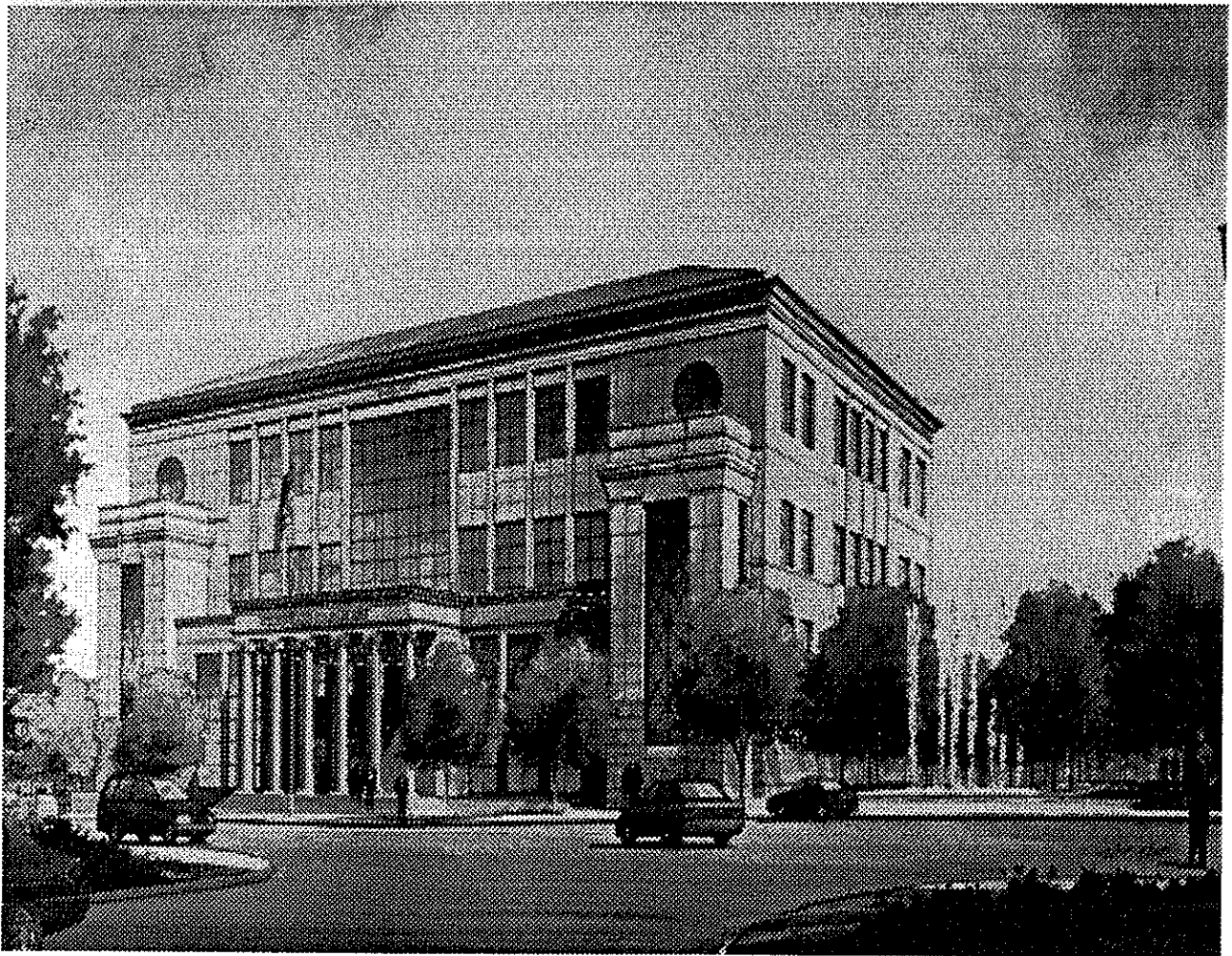


*William M. Eggemeier  
Assistant Circuit Executive  
for Automation*

the other items will be available free of charge. You will be able to access the Sixth Circuit's Web site at "[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)" or "[www.pacer.ca6.uscourts.gov](http://www.pacer.ca6.uscourts.gov)". This web site will be available by the Summer of 1999.



*Reports of the  
United States District Courts  
of the  
Sixth Judicial Circuit*



*Rendering of the new United States Courthouse  
in Jackson, Tennessee*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY

1999 ANNUAL REPORT

*Court Personnel.* The District has five active District Judges (fifth judgeship is shared with the Western District of Kentucky) plus one Senior Judge. Four of our five jury divisions of the Court have a full time Magistrate Judge. There are two full time Pro Se Law Clerks, 41 employees in the Clerk's Office and 45 Employees in the Probation Division.

*Space and Facilities.* The District has two new courthouses under construction. The new courthouse at Covington, to be occupied in July, 1999, is an impressive five story brick structure containing 114,055 square feet including three district court chambers with courtrooms; a magistrate judge's chambers with courtroom; a central library; and chambers for a Bankruptcy Judge with courtroom and Clerk's office. The ceremonial courtroom will have state of the art electronics.

The new London Courthouse is in the final design stage with construction projected to begin by September 1, 1999. The courthouse will contain 89,340 square feet and house two district judges with courtrooms; and a magistrate judge's chambers with courtroom. Court of Appeals Judge, Eugene Siler, will have chambers in the new structure. The old historic courthouse will be preserved

and occupied by the U.S. Bankruptcy Court.

*Investment of Registry Funds.* Since 1992, we remain the only District Court in the Sixth Circuit to participate in the Court Registry Investment System (CRIS). The Court finds the system to be more effective and time saving than the local investment of registry funds.

*Case Filings.* The Eastern District has experienced, in 1996, 1997 and 1998, a substantial increase in criminal case filings as well as a great increase in the number of social security cases. In 1995, 350 social security cases were filed. There were 884 filings in 1997 and 892 in 1998. This represents an increase of 154%. Senior Judge Wix Unthank has assumed the assignment of nearly all social security filings in the Eastern District; and in 1998, he closed 882 cases. Appended are Exhibits "A" and "B" showing graphically caseload statistics from 1994-1998.

*Joint Local Rules.* The operation of the Joint Local Rules for the Eastern and Western Districts of Kentucky continues to be highly successful. The rules were completely rewritten in 1997 and incorporate the numbering system of the Federal Rules of Civil and Criminal Procedure.

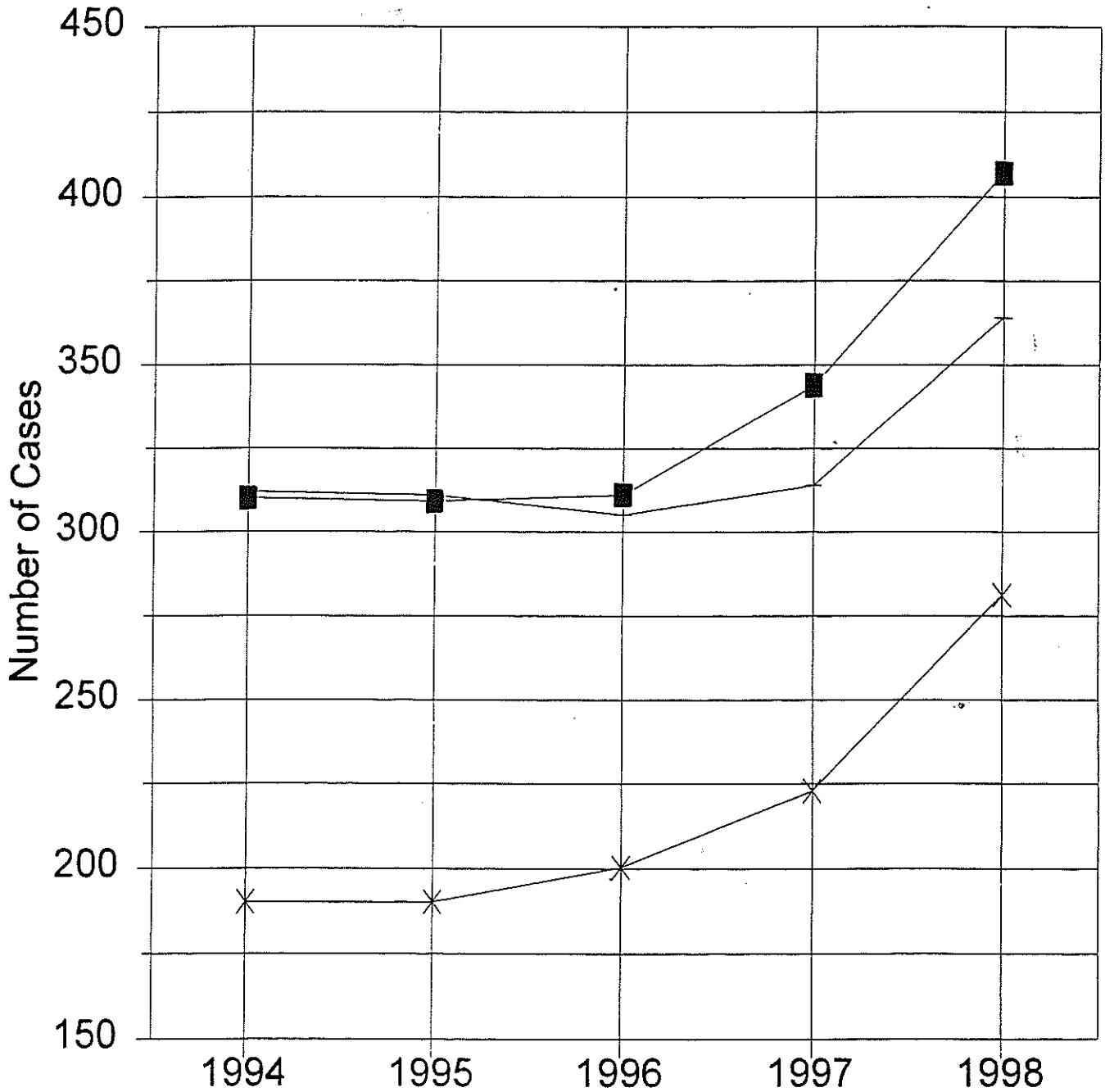
Respectfully submitted,

Henry R. Wilhoit, Jr.  
Chief U.S. District Judge



# United States District Court Eastern District of Kentucky

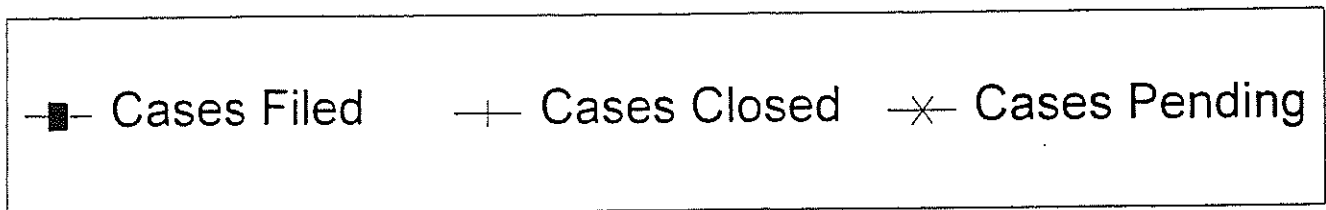
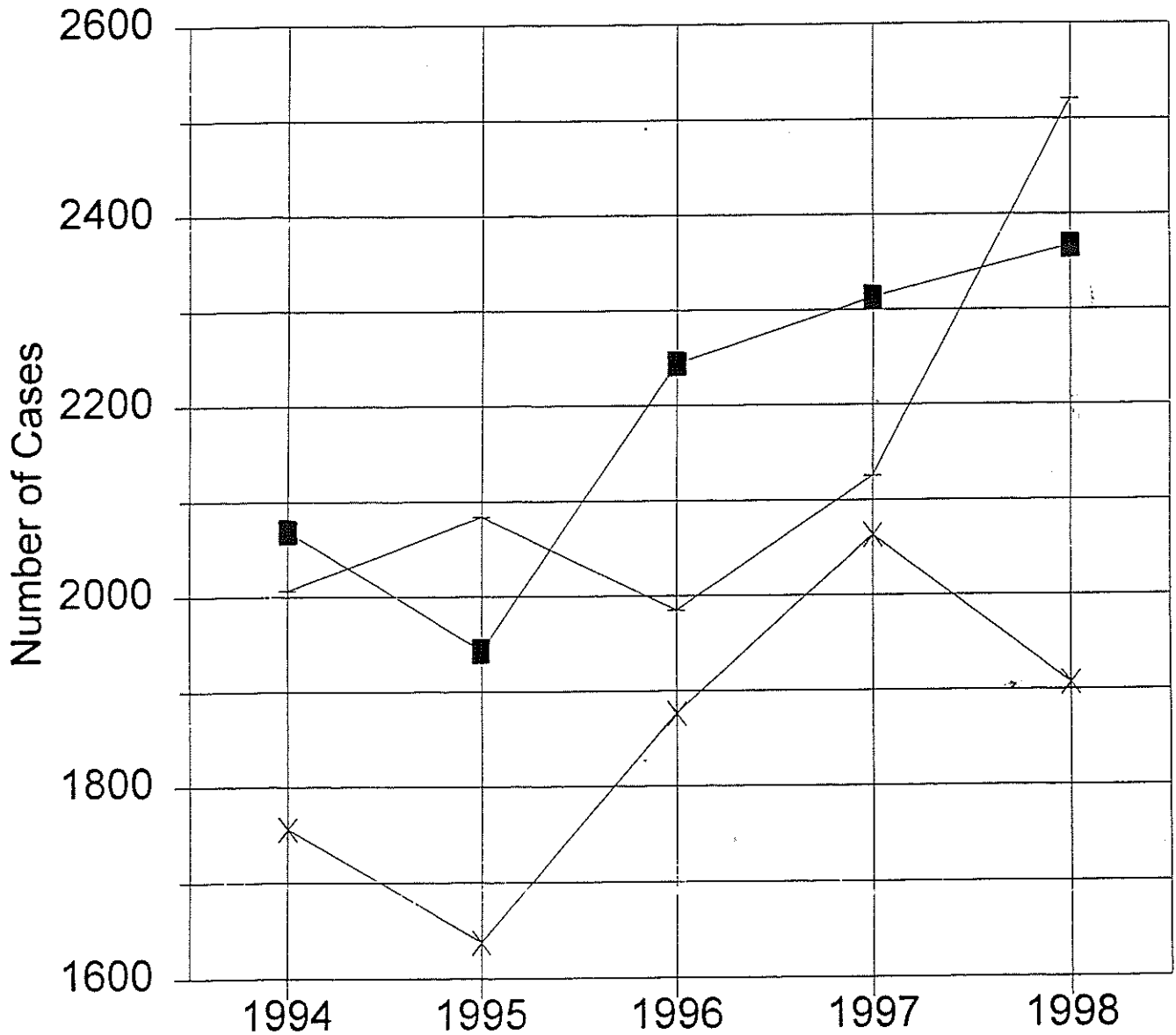
## Criminal Statistics: 1994 - 1998



■ Cases Filed    + Cases Closed    \* Cases Pending

# United States District Court Eastern District of Kentucky

Civil Statistics: 1994 - 1998



**BIENNIAL REPORT**

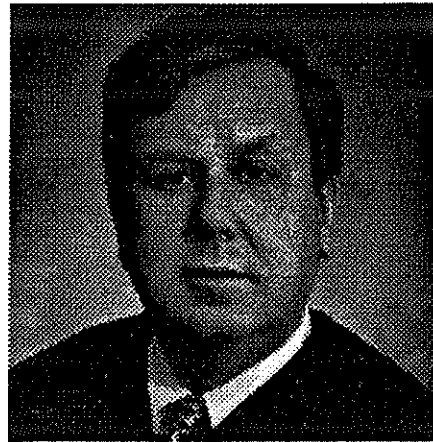
**UNITED STATES DISTRICT  
COURT  
WESTERN DISTRICT OF  
KENTUCKY**

**By Charles R. Simpson III  
Chief Judge**

The Western District of Kentucky has experienced relatively modest change in the past two years. Despite growth in both civil and criminal filings, our dockets are current. As our court approaches the new millennium, we continue to strive to improve our service to the bar and the public.

**I. Personnel.** United States Magistrate Judge E. Robert Goebel was appointed in May of 1998. He replaced United States Magistrate Judge John M. Dixon, who retired. Judge Goebel presides in Owensboro and also travels to Bowling Green. Prior to his appointment, Judge Goebel was a state trial court judge.

In May of 1997, the court appointed Darrel D. Gordon, Jr. to the position of Chief Probation Officer in place of Louis S. Sutherland, who reached mandatory retirement age. CPO Gordon is a native Kentuckian who previously worked in the probation offices in Louisville and Paducah. At the time of his appointment, he was a Supervising Probation Officer in the Middle District of Florida at Tampa.



*Hon. Charles R. Simpson, III  
Chief Judge*

**II. Automation.** The Western District of Kentucky continues to be at the forefront in the area of automation. Our web page, accessible at <http://www.kywd.uscourts.gov>, is a gateway to numerous links which are useful to the practicing bar as well as the general public. Docket sheets and court calendars from our four court locations at Bowling Green, Louisville, Owensboro, and Paducah can be easily viewed. Visitors can also obtain a district map, phone numbers and addresses of court personnel, along with local rules and a menu of fees. The most popular features on our web page are judicial opinions and jury instructions. Memorandum opinions on a wide variety of topics are viewable through a web page link, and are searchable through a search engine. A jury instruction database has recently become operative. It will also be searchable.

The Western District of Kentucky has also recently initiated, in "beta" or experimental form, an electronic filing project. About twenty-five lawyers have



been selected to participate. With the appropriate software, they are able to file motions, memoranda, and other pleadings electronically over the Internet. They receive an electronic receipt to prove filing. Storage in electronic form will substantially reduce shelf space in the clerk's office. We believe that this is the first step toward what may eventually be a largely paperless method of practicing litigation law in the next millennium.

In addition, our clerk's office is participating as a beta site for the federal judiciary's new financial and jury management systems.

Through remote access software, all of our judges are able to work at home when the need or opportunity arises, while staying in full contact with their chambers and electronic mail.

**III. Bricks and Mortar.** Several construction projects have been completed over the past several years. Judge Russell has moved into a new chambers and courtroom at the courthouse in Paducah. Extensive renovations have been largely completed in Owensboro, including the second-floor courtroom as well as a new joint-use district/bankruptcy courtroom on the first floor. Judge McKinley's chambers in Owensboro have recently been updated as well. The clerk's offices in Louisville and Paducah have been relocated to new space on the first floor of both courthouses. Ongoing construction projects include new space

in Paducah for Magistrate Judge King and a new hearing room in Bowling Green.

**IV. Judicial Conference Committees.** As Chair of the Budget Committee, Judge Heyburn continues to perform extremely valuable service for the entire federal judiciary. He is responsible for presenting and defending the judiciary's budget before committees of the United States Senate and the House of Representatives. Chief Judge Simpson continues as a member of the Committee on the Administration of the Bankruptcy System, which is responsible for addressing bankruptcy issues and administering bankruptcy courts across the country.

**V. Workload.** Total filings in the district have increased about 12% over the last five years. However, the dockets of all judges remain current. Criminal cases filed per judge have increased 24% over the last five years. Dispositions continue to exceed filings in all divisions, and our percentage of civil cases pending over three years continues to decline.

**VI. Senior Judges.** Our district continues to enjoy the valuable and selfless service of our senior judges, Charles M. Allen and Edward H. Johnstone. Recently, Judge Johnstone has taken up waterskiing behind his new speedboat. There is hardly any truth to the rumor that he wears his judicial robe while engaging in this pastime.



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

**1997-1998 BIENNIAL REPORT**

*Court Ceremonies.* On January 6, 1997, at an extraordinary session of the Court at the Theodore Levin United States Courthouse in Detroit, a ceremony commemorating the "Passing of the Gavel" from Chief Judge Julian Abele Cook, Jr. to Chief Judge Anna Diggs Taylor was held.

On July 3, 1997, at an extraordinary session of the Court in Bay City, the Court received the gift of a portrait of retired United States District Judge James Harvey. The portrait was presented to the Court by Judge Harvey's wife, June; their children Thomas Harvey and Diane Bradley; and former law clerks. The portrait will hang in the district courtroom in the Bay City Federal Building.

*Judicial Officers.* District Judge Barbara K. Hackett took senior status effective April 8, 1997.

Chief Judge Anna Diggs Taylor, who served as Chief Judge for two years, took senior status effective December 31, 1998. The Court honored Judge Taylor by authorizing the attached Resolution of Appreciation.

Effective September 30, 1997, Senior Judge Stewart A. Newblatt no

longer has cases assigned to him in this Court.

Effective October 30, 1998, Senior Judge Horace W. Gilmore no longer has cases assigned to him in this Court.

Judge Arthur J. Tarnow took the oath of office in a private ceremony on May 26, 1998. A public investiture ceremony was held on June 5, 1998.

Judge George Caram Steeh III took the oath of office at a public investiture ceremony on July 2, 1998 and was designated the resident judge in active service in Ann Arbor.

Judge Victoria A. Roberts took the oath of office in a private ceremony on August 11, 1998. A public investiture ceremony was held on September 11, 1998.

Magistrate Judge Paul J. Komives retired on July 12, 1997. He continues to serve the Court in a recalled status through July 15, 1999.

Retired Magistrate Judge Lynn V. Hooe, Jr.'s term of recall expired on June 30, 1998. He did not request to be recalled for an additional term.

Magistrate Judge Marc L. Goldman was appointed Executive Magistrate Judge on November 3, 1997.

As of December 31, 1998, this Court had one vacant district judgeship.

*Magistrate Judge Vacancy.* On May

4, 1998, the Court approved filling the magistrate judge vacancy created by the retirement of Magistrate Judge Komives. The Court also voted that the new magistrate judge would be assigned to Flint and that, upon appointment of the new magistrate judge in Flint, Executive Magistrate Judge Goldman's official station would be changed from Flint to Detroit. The Court also appointed a Magistrate Judge Merit Selection Panel to consider applicants for the magistrate judge vacancy.

*Designation of Bankruptcy Judges.* On March 2, 1998, the Court approved a two-year extension allowing the bankruptcy judges of the Eastern District of Michigan 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 March 18, 2000, unless extended by subsequent administrative order or local rule.

*Bankruptcy Court Local Rules.* On June 17, 1998, the Court approved the proposed Local Rules of the United States Bankruptcy Court for the Eastern District of Michigan.

*Attorney Admission Fee Increase.* On May 4, 1998, the Court approved increasing the attorney admission fee from \$75.00 to \$100.00, effective June 1, 1998.

*Juror Selection Plan.* In 1992, the Eastern District of Michigan adopted

a Jury Plan which was later interpreted as permitting a practice of removing, by random selection, white jurors from the qualified jury wheel in order to balance the jury pool according to the percentage representation of minorities in the master jury wheel. This interpretation was challenged and in February 1998 the Sixth Circuit Court of Appeals declared the practice unconstitutional (*USA v Ovalle et al.*). In response to this decision, the Court took immediate action to halt the unconstitutional exclusion of jurors based on race and revised its Jury Selection Plan to conform strictly to the dictates of 28 U.S.C. §1861 et seq.

*John Feikens Conference Center.* Space on the 7<sup>th</sup> floor of the Theodore Levin United States Courthouse was renovated to create a judges' conference center. In recent years, meetings with the entire bench had to be conducted outside the Courthouse because adequate facilities for these meetings did not exist in the Courthouse. The "John Feikens Conference Center" was dedicated in December 1998.

#### *Facilities.*

#### *Detroit.*

- The prospectus project was closed out with the completion of two district judge chambers and courtrooms on the 1<sup>st</sup> floor and expanded space for the Pretrial Services Agency on the 3<sup>rd</sup> floor of the Theodore Levin United States Courthouse.

- Space was renovated on the 9<sup>th</sup> and 10<sup>th</sup> floors for the Probation Department.
- Space was renovated on the 10<sup>th</sup> floor creating two senior judge chambers and one hearing room. The Court also approved two additional senior and visiting judge facilities on the 10<sup>th</sup> floor.
- Court approved a high security courtroom on the 1<sup>st</sup> floor.
- A satellite dish was installed to allow the Court to receive broadcasts from the Federal Judiciary Television Network (FJTN). Programs can be viewed from any one of eight locations in the Courthouse.
- GSA building improvements included replacement of the roof and the design of a new fire alarm system.

#### *Ann Arbor.*

- Expanded and renovated the former senior judge chambers on the 3<sup>rd</sup> floor to accommodate a district judge.
- Built a jury assembly room on the 2<sup>nd</sup> floor.
- Initiated a project to relocate the Probation Department to more functional space on the 2<sup>nd</sup> floor.
- Installed a new telephone system with voice mail capabilities.

#### *Flint.*

- Renovations were completed on the magistrate judge chambers.
- Renovations for the expansion of space for the Probation Department and Pretrial Services Agency, and a jury assembly room were completed.
- A satellite dish was installed to allow Court staff in Flint and Bay City to view FJTN broadcasts.

#### *Southfield (Satellite Probation Department Office).*

- The Probation Department's lease was extended for a 5-year period. Additional space was acquired for staffing increases.
- A new telephone system with voice mail capabilities was installed.

*Probation Department.* Since 1996, a different set of dynamics have challenged the Probation Department. As the supervised release caseload continues to grow, the staff continues to grow. However, probation officers hired during the expansion years (1972 - 1978) are retiring. Therefore, in addition to hiring staff to handle the increased workload, the Probation Department is facing the replacement of the retiring officers.

In 1997 and 1998, the Probation Department was relocated to renovated space on the 9<sup>th</sup> and 10<sup>th</sup> floors of the Theodore Levin United States Courthouse in Detroit. The renovated space provides for a

healthy work environment and allows for expansion in future years.

*Pretrial Services Agency.* Trends in drug treatment continue to include individual and group counseling. Field therapists are including more family counseling, theorizing that it may be crucial in treating defendants. Therapists are also incorporating marijuana specific groups. They state that treating clients with this addiction is difficult; some defendants feel that marijuana is not harmful or addictive. Also, gender specific groups are being developed to better address the needs of both males and females.

A new drug, GHB (Gamma Hydroxybutrate) has surfaced. It is illegal in the United States, but is used in Europe for medicinal purposes. It was sold over-the-counter in health food stores to bodybuilders during the 1980's to stimulate growth hormones. It has become popular in dance clubs. It is potentially fatal when combined with alcohol or depressants. It is colorless and odorless, taken in liquid form, and sells for \$5.00 or \$10.00 for a bottle-cap full.

Mental health cases have not proven to be more prone to violations than other defendants. That population does require additional efforts to ensure compliance with court-ordered conditions. The majority of these cases use federal, state, county, and private mental health treatment facilities. Most of the Pretrial Services Agency's expenditures in this component were

directed toward the cost of psychological/psychiatric evaluations.

An often neglected mental health condition impacting this Court is mental retardation (indicated by an IQ of 70 - 75), significant limitation in two or three adaptive skills areas, and with such condition having been present from childhood - age 18 or less). The United States Census estimates that 3%, or 7.5 million Americans, have mental retardation.



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

**RESOLUTION OF  
APPRECIATION**

**WHEREAS** Anna Diggs Taylor was appointed United States District Judge by President Jimmy Carter on November 2, 1979, and has served the people of the Eastern District of Michigan with distinction for more than 19 years, and

**WHEREAS** she notified the President of the United States and the Director of the Administrative Office of United States Courts of her intention to retire to Senior Status effective December 31, 1998, and

**WHEREAS** she was the first African-American woman to serve as Chief Judge of a Federal Court in the Sixth Circuit, and

**WHEREAS** she has served with distinction as Chief Judge of the United States District Court for the Eastern District of Michigan from December 31, 1996 until December 31, 1998, and

**WHEREAS** she has taken a special interest in the morale and well-being of the officers and staff of the Court, as exemplified by the creation of the Human Resources Group to assure even-handed personnel administration throughout the Court family, and

**WHEREAS** she was a leader in the commemoration of the birthday of Dr. Martin Luther King, Jr., as a joint venture of the Federal Bar Association and Focus: HOPE; and

**WHEREAS** she recognized the problems in providing facilities for senior judges as the Court grows ever larger, and she has graciously agreed to lead by example in accepting chambers without courtroom, and

**WHEREAS** she provided leadership in the establishment of the John Feikens Conference Center, the renovation of Probation Department and Pretrial Services Agency facilities, and the creation of display space for the Court Historical Society in the Theodore Levin United States Courthouse, and the establishment of new District Judge chambers in Ann Arbor, and

**WHEREAS** she has led the Court into the Twenty-First Century in technology by appointing the Court's first Automation Committee and by pressing for the development of the Court's Internet website,

**NOW THEREFORE BE IT RESOLVED** that the Judges of this Court express to Chief Judge Anna Diggs Taylor their profound appreciation for her long and faithful service to the United States of America, to the State of Michigan, to the legal profession, and to this Court culminating in her Chief Judgeship, and wish her good health and long life so that she may enjoy the well-deserved satisfaction and fulfillment of her Senior Status.

**UNITED STATES  
DISTRICT COURT**

**WESTERN DISTRICT OF MICHIGAN**

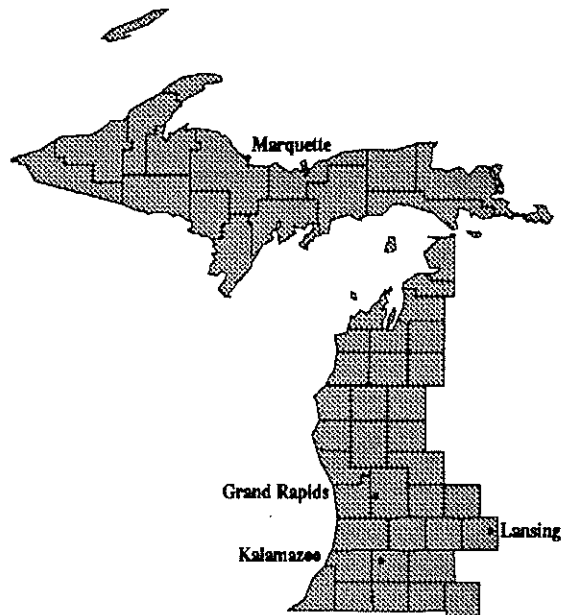
**Annual Report**

**A Message from the Clerk**

There were a number of exciting projects, changes and improvements in 1998 of which we are very proud. These include: the complete overhaul and revision of our local court rules; the installation of new satellite dishes in the Lansing and Kalamazoo offices and the replacement dish in Grand Rapids; the installation of video conferencing equipment in Grand Rapids and Marquette; construction of the new Grand Rapids Clerk's Office; and construction in the Lansing and Kalamazoo judges' chambers, to name a few. I want to thank the Clerk's Office staff for their support and hard work throughout the past year. Their efforts made the year a success.

I also want to extend my gratitude to chambers' staff, the U.S. Marshal's Office, the U.S. Attorney's Office, the U.S. Probation Office, the Federal Public Defender's Office and the Western Michigan Chapter of the Federal Bar Association for their support and cooperation during the year.

*Western District of Michigan.* The United States District Court for the Western District of Michigan is one of two district courts in the State of Michigan. The district is spread over



37,000 square miles, encompassing the western half of the lower peninsula and the entire upper peninsula of the state. The district includes 49 counties divided into two divisions. The Northern Division consists of fifteen counties. The Southern Division consists of thirty-four counties. The court's headquarters is in Grand Rapids. There are three divisional offices located in Kalamazoo, Lansing and Marquette.

***Judicial Matters***

*Judicial Officers.* The U.S. District Court for the Western District of Michigan has four Article III judges, three senior judges and four full-time magistrate judges located in four divisional offices throughout the district:

District Judges	Location	Appointment Date
Richard Alan Enslen, Chief	Kalamazoo	December 27, 1979
Robert Holmes Bell	Grand Rapids	August 7, 1987
David W. McKeague	Lansing	February 28, 1992
Gordon J. Quist	Grand Rapids	August 28, 1992
Wendell A. Miles, Senior	Grand Rapids	May 9, 1974
Douglas W. Hillman, Senior	Grand Rapids	September 28, 1979
Benjamin F. Gibson, Senior	Grand Rapids	October 3, 1979

Magistrate Judges	Location	Appointment Date
Hugh W. Brenneman	Grand Rapids	April 1, 1980
Doyle A. Rowland	Kalamazoo	September 9, 1985
Timothy P. Greeley	Marquette	January 11, 1988
Joseph G. Scoville	Grand Rapids	January 28, 1988

*Judicial Assistance in Other Districts.* During 1998, several of the Western District's judges provided support to other district courts, as well as the Sixth Circuit Court of Appeals, including the following courts:

- ◆ Northern District of Illinois
- ◆ District of New Mexico
- ◆ Sixth Circuit Court of Appeals

*Alternative Dispute Resolution.* The Judges of the Western District of Michigan encourage the use of alternative dispute resolution (ADR) and offer a broad selection of programs, including voluntary facilitative mediation (VFM), early neutral evaluation (ENE), Michigan (evaluative) mediation, court-annexed arbitration, summary jury trials, summary bench trials, mini-hearings and magistrate judge settlement conferences.

On June 1, 1999, new local court

rules governing the use of ADR in the Western District became effective. These rules formalize the use of both VFM and ENE. Mary Jo Schumacher, ADR Clerk, and Sue Rigan, Management Analyst, served on the Local Court Rules ADR Subcommittee. Many hours of effort were spent revising the existing ADR court rules and promulgating new rules for both VFM and ENE.

Judge David W. McKeague and Mary Jo Schumacher were appointed to the Michigan Supreme Court Dispute Resolution Task Force which developed a proposed state court rule requiring the use of facilitative mediation in the state courts.

The voluntary facilitative mediation program, which became effective January 1, 1996, continues to be a resounding success. On May 1, 1998, the court provided the original 29 mediators a day-long refresher course and trained 17 new mediators, including four intellectual property attorneys

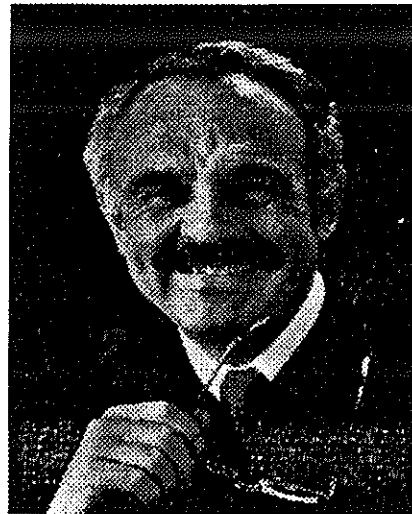


and five attorneys from the Northern Division.

Fifty-four percent of all eligible civil cases were referred to ADR in 1998.<sup>1</sup> This reflects an increase in the utilization of ADR over 1997 when 41% of eligible cases were referred. The table attached as an Exhibit provides a quick comparison of the referrals, completions and rates of success for the various forms of ADR utilized by litigants in the Western District of Michigan.

*Attorney Admissions.* There were 621 attorneys admitted to the U.S. District Court for the Western District of Michigan in 1998. As of the end of the year, a total of 13,144 attorneys have been admitted to the Western District of Michigan since the court was created in 1863.

In addition, the court continues to run the Hillman Advocacy Program in January each year. The 19<sup>th</sup> annual Hillman Advocacy Program was held in 1998. This learn-by-doing workshop is a joint effort of the court and the Western Michigan Chapter of the Federal Bar Association. It is conducted in the courtrooms of the Ford Federal Building in Grand Rapids, and runs for 2-½ days with a volunteer faculty of 20 outstanding trial lawyers from our district. Seventy young lawyers are provided with a unique opportunity to



*Hon. Richard A. Enslen  
Chief Judge*

develop courtroom skills under the guidance of the experienced faculty. The judges of our court actively participate in the workshop and offer their critiques as the students conduct direct and cross examinations. Eleven new lawyers were admitted to practice in our court during an admissions ceremony held in conjunction with the workshop.

*Automation.* Technology and information systems continue to be vital in the operation of the Court and the Clerk's Office. The entire district continues to rely heavily on automated systems and we were able to enhance and improve those systems again in 1998. Below are some highlights of those enhancements and improvements:

- The district's implementation of the Judiciary's Data Communication Network was enhanced with the installation of high speed data lines between Grand Rapids and the divisional offices in Kalamazoo, Lansing and Marquette.

---

<sup>1</sup> Exclusive of § 2255 motions, habeas corpus petitions, prisoner civil rights cases, prisoner petitions, social security appeals, student loan actions and bankruptcy appeals.

- The district's Intranet continued to grow as an important information tool.
- The Chambers Computer Users Committee completed updates to its Chambers Computer Users Handbook and continued to work closely with the Systems Staff on various other projects.
- Satellite dishes and receivers were installed in Grand Rapids, Kalamazoo and Lansing as part of the Federal Judiciary's Television Network. A satellite dish and receiver will also be installed in Marquette in early 1999.
- The aging and problematic phone system in Grand Rapids was replaced with Centrex service from MCI-Worldcom through a GSA administered contract.

***Finance and Procurement.*** In calendar year 1998, the finance area processed 3,721 vouchers and 7,689 checks, an increase in both from calendar year 1997. This increase is attributed to the Clerk's Office becoming responsible in April 1997 for processing all payments related to criminal debt management; this includes special assessments, fines and restitution payments. As a result of this shift in responsibility, the Clerk's Office continues to experience an increase in workload in the intake area, as well as disbursements.

Total disbursements, excluding

the deposit and registry funds, totaled \$3,188,174. Additional responsibilities for the financial department include the investment of funds ordered by the court. During this twelve month period, the registry fund monthly balance averaged \$4,093,042.

***CJA Voucher Processing/Payments.***

With the establishment of the Federal Public Defender's Office in 1995, payments related to reimbursement of attorneys and experts appointed under the Criminal Justice Act (CJA) in calendar year 1998 continue to show a decline in numbers as compared to previous years. It is anticipated that payments to attorneys and experts related to the CJA will continue to decline in future years.

An effort is made each year to collect funds owed by a defendant when ordered by the court to reimburse the court for all costs of compensation and expenses incurred by their court-appointed counsel. Payments received in calendar year 1998 increased slightly from the previous year.

***Receivables Program.*** In an effort to improve customer service, and avoid potentially lengthy processing delays for members of the bar, a Receivables Program was established in May 1997. This program allows law firms, sole practitioner attorneys or other business entities the ability to receive services without the standard requirement for prepayment of the necessary fees. Because of limited staff resources and the higher probability of potential uncollectible debt, general members of the public are still required to prepay fees before services are rendered. The types of receivables allowed by the court are limited

to attorney admission fees, sale of local court rules, copy fees, record searches and certifications.

During 1998, the first full year of the program, the Clerk's Office issued 598 invoices representing a total receivables amount of \$17,100. Because it is the policy of the finance area to actively pursue the collection of all receivables and other statutory fees, we maintain a 99.9% collection rate.

*FAST (Financial Accounting System for Tomorrow).* The contract for FAST was awarded during the second quarter of calendar year 1997. In the fall of 1997, the court was advised that our district was selected as an Early Implementation Court for FAST with implementation commencing in October 1998. Due to a change in the database software, additional testing is being conducted by the Beta sites. Implementation is anticipated to commence in late 1999. In order to ensure a successful implementation for the district, the financial administrators for the district and bankruptcy courts attended an implementation project overview meeting in Washington, DC in early November 1998. This meeting discussed the approach the Administrative Office would be taking in order to make the transition as seamless as possible. A project management guide, which included the development of a Ready State and Operational State Project Plan unique to each district, was being created to assist courts in their efforts.

The FAST project entails replacing the current accounting programs used to run the day-to-day operations of the courts with a standardized, fully integrated state-of-the-art accounting software program which will be used nationwide by all court units. The software for core areas being tested and enhanced are funds management, collections, procurement and disbursement. Additional software enhancements will be developed in the future for travel, jury and criminal debt management.

*Procurement.* There were 373 purchase orders issued during 1998, compared with 442 issued during 1997 and 447 issued in 1996. Generally, the quantity of purchase orders remains fairly consistent each year. We have, however, streamlined procedures for a more efficient method of processing purchase orders to reduce the administrative costs to the court. Every effort is being made to cut costs while ensuring fine quality in the products and services we receive.

The Western District purchased and installed video conferencing equipment in Marquette and Grand Rapids to conduct judicial proceedings and administrative business without the enormous delay experienced by traveling between the two offices.

*Jury.* In 1998, the court selected petit jurors in 21 criminal cases and 16 civil cases. A total of 403 people were selected and sat as jurors.

The total number of jurors present for jury selection in 1998 was 1,466 which compares with 1,823 in 1997. Of those

jurors present, 27% were selected, 36% were challenged and 37% were unused. The percentage of unused jurors increased from 32% in 1997 to 37% in 1998.

Five grand juries met in 1998. Of those five, one completed its term of service and was discharged. Over a period of 108 days, 2,246 grand jurors met in session for a total of 658 hours or an average of 6.09 hours per day. Indictments were returned in 207 cases while superceding indictments were returned in 19 cases.

**Naturalization.** The naturalization ceremonies take place monthly at the Gerald R. Ford Museum in Grand Rapids, and periodically in Marquette in the Northern Division. During 1998, the court naturalized 1311 citizens in Grand Rapids and 61 in Marquette. They represented 91 different countries. Once again, the court held a successful and popular outdoor ceremony on the Fourth of July in conjunction with the city's planned festivities.

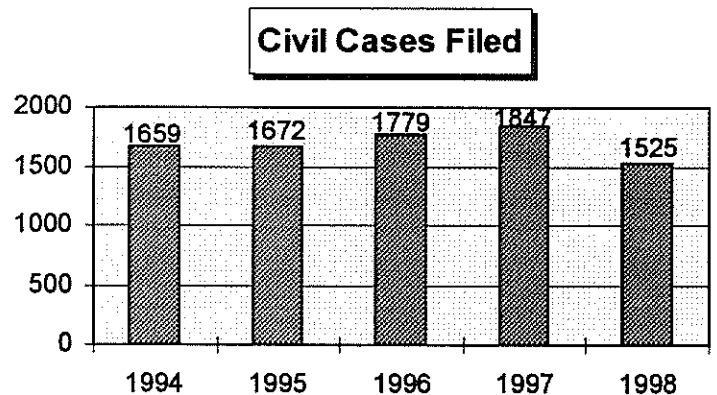
**Operations.** 1998 was the first full year of having a filing depository available for public use. In 1998, the Grand Rapids office averaged 20 documents filed per month. The use of the filing depository is primarily out of the main office in Grand Rapids. It is most often used before business hours, from 7:30 a.m. to 8:00 a.m., and in the late afternoon hours between 2:00 p.m. and 5:30 p.m.

In August of 1998, the court

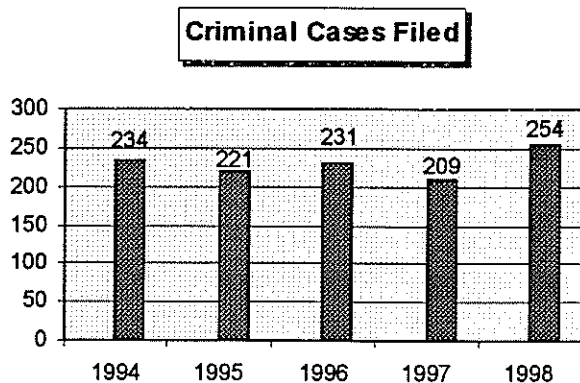
began sending a notice of availability of a magistrate judge to exercise case-dispositive jurisdiction and a consent form to all parties in social security cases. To assist staff in sending the form, the ICMS docketing system was modified to automatically generate the form at the time the order directing filing of briefs is docketed.

We began work on a project to place court forms on the court's intranet site for use by all employees. These forms were created using Omniform Internet Publisher software. Existing forms were scanned in and fields for entry of information were identified. Users are now able to access the forms through the court's intranet, complete them and print them as needed. We also prepared and distributed a detailed party name reference guide. This guide assists docket staff in maintaining standard party name entry.

In 1998, 1525 civil cases were filed. This represents a significant decrease in the number of civil cases filed last year (1847). We can attribute a large portion of the decrease to the Prison Litigation Reform Act, which was enacted in 1996. Since its inception, prisoner civil rights filings have declined steadily. For example, there were 598 prisoner civil rights cases filed in 1994, while approximately half that number (306) were filed in 1998.



There were 254 criminal cases filed in 1998. This represents a 21% increase in the number of criminal cases filed last year. However, the number of criminal defendants that make up those cases remained constant from last year (368 defendants in 1997, and 369 defendants in 1998).



At the end of calendar year 1998, the court's overall pending caseload stood 1296, consisting of 1108 civil cases and 188 criminal cases. Last year, the court's overall pending caseload stood at 1537, consisting of 1373 civil cases and 164 criminal cases. This represents a 16% decrease in total cases filed.

**Personnel.** In 1998, we had few staffing changes. However, several staff were out for extended periods of time for medical purposes throughout the year. These lengthy absences resulted in staff taking on additional duties. In spite of the heavier work loads, the Clerk's Office continued on with business as usual. To keep staff apprized of benefit changes and/or training opportunities, announcements continued to be made via the Clerk's newsletter, cc:Mail, and

flyers/postings.

Since the satellite dishes were installed, our access to training for staff continued to increase. We continued to take advantage of a number of FJC satellite training broadcasts at no charge. The satellite link provides excellent opportunities for professional development and court-related training at the touch of a dial without a significant cost to the court, while reaching a greater number of people including those in other agencies. In addition, all FJC satellite broadcasts are taped and added to our library of training materials.

Also in September, the Seventh Annual Law Clerk Orientation day was held in Grand Rapids to welcome new law clerks. The day consisted of a Clerk's Office function overview, library training, lunch with current law clerks, and computer training.

**Space and Facilities.** The planning stages of the district's electronic evidence presentation program continued to develop during the year through judicial and staff visits to other courts operating various technologies.

In August, GSA awarded the contract to construct the new Clerk's Office on the third floor of the Grand Rapids Ford Federal Building. This project had been in development since at least 1991. The contract completion date is set for April 18, 1999.

Beginning in FY 1996, the Western District requested GSA initiate the design intent phase of a project to construct a

dedicated jury assembly and grand jury suite consistent with the criteria of the United States Courts Design Guide standards in the existing second floor space in Grand Rapids.

GSA's Real Estate Development Branch and the District and Bankruptcy Court Clerk's Offices completed the design intent drawing phase for plans to relocate the Kalamazoo bankruptcy court from their current commercial leased facility into the Kalamazoo Courthouse. The project also includes relocating the District Court Clerk's Office from the current basement space to the first floor, adjacent to the planned bankruptcy courtroom.

### *Special Events in 1998*

*Russian Law Students Visit the U.S. District Court.* Each year, our court provides tours and presentations for various school classes throughout the area. On February 5 and March 19, 1998, the U.S. District Court for the Western District of Michigan was visited by two groups of Russian students, a total of 35, from the Law Institute in Moscow.

The Western District offers a unique educational experience to these students and in this particular instance, also promotes international understanding and friendship.

*Visitors from the Federal Court of Australia.* In 1998, the Clerk's Office was visited twice by executives from the

Federal Court of Australia. In April, Mr. Warwick Soden, Registrar of the Federal Court, came to meet with Judges and staff to learn more about our civil case management system and the automated support for our case management system. In September, Mr. John Mathieson, District Registrar, came to learn how our individual dockets operate, the systems and staffing needed to support the dockets, and the monitoring, reporting, and performance standards used to maintain system compliance.



United States District Court  
for the  
Western District of Michigan

**ADR Comparison Table  
January 1, 1998 - December 31, 1998**

	Michigan Mediation (L.R. 42)	Voluntary Facilitative Mediation	Early Neutral Evaluation	Arbitration	Summary Jury Trials	Summary Bench Trials	Mini-Hearings	Magistrate Judge Settlement Conferences	Total
Cases referred	113 (26%)	92 (22%)	8 (2%)	5 (2%)	0 (0%)	0 (0%)	0 (0%)	209 (49%)	361 (100%)
ADR completed	71	72	12	2	0	0	0	81	238
Settled	21 (30%)	44 (61%)	8 (67%)	2 (100%)	0 (0%)	0 (n/a)	0 (n/a)	32 (40%)	87 (37%)

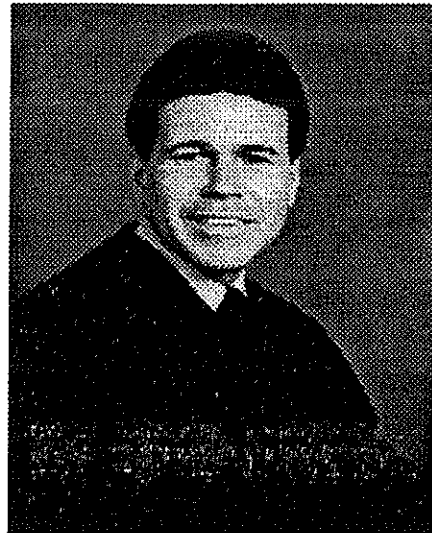
**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

**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. With 12 authorized judgeships, it is among the 15 largest U.S. district courts.

During the past year there have been several changes in the composition of our bench, the Court has installed one of the most technologically advanced electronic courtrooms in the country, the district has extended its experiment with electronic case filing over the Internet to all types of civil cases, the new court house in Cleveland is now under construction, and video-conferencing equipment and satellite receivers have been installed at each Court location to make remote witness testimony possible and to extend remote training opportunities to judges and staff.

*District Judges.* The Northern District of Ohio is authorized twelve judgeships, eleven permanent and one temporary. Since 1989, the district has been at full judicial strength only twice, for periods of less than 7 months each time. The district now has one district judge vacancy that was created at the close of business on February 26, 1999 when Chief Judge George W. White retired from the bench to become the Director of the newly established Cleveland Browns Charitable



*Hon. Paul R. Matia  
Chief Judge*

Foundation. Judge Paul R. Matia became Chief Judge on February 27, 1999. The most recent additions to the district court bench are Judge James S. Gwin (November 7, 1997) and Judge Dan Aaron Polster (August 10, 1998). Senior Judge William K. Thomas retired on January 31, 1998, and Senior Judge Sam H. Bell relinquished his chambers and staff on September 4, 1998, although he continues to assist the Court.

The Court has been concerned that it could lose its temporary judgeship because, absent congressional action, authorization for the position will lapse with the first judgeship vacancy created November 15, 2001 or later. The Judicial Conference has recommended to Congress, however, that the judgeship be converted to permanent status. Extending the term of the temporary judgeship remains a high priority.

In October, 1998, district and magistrate judges held the Court's fourth annual judicial retreat. Michael Goldsmith



of the U.S. Sentencing Commission served as guest speaker. The Court also received an update on federal habeas corpus, revised its Criminal Justice Act Plan and received a progress report on the new court house construction 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. The Youngstown magistrate judge position recently became vacant upon the resignation, effective March 31, 1999, of Magistrate Judge James D. Thomas who returned to private practice. On February 17, 1998, retired-recalled Magistrate Judge Joseph W. Bartunek left the bench. His vacancy was filled on April 20, 1998 by Magistrate Judge Nancy A. Vecchiarelli.

The role of the magistrate judges in the management of civil cases continues to be significant. As of the end of 1998, magistrate judges presided over 429 (14%) of the pending civil cases. Magistrate judges were the presiding judicial officers for 486 (11%) of the civil cases that were resolved in 1998, up 79% from the 272 civil cases magistrate judges closed in 1991, shortly before the district implemented its Civil Justice Reform Act delay and cost reduction plan.

*Electronic Courtroom.* The Northern District of Ohio strives to provide litigants with the best facilities

available to assist in the efficient administration of justice. In order to streamline the presentation of evidence at trial, the Court installed one of the most technologically advanced courtrooms in the country in its Cleveland court house. Through the use of a Digital Evidence Presentation System (DEPS), counsel can display exhibits, realtime transcripts, video recordings or multimedia presentations with the push of a button. The system includes a document camera for displaying documents, x-rays and three-dimensional objects; 15" flat-panel video displays on counsel tables, the judge's bench and between jurors; VGA connections to display documents, multimedia presentations or images from a portable computer on any monitor in the courtroom; technology-ready counsel tables; realtime court reporter transcription; a visual image printer to produce 3" x 5" prints of any image displayed through the DEPS; a tablet and light pen which permit on-screen drawing and highlighting to emphasize specific details of evidence; a videocassette recorder; infrared equipment for listening assistance and language translation; and under carpet CAT 5 connections. The district also has portable evidence presentation equipment available at all Court locations.

*Video-Conferencing and Satellite Reception.* The district has obtained video-conferencing equipment for each of its Court locations as part of a prisoner video-conferencing project. This equipment can also be used for a variety of other purposes including remote witness testimony and administrative meetings of the Court. In addition, the Court has installed satellite

receivers in each court house to enable judges and staff to participate in satellite training programs offered by the Administrative Office and the Federal Judicial Center. Primary funding for the electronic courtroom, the video conferencing equipment and the satellite receivers was provided by the Administrative Office.

*Electronic Case Filing.* The Court now permits attorneys to file documents from their own offices over the Internet in selected civil cases using a prototype system being developed by the Technology Enhancement Office of the Administrative Office of the U.S. Courts. Some 38 traditional civil cases have been filed electronically, including contract, civil rights and patent matters. The Court is among four district courts and five bankruptcy courts now using the prototype system. Electronic filing streamlines the typically labor intensive process of creating legal documents, filing them with the Court and making them available to the other parties in the litigation, while providing 24 hour per day access to court records. The prototype system builds upon the Court's prior success with electronic filing for its maritime asbestos litigation in which 40 plus law firms have electronically filed more than 165,000 documents in 16,089 cases since January, 1996 in the first use of the Internet for filing by any court. Because the electronic filing system being pioneered here is inexpensive, easy to use and provides improved access to Court records, we expect that

its use will become commonplace in the years ahead.

*New Court Houses.* Ground-breaking for the new U.S. Court House in Cleveland was held in May, 1997. The site for the 24-story building is in a landmark location on the river front anchoring a major redevelopment corridor and will serve as a counterpoint to the new Cleveland Stadium being constructed on the lakefront. Site preparation and foundation work has been completed. The structural steel work will begin in April with the building being topped out in one year. When the new court house is completed in 2001, it will have 432,000 occupiable square feet and will house all Cleveland-based court of appeals judges, district judges, magistrate judges, the Clerk's Office, the U.S. Probation Office, the U.S. Pretrial Services Office, the U.S. Marshal and the U.S. Attorneys Office. By consolidating the Court family in one building, we expect to achieve substantial improvements in court security as well as significant cost savings through the reduction of costly leased space. The bankruptcy court will relocate from leased space into the existing court house after it is renovated.

The U.S. Senate Environment and Public Works Committee has authorized construction of a second federal building/courthouse in Youngstown. The Thomas D. Lambros Federal Building and U.S. Courthouse in Youngstown was subjected to funding cuts during its construction phase and has never fully met the space requirements of the District or Bankruptcy Courts. The new plan calls for

the Bankruptcy Court, the U.S. Trustee, the U.S. Congressman, and field offices for the Internal Revenue Service and the General Services Administration to occupy the new facility, while the District Court and other court agencies expand within the existing building.

A new U.S. Court House is proposed in Toledo and is in the Court's five-year plan for site and design in 2002. The new facility will house the District Court, and the existing court house will be studied for use by the Bankruptcy Court and other court agencies.

*Facilities.* In addition to planning for the new court houses, the district has prepared facilities for 14 new judicial officers during the past six years. Three of those renovation projects were completed in the last two years, as well as construction of two chambers and a shared courtroom for the two senior judges in Akron.

*Current Cleveland Court House.* On May 27, 1998, the existing U.S. court house in Cleveland was renamed the Howard M. Metzenbaum United States Court House.

*Civil Docket.* Civil filings continue at a historically high rate. Although non-asbestos civil case filings fell 9% from the record high of 4,328 in 1997 to 3,926 in 1998, that still represented the second largest number of civil filings ever for the district. Civil case filings have increased 16% since 1991. According to

the Judicial Caseload Profile for the year ending September 30, 1998, the district's weighted filings per judgeship is 5% above the national average (509 to 484) and ranks third in the circuit and 27th overall. While case filings continue at high levels, the number of pending non-asbestos civil cases is at its lowest level in the decade. Pending civil cases decreased 13% from 3,630 at the end of 1997 to 3,170 at the close of 1998.

*Criminal Docket.* The number of criminal case filings and criminal defendant filings rose to record levels in 1998. Criminal case filings increased 18% from 479 in 1997 to 567 in 1998 and were 32% above the 430 criminal cases filed in 1991. Criminal defendant filings increased 10% from 792 in 1997 to 871 in 1998 and were 27% above the 684 defendant filings in 1991. Although the number of criminal filings have reached record levels for the district, the number of criminal filings remain relatively low when compared with other districts. For the period ending September 1998, the district ranked 61st in the nation and sixth in the Sixth Circuit in criminal felony case filings per authorized judgeship. Nevertheless, the number of pending criminal cases and criminal defendants approached, but did not quite reach, the previous record highs set in 1992 when the district had several district judge vacancies. The number of pending criminal cases rose 14% from 318 at the end of 1997 to 364 at the end of 1998. The number of pending defendants decreased less than 1% from 569 to 565. Since the end of 1991, pending criminal cases increased 20%, and the number of pending criminal defendants rose 11%.

*Asbestos Docket.* Although all asbestos cases in the federal courts have been transferred to the Eastern District of Pennsylvania for pretrial supervision under Multi District Litigation, asbestos cases continue to be filed and docketed here. Asbestos case filings declined 6.16% from 5,325 in 1997 to 4,997 in 1998, with a substantial decrease in the rate of filing occurring after the death of the lead plaintiff counsel in the maritime asbestos litigation. The district now maintains about 36,000 asbestos case files.

*Civil Justice Reform Act.* As a demonstration district for differentiated case management as well as an early implementation district under the Civil Justice Reform Act of 1990, the Northern District of Ohio adopted a Differentiated Case Management (DCM) Plan, a wide menu of Alternative Dispute Resolution (ADR) options and a Pending Inventory Reduction Plan (PIRP) to manage its civil caseload. These programs have proven highly successful and remain popular with the bench and the bar. Much of the district's success in maintaining current dockets during times of increasing case filings and judicial shortages can be attributed to these programs under which the Court continues to operate. Since these programs were initiated, the number of cases three years and older has been reduced by over 55% and the number of motions pending six months or longer has declined by 66%.

*Advisory Group.* Perhaps the most positive aspect of the Civil Justice Reform Act was the creation in each district of a CJRA Advisory Group. Those groups provided an avenue for a continuing dialog between the bench and the bar on effective case management and other issues of interest. Following the recommendation of the Judicial Conference that the advisory group process be continued, the Court has extended the membership and expanded the mission of the Advisory Group for the Northern District of Ohio to cover all matters of interest, whether civil or criminal, to the bench and the bar.

*Juror Utilization.* The district has placed special emphasis on improving its rate of juror utilization ever since 1989 when it ranked last in the circuit and 93rd nationwide in the percentage of jurors called but not used. The district now utilizes sound juror management techniques such as staggering trial start times, pooling jurors, using multiple voir dire and assessing jury costs for late settlements. During 1998, only 27% of the jurors called were not used, which satisfied the Judicial Conference goal of having no more than 30% not utilized. As a result of information gained by attending a jury utilization and management seminar, the District has also improved juror morale by offering healthy snacks to seated petit and grand jurors, making public transportation schedules available in our jury assembly rooms, and surveying all seated jurors and sharing the results with the presiding judicial officer.

*Naturalization of New Citizens.* The Court administered the oath of allegiance to

3,151 new citizens in the fiscal year 1998. In addition to regular bi-monthly ceremonies in Cleveland, five additional ceremonies were conducted at locations throughout the Eastern Division. At one of those special ceremonies, 685 individuals became new citizens. In Toledo, naturalization ceremonies were also conducted monthly, and three special ceremonies were held at public locations throughout the Western Division.

*Court Recording.* The Northern District of Ohio employs 12 official court reporters and one full-time Electronic Court Recorder (ECR), assisted on a regular basis by a variety of deputy clerks, to serve its 23 judicial officers. By efficiently pooling court reporters, the district is able to save thousands of dollars in contract court reporter fees each year. Official court reporters in Cleveland are placed on a three-month assignment to a district judge, and reporters in Akron, Toledo and Youngstown are assigned by the court reporter supervisor in a manner which efficiently meets the needs of the judges. Court reporters frequently travel to other court locations to assist in providing coverage to judicial officers. The ECR operators provide electronic recording for the magistrate judges.

*Automation.* The Clerk's Office automation department currently supports 339 desktop and laptop computers and 22 file servers, including 5 that are newly installed. The district converted its case and party index from

microfiche to an Intranet application available to the public at all intake counters as part of the Electronic Public Access matching grant program in 1998. The Court also installed Web CHASER and an opinion retrieval system to improve internal access to court dockets and unpublished opinions. The district's automation infrastructure has undergone a substantial transformation as the circuit upgrade from 56k to T-1 lines improved ICMS, WestLaw and CHASER access times substantially; the district has upgraded its servers, concentrators and switching devices to support the faster speeds, allow for segmenting the network traffic and provide for new services. In preparation for the year 2000, the district has upgraded its main hardware and software components for Y2K compliance.

*Training.* The Northern District of Ohio is committed to the professional development of its staff. Through the efforts of the Joint Court Unit Training Committee and its Automation Training Sub-Committee, staff from the District Court, Probation Office, Pretrial Services Office and Bankruptcy Court offered a Technology Fair demonstrating the wide range of hardware and software used throughout the district. The fair was well-received and generated numerous ideas by staff on how to better utilize technology to complete their day-to-day duties. The Clerk's Office held a retreat to which all judicial assistants/secretaries were invited at which Federal Judicial Center trainers presented programs on Team Dynamics, *Leading from Where You Are*, *Ensuring Quality* and *Communicating Clearly*. In addition, clerk's office staff and judicial

assistants/secretaries participated in a three-day program entitled *Adventures in Attitudes* which focused on team building concepts and the professional and personal development of employees.

**Probation Office.** In 1998 the Probation Office completed 844 presentence reports, a 22% increase over the 689 completed the previous year. At year's end, 1,530 persons were under supervision, up 9% over the prior year. The Home Confinement Program provided services to 248 participants, which represents a 4% increase from 1997. The Probation Office provides a continuum of aftercare treatment services. As of September 30, 233 persons were receiving drug and alcohol treatment, and 138 were receiving mental health treatment. During the year, 52 persons were placed in residential treatment. A total of 11,855 urine specimens were collected, including 1,051 that tested positive. Fine and restitution payments totaled \$1,182,614, and 5,897 community service hours were completed. Ten new probation officers were appointed by the Court. Probation Office staff completed 4,094 hours of training during the year, for an average of over 40 hours per employee. Automation staff support 116 personal systems, PACTS, and a network. Computer security awareness training was provided to all employees. Video conferencing equipment is operational in all office locations.

**Pretrial Services Office.** The Northern District of Ohio continued

participating in the Department of Justice Pilot Program, Operation Drug Test. This program requests voluntary drug test screening from defendants prior to the initial appearance. Operation Drug Test also provides funds for continued substance abuse treatment services for defendants if ordered by the Court. Program resources are also used for other alternatives to detention including electronic monitoring, mental health counseling and treatment as well as for administrative purposes. In fiscal year 1998, 955 cases were activated, a 25% increase over the prior year. Supervision was ordered as a condition of release on 400 defendants throughout the year. The Court ordered conditions of release for drug testing and/or treatment, mental health treatment and residential placement in 395 cases. Electronic monitoring was ordered in 129 cases, a 53% increase from fiscal year 1997. Officers initiated electronic monitoring of 46 defendants during one 24-hour period pursuant to a mass arrest which established a district, circuit and national record. Defendants made co-payments for electronic monitoring services totaling \$22,598.84, a 135.5% increase over fiscal year 1997. Staff had 1,352 hours of training in 46 programs.

Respectfully submitted,  
Paul R. Matia, Chief Judge



**ANNUAL REPORT**  
**1999**  
**SOUTHERN DISTRICT OF OHIO**

Much of interest has occurred in the Southern District of Ohio, since our last report to you at the 1997 Sixth Circuit Judicial Conference.

John Holschuh, a man of uncommon class and dignity, who led this District as Chief Judge for more than six years, stepped into Senior Status in October, 1996. John continues to shoulder a significant caseload of civil and criminal matters, as well as undertaking the well-nigh impossible task of seeing to it that his successor as Chief Judge does not undo all the good things accomplished during his tenure.

Each federal judge, it is said, is a unique combination of an individual personality, driving ambition and dedication to the cause of justice. Therefore, none of us can truly be replaced. However, in John's successor on active status, the appointing process has given us a Judge who, because of his long career in private practice, with a speciality in litigation, has "hit the ground running" as a productive and contributing member of our Court. I speak of our newest judicial officer, Algenon ("Monte") Marbley, a transplanted North Carolinian (very touchy on the subject of Tar Heel basketball, so consider yourself warned), a graduate of the University of North Carolina and the Northwestern University School of Law, and a decade-



*Hon. Walter Herbert Rice*  
*Chief Judge*

long partner in the Columbus law firm of Vorys, Sater, Seymour & Pease, one of Ohio's finest. Monte's obvious dedication to the cause of justice, absolutely delightful personality and a remarkable work ethic stamps him as a man who has already made his presence felt on our Court and who will ultimately create a niche and a legacy comparable to that of John Holschuh.

On September 18, 1998, an event occurred in the City of Columbus that will never be forgotten by any of us in the Southern District of Ohio, as the Federal Courthouse in that City, dedicated long ago in 1934, was rededicated and named in honor of our own Senior Judge, Joseph P. Kinneary. It is impossible, through the written word, to capture the love, fondness and respect that those in attendance felt and expressed toward our colleague on the day that the Joseph P. Kinneary United States Courthouse became a reality, not only because of his 32 years on the Federal Bench and distinguished career in public and community service beforehand, but also

because of the warmth and graciousness of the man.

Joe, some five months short of his 94th birthday as of this writing, continues to accept an 80% draw of civil and criminal cases, and to inspire in all of us who work in "his building" a sense of awe and a realization that we truly are blessed to be able to associate with a living legend.

Ever since the death of our colleague, Carl B. Weinman, in 1979, and the closing of the Steubenville Courthouse, a few years thereafter, our District has had a minimal presence in Eastern Ohio. As a result, attorneys and litigants in cases arising from Eastern Ohio have had to travel long distances to our Columbus Courthouse in order to try their cases. That this will no longer be true is a tribute to one of our newest Judges, Ed Sargus, a native of Eastern Ohio. At his urging, we have amended our District's Jury Plan and have begun to establish a real presence in that long neglected portion of our state. As of this writing, Ed has two cases scheduled to be tried in St. Clairsville, Belmont County, during the month of April, with more certain to follow.

Beyond the above, during the last two years, cases were filed, cases were terminated and, inevitably, cases remain on our respective dockets at the end of that period. Civil filings are up slightly, criminal more so. Justice was dispensed, sometimes with dispatch, and always with the intention to temper that justice

with mercy. I believe it accurate to say that each of our District's judicial officers continues to be ever grateful for the opportunity to serve the public in such a meaningful manner.

I would be remiss if I did not close by stating that, although forced to work under the Administrative Office's 84% staffing formula, our District continues to be well served by the employees of an excellent Clerk of Courts Office, Pretrial Services Office and Probation Department. The judicial officers of our District take this opportunity to express our gratitude to these dedicated employees for adjusting to this staffing level, without reducing in any fashion the quality of the services rendered to our Court, the litigants, the Bar and the public.

Respectfully submitted,

Walter Herbert Rice, Chief Judge

On behalf of:

Herman J. Weber, Judge

James L. Graham, Judge

George C. Smith, Judge

Sandra S. Beckwith, Judge

Susan J. Dlott, Judge

Edmund A. Sargus, Jr., Judge

Algenon L. Marbley, Judge

Joseph P. Kinneary, Senior Judge

S. Arthur Spiegel, Senior Judge

John D. Holschuh, Senior Judge

Mark R. Abel,

Chief Magistrate Judge

Norah McCann King, Magistrate Judge

Michael R. Merz, Magistrate Judge

Terrence P. Kemp, Magistrate Judge

Jack Sherman, Jr., Magistrate Judge

Timothy S. Hogan, Magistrate Judge



## ANNUAL REPORT

### EASTERN DISTRICT OF TENNESSEE

1998

*Court Facilities.* A new courthouse in Knoxville was dedicated in September, funding became certain in October for one in Greeneville, and at year's end, plans for new court facilities for Chattanooga were approved by the Sixth Circuit Judicial Council in the Five-Year Plan for New Courthouse Construction. It was truly a milestone year for the district in terms of new or planned facilities. The Greeneville courthouse, completed in 1904, is the oldest still in use as a courthouse in the Sixth Circuit and one of the oldest in the nation, so the new structure will be welcomed when it opens in 2001.

*Caseload.* The district's caseload followed the national trend in 1998--criminal filings up, civil filings down. Our five district judges and four magistrate judges worked diligently to balance the caseload by handling cases in divisions other than their division of residence. We still await congressional action on the Judicial Conference's recommendation for a temporary judgeship for the district.

*Videoconferencing.* Our district received a grant from the Administrative Office in 1998 for the installation of a videoconferencing system between the



*Hon. R. Allan Edgar  
Chief Judge*

federal courthouse in Knoxville and the Knox County Jail. The system is in place, has been tested, and is ready for use when jail authorities resolve problems they are having in their procedures for processing prisoners at the intake facility. The use of the videoconference hookup will enable judges to conduct hearings without the prisoners having to be transported from the jail to the courthouse. The prisoner will merely sit with his or her attorney in front of a camera and monitor at the jail, and the judge will sit in front of a camera and monitor at the courthouse, each being able to see and hear the other. Because of the obvious advantages offered by videoconferencing, we have made it a high priority for our district during 1999.

*Courtroom Technology.* We provided digital evidence presentation systems in four of our courtrooms in three divisions of the district during 1998. While this technology is not necessary for every trial, we found it to be of great assistance in the handling of

several major trials. It was necessary to provide training to our staff members and to members of the bar to enable them to know how to effectively use this technology and to work with it comfortably.

*Alternate Dispute Resolution Program.* Our mediation program, which was begun in December 1994, continues to be active. The court has approved a panel of more than 100 trained mediators who serve the district. During the year, the court initiated the publication of a newsletter titled *The Federal Mediator*, and two issues were published--in May and December. The purpose of the newsletter is to keep all mediators, judges, and other interested parties abreast of developments in the ADR program. The newsletter idea grew out of one of the brown-bag "lunch-and-learn" meetings that mediators, judges and court staff members held during the year. A deputy clerk is designated in each division of the court to serve as the mediation coordinator in that division. The mediation program is administered by Chief Magistrate Judge Robert P. Murrian.

*Automation Expansion.* We were able to further enhance service in 1998 at the Winchester divisional office, which in 1997 we staffed with a full-time deputy clerk, a milestone in the growth of the court. This past year, our automation personnel networked that office and the divisional office at Greeneville, and added them to the data communications network. Automation

personnel also provided all of our courtroom benches and courtroom deputy stations with computers, bringing them all online and increasing the efficiency of courtroom personnel.

*Satellite Installations.* We were pleased to be among the first wave of courts that were chosen for installation of satellite dishes during 1998. Our staffs--judicial and clerical--have viewed several helpful programs broadcast by the Federal Judicial Center over its network, FJTN. This method of communicating promises to be of great benefit to the courts as programming expands even more. We have satellite receivers at three of our four courthouses.

*History Book.* It was with great pride that we were able to complete during 1998 the publication of a book covering the 200-year history of our court. The book, a 244-page hardback titled *Justice in the Valley*, was offered for the first time at the dedication of the Howard H. Baker Jr. United States Courthouse in Knoxville on September 8. The book was well received throughout the district and was reviewed favorably in newspaper articles in several cities. In addition, the author, Dr. Patricia Brake, a professional historian, appeared on several television programs promoting the book. At this writing, only 225 copies of the initial printing of 1,000 remain. The book had been in the works for five years, a project of the Court Historical Society. It is the only district court history of its magnitude ever to be published in the Sixth Circuit. A report compiled by the Federal Judicial Center History Office shows that *Justice in the Valley* is one of only 10

federal court histories to be published in the past decade.

*Chief Judgeship.* We had a change in our chief judgeship during 1998. On November 24, I succeeded Judge Jarvis. It is my hope that the next seven years will be as good for the district as the last seven were under the guidance of Jim Jarvis.

Respectfully submitted,  
R. Allan Edgar  
Chief Judge

---

**ANNUAL REPORT  
MIDDLE DISTRICT OF  
TENNESSEE**

The United States District Court for the Middle District of Tennessee has experienced significant change in the past year. On August 1, 1998, Judge John Nixon's term as Chief Judge ended and Judge Robert Echols became Chief Judge of the Middle District of Tennessee. Judge Nixon took senior status on August 15, 1998, and Judge Thomas Higgins took senior status on February 28, 1999. Both Judge Nixon and Judge Higgins continue to render substantial judicial service to the Court, and to date, both continue to carry a full caseload. Judge Aleta Trauger replaced Judge Nixon as active judge and made history in the Middle District of Tennessee as the first female judge.

There presently exists one Article III vacancy in the district as a result of Judge Higgins taking senior status. In addition, Magistrate Judge Joe Brown was sworn in on August 3, 1998, to fill a newly created magistrate judge position in this district. In summary, this district presently has three active Article III judges, with one vacant judgeship; three senior judges; and three magistrate judges. The Clerk's Office is located in Nashville, and there are unmanned offices in Cookeville (Northeastern Division) and Columbia, Tennessee. Judge Thomas Higgins presides over all cases, both civil and criminal, filed in the Columbia Division. Judge Aleta Trauger presides over all civil cases filed in the Northeastern Division. Criminal cases in the Northeastern Division are assigned on a random basis.

At the present time, there are approximately 1,316 pending civil cases and 238 criminal defendants. The median time to process a civil case from filing to disposition is 8 months; for civil cases going to trial, the median time is 21 months; for criminal felony defendants, the median time is 9 months. In 1998, there were 33 trials completed.

***Recent Developments:***

-The Local Rules of Court are currently being revised under the supervision of Judge Todd Campbell.

-Digital evidence presentation systems have been installed in two courtrooms, and a third system will be installed within the next few months. The judges utilizing this new equipment believe it has resulted in

shorter trials, reduced costs, and improved juror comprehension.

-An Alternate Dispute Resolution Plan has been adopted to aid in the resolution of cases by settlement and to avoid the expense and delay of trial.

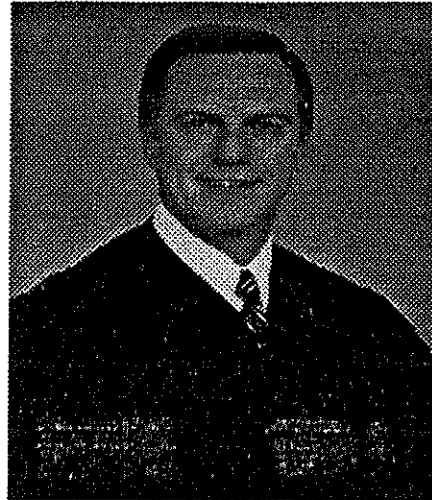
-Chief Judge Robert Echols plans to participate in the Law Day Celebration telecast sponsored by the Administrative Office of the Courts via satellite hookup in his courtroom. Judge Echols contacted the Director of the Metropolitan Davidson County School System and four schools were selected to each send twelve student "juries," along with a faculty representative, to the Court on April 27, 1999, for the program, which focuses on the importance of jury service to an independent judicial system. Attorneys from the U.S. Attorney's Office and the Office of the Federal Public Defender are helping to coordinate the program and to serve on a local panel to discuss the case and jury deliberations after the broadcast.

-Senior Judge Thomas A. Wiseman, Jr., agreed to sit with the U.S. District Court for the Middle District of Florida during April, May, and September, 1998.

-Judge Campbell is chairing the Court's Technology Committee, with help from Roger Milam, Clerk of Court.

-Judge Thomas Higgins, Judge John Nixon, and Magistrate Judge Joe Brown are organizing a new committee on the history of the Middle District of Tennessee.

-Judge Echols continues to meet with the Marshal's Service, Federal Protective Service, and GSA regarding



*Hon. Robert L. Echols  
Chief Judge*

the myriad of security problems confronting the buildings in Nashville which house the district court, bankruptcy court, and appellate court offices.

-One of the two pro se law clerks for the district resigned and could not be replaced under the current formula and guidance from the Administrative Office. This loss will put extra work on the magistrate judges.

-On April 9, 1999, a ceremony was held to unveil Judge Nixon's portrait, which will hang in Judge Echols' ceremonial courtroom beside those of the other former active U.S. District Judges of the Middle District of Tennessee.

-The judges of this district are extremely disappointed with the present plans to substantially increase the insurance premiums for life insurance for older judges. This unilateral action presents an enormous unexpected burden on these judges who continue to carry so much of the judicial workload, especially those over 65 and 70 years of age.

-The Immigration and Naturalization Service for this district which is headquartered in Memphis, Tennessee, is far behind in the processing of applications for citizenship. Over 1100 are awaiting processing and approval. This equates to a waiting period of approximately eighteen months to two years. Chief Judge Echols has arranged for a mass naturalization ceremony in Nashville at the state-owned War Memorial Building on June 28, 1999. This expedited procedure should result in the naturalization program returning to a regular monthly ceremony involving current applicants.

---

—•••••—

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

The biggest 1998 event for the United States District Court for the Western District of Tennessee was completion of a new courthouse in the district's Eastern Division in Jackson, Tennessee. The 86,000 square foot building houses the district, magistrate and bankruptcy courts, and is occupied under a 20 year lease. The new courthouse is the product of a unique partnering effort between the GSA, City of Jackson and a private developer. It

was officially dedicated at a public ceremony held December 14, 1998.

In June, the court adopted a new plan for the appointment of *pro bono* counsel for *pro se* indigent parties in civil cases. In order to alleviate the burden of litigation expense payments assumed by appointed counsel, the plan establishes an expense fund to pay out-of-pocket expenses allowable under the plan. The expense fund is financed by a new \$10 annual good-standing enrollment fee for attorneys admitted to practice in the district, fees collected in association with general and *pro hac vice* admissions, and interest accruing on fund balances.

Automation efforts were significant. In order to begin collection of the new \$10 annual fee, the Clerk's Office first developed an attorney maintenance database for accounts receivable activity and attorney address information. With mailing of the first invoice, attorneys were invited to participate in a fax noticing service (based upon a software package developed by the Southern District of Texas district court) scheduled to begin operation in January 1999. In connection with this project, data for some 3,800 attorneys was corrected as necessary and supplemented to include fax and e-mail information. Of the 3,800 attorneys noticed, a pioneering 600 (some 16 percent) consented to receive all court orders and notices by facsimile within 24 hours of docketing. The number of participants is expected to increase substantially as the community becomes more familiar with this technology.

Other automation achievements include introduction of a locally-developed court-wide master calendaring system, and of the ISYS Web application for opinion retrieval. Also, database applications were developed for CJA panel attorneys, volunteer *pro bono* counsel, naturalization records, and restitution payments and disbursements. A Satellite downlink was installed in the Clifford Davis Federal Building in Memphis, and a web page was established on the judiciary's intranet.



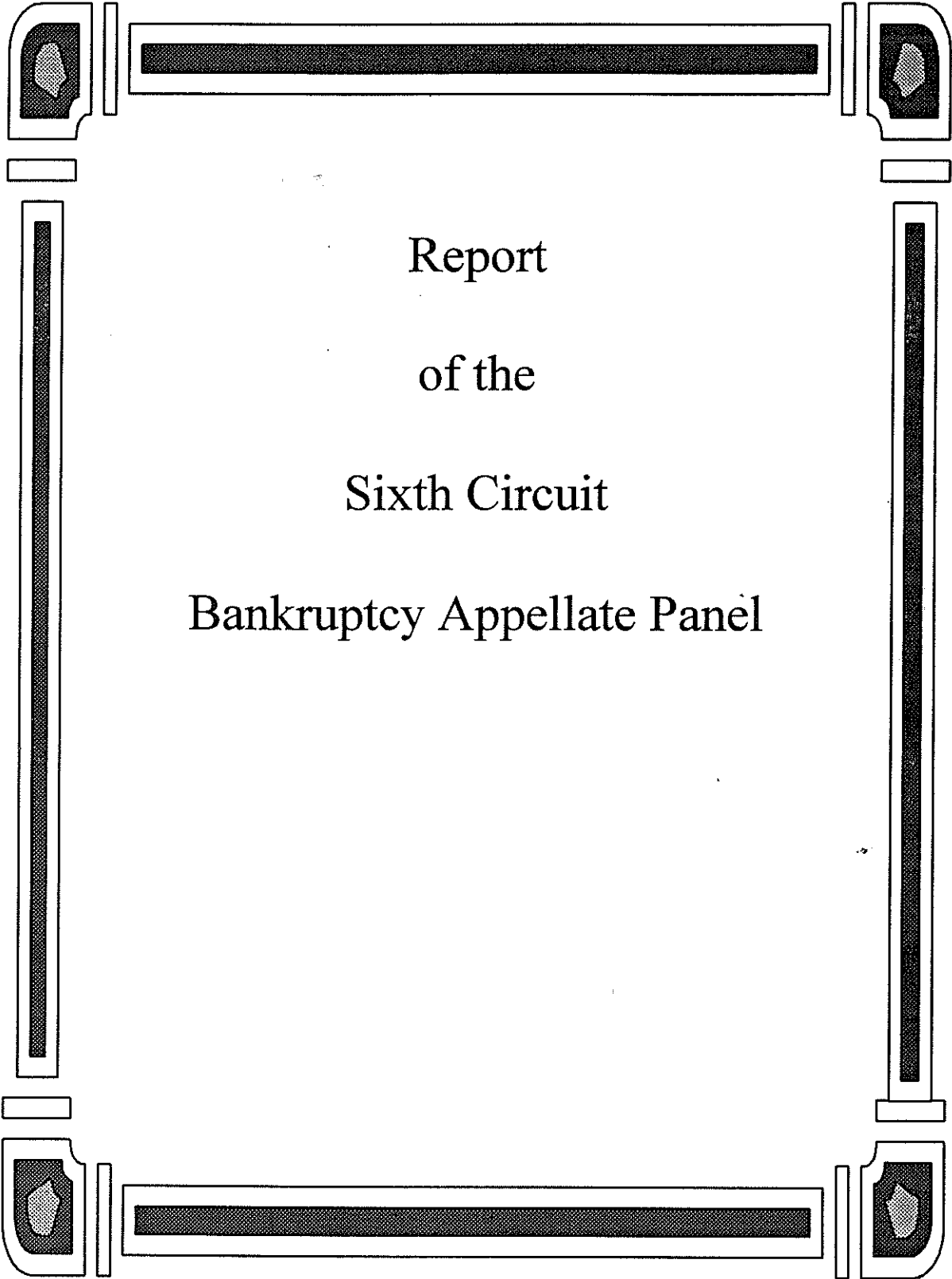
*Hon. Julia Smith Gibbons  
Chief Judge*

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.

Compared to 1997, civil filings in 1998 increased by one percent, while criminal filings increased seven percent. The median time from filing to disposition decreased from eight to seven months, and from filing to trial decreased from 23 to 20 months when compared to the previous year. Only three percent of the civil inventory has been pending for three years or more.

Julia Smith Gibbons  
Chief Judge





Report  
of the  
Sixth Circuit  
Bankruptcy Appellate Panel

**BANKRUPTCY APPELLATE PANEL  
OF THE SIXTH CIRCUIT**

**ANNUAL REPORT 1998**

Thomas F. Waldron, Chief Judge

The Bankruptcy Appellate Panel (BAP) of the Sixth Circuit began operations on January 1, 1997 facing an uncertain future, as would any fledgling court which requires the consent of all litigants in order to proceed. In a district authorizing the BAP, the appellant or the appellee can opt to have the appeal heard by the district court or the BAP.

Having completed two full years, it is clear that the BAP has been widely accepted by the involved parties. In the Northern and Southern districts of Ohio, of the 134 original appeals from bankruptcy cases in 1997, in 87 cases (approximately 65%) the BAP heard the appeal; and, of the 104 original appeals from bankruptcy cases in 1998, in 89 cases (approximately 82%) the BAP heard the appeal.

Among the six circuits which have established BAPs, the Sixth Circuit BAP remains unique in several respects. Although the Sixth Circuit BAP has the least number of authorized BAP judges (five), it is the only BAP with an announced policy of accepting the transfer (with the consent of all parties and the district judge) of bankruptcy appeals pending in a district court. In 1997 there were seventeen (17) such transfers and in 1998 there were seven



*Hon. Thomas F. Waldron  
Chief Judge*

(7) such transfers. These transferred appeals were heard by the BAP in addition to the above original appeals.

The BAP experienced its first change in judges as Judge Randolph Baxter (N.D. Ohio) and Judge Keith M. Lundin (M.D. Tenn.) completed their agreed terms of service at the end of 1998. In addition to their distinguished appellate work, they were two of the original BAP judges who drafted the BAP's local rules, practice manual, policies and procedures, and, perhaps more importantly, provided initial shape to a then formless entity, which has become a significant component of the Circuit's bankruptcy appellate process. It should also be noted that no additional law clerks are provided to BAP judges. Accordingly, the law clerks assisting the BAP judges with their trial court responsibilities receive a substantial increase in their workload. The BAP judges' law clerks deserve, at a minimum, the Circuit's recognition and gratitude. The BAP gratefully acknowledges

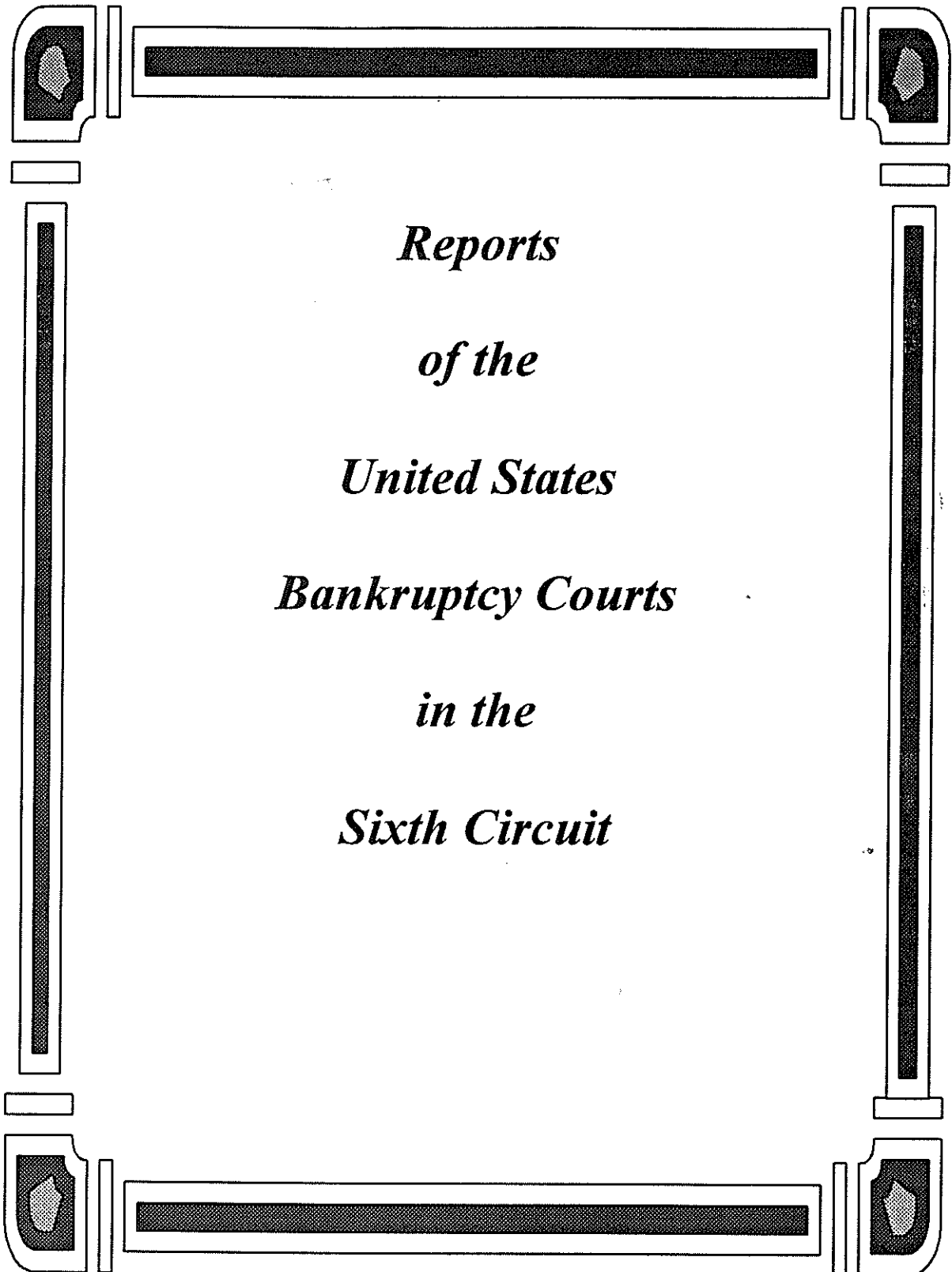


the contributions of these judges and their law clerks.

The BAP is honored to be joined by Judge William H. Brown (W.D. Tenn.) and Judge Pat Morgenstern-Clarren (N.D. Ohio), who, on January 1, 1999, began their four year terms of service. The other BAP judges are: Judge Steven W. Rhodes (E.D. Mich.), Judge David T. Stosberg (W.D. Ky.), and Judge Thomas F. Waldron (S.D. Ohio).

The BAP also wishes to thank Leonard Green and Robert Rack for the extraordinary assistance they and their offices provide to the BAP and the BAP looks forward to continuing its contributions to our Circuit.





*Reports*  
*of the*  
*United States*  
*Bankruptcy Courts*  
*in the*  
*Sixth Circuit*

UNITED STATES BANKRUPTCY COURT  
FOR THE  
EASTERN DISTRICT OF KENTUCKY

WILLIAM S. HOWARD  
CHIEF JUDGE

MARCH 31, 1999

*New Judge.* The Sixth Circuit has selected Joseph M. Scott to replace Judge Joe Lee, who is presently serving in a recalled status. Mr. Scott received a Bachelor of Business Administration Degree in accounting from Notre Dame University in 1968. He received his JD from the University of Kentucky College of Law in 1971. Since graduation from law school, Mr. Scott has been with the Lexington, Kentucky law firm of Stoll, Keenon & Park. His practice was almost exclusively in the debtor/creditor, workout and bankruptcy areas. Mr. Scott and his wife, Patricia, have two daughters, Rush, age 16, and Jane, age 14.

*Judge Joe Lee.* Judge Joe Lee continues to handle a full caseload. This past summer, Judge Lee was inducted into the University of Kentucky, College of Law, Hall of Fame, the twelfth graduate to be so inducted. In addition, Judge Lee was presented the Distinguished Service Award by the Fellows of the American College of Bankruptcy, of which he is a member.

*Web Site.* The court introduced  
i t s            w e b            s i t e

(<http://www.kyeb.uscourts.gov>) in January, 1999. The site is geared to serve the public and the bar and includes:

- Court dockets, monthly court calendars and trustee dockets.
- Opinions.
- Local Rules and forms.
- Case Managers for each case number with a county map of the Eastern District of Kentucky to assist in locating a case.
- Directions to each division office with the names and addresses of court reporters for each.
- Current announcement section of information needed by the public and bar.

*Team-Based Management.* The Clerk's office switched to the team-based management system last August. All deputy clerks are learning to be generalists rather than specialists. The teams consist of three (3) case administration teams, a financial team, a systems team and an administrative team. Each team self directs their own workloads, their flextime and interviews and selects new hires.

*Statistics.* For the fifth consecutive year, case filings have increased. Our last 24-month increase was 15.76%. This is the period used to measure our work unit allotments. In addition to our increase in consumer debtor filings, we are beginning to see more substantial Chapter 11 filings, as evidenced by the recent J. Peterman Company filing.

*Autocop.* AutoCOP is an Automated Case Opening Program developed by the

Southern District of Iowa Bankruptcy Court. We are one of the second group of beta test courts to implement AutoCOP. With AutoCOP, one enters the case information once in a Windows format. This information will then produce a receipt for the case, automatically docket pleadings being filed, request the Bankruptcy Noticing Center (BNC) to mail any necessary notices; automatically print a local copy of all notices mailed, and produce a file label for the case. AutoCOP has built-in quality control screens to verify the accuracy of the data input so that case opening errors are virtually eliminated. It is expected that we will begin testing our AutoCOP setup against our manual system on April 1, 1999.

*Clerk.* Our clerk, Jerry D. Truitt, has been elected President-Elect of the Kentucky Bar Association. He will serve in this office from July, 1999-June, 2000 and then as President from July, 2000-June, 2001.



**ANNUAL REPORT**  
**UNITED STATES**  
**BANKRUPTCY COURT**  
**WESTERN DISTRICT**  
**OF KENTUCKY**

1998

The United States Bankruptcy Court for the Western District of Kentucky experienced filings exceeding 12,000 per year for the first time in its history. The following chart depicts the increase in filings for the last five years:

Despite phenomenal increases in filings, the court maintained staffing in the Clerk's Office at the lowest possible level that could insure excellent service. As an example, in 1993, the Clerk's Office had 44 staff members and processed 6,362 filings for the year. In 1998, the Clerk's Office had 45.5 staff members and processed 12,533 filings for the year.

In addition to processing record numbers of filings with fewer employees, for the past eight years the Court processed its cases in less time than the national average. Only two courts in the nation have achieved this level of success in case processing.

Filings for the Year Ending June 30:	1993	1994	1995	1996	1997	1998
All Cases	6,958	6,362	7,245	9,371	11,404	12,533
Percent Change from Year Before		-8.6	13.9	29.3	21.7	9.9
All Terminations	7,945	6,484	7,012	7,918	10,514	11,954
Percent Change from Year Before		-18.4	8.1	12.9	32.8	13.7
Pending Cases		6,582	6,803	8,266	9,156	9,650
Percent Change from Year Before		-1.8	3.6	21.4	10.8	6.4

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

**REPORT TO THE SIXTH CIRCUIT  
FOR CALENDAR YEAR 1998**

Chief Judge Henry H. Dickinson completed his term as Chief Judge and announced that he planned to retire in July of 1999. Chief Judge David T. Stosberg was appointed to succeed Judge Dickinson.

The Court continues to serve as a Beta site for FAST as the project moves closer to implementation in the first ten courts. FAST has decreased the amount of time spent processing many financial transactions. As a beta court, we managed to continue normal financial processing and to provide the assistance needed in this most important project. FAST is now operating on an INFORMIX platform and will be installed in the next ten courts on that platform also.

In February of 1999, the Clerk's Office marked the third year of operating in teams. Though we are still developing and learning, team based management has proved vital in addressing the burgeoning caseload. Teams take on considerable responsibility for insuring that all cases are processed accurately and in timely fashion.

Two members of the management staff have completed their three year course of study in Federal Court Leadership. They are Donnie Nealy, Human Resources Manager, and John Brubaker, Chief Deputy Clerk. John continues to work with the Federal Judicial Center as they train a new group of leaders.

*Statistics.* The growth in case filings continued in 1998 with a record number of petitions filed in the district. The number of petitions filed reached 28,057. Despite the high number of cases filed and pending, the disposition of cases continued in an expeditious manner.

*Additional Judgeship.* The need for an additional judgeship in the district continues to be justified by the weighted filings per judge. A request by the Circuit and Judicial Conference for an additional judge is still pending before Congress.

*Local Rules.* The process of establishing new and amended local rules was completed in 1998. Seminars on the revised rules were conducted for practitioners throughout the district. Facilitators included the Chief Judge, Clerk of Court, Assistant U. S. Trustee, Standing Chapter 13 Trustee, and members of various bar associations. The rules became effective on October 1, 1998.

*Electronic Scheduling Program.* In 1998 the district became a pilot court for the Electronic Scheduling Program (ESP). ESP is a scheduling tool designed to assist case administrators, courtroom deputies and judges' chambers personnel by automating the cumbersome scheduling and coordination of court hearings and judges'

personal agendas. It also creates calendars and numerous reports and keeps track of miscellaneous hearing notes and ticklers related to hearing events.

*Project on the Accuracy of Voluntary Petition and Schedules.* The accuracy of the disclosures in the bankruptcy petitions, schedules, statement of financial affairs and other papers became the focus of a special project in 1998. With the help of the Bar, the Court is committed to several efforts to address this issue. These efforts include preparing a set of guidelines and instructions for completing these forms, feedback to individual attorneys, and education and training workshop opportunities.

*The Bankruptcy Bar.* Bankruptcy practitioners in the Eastern District of Michigan continue to provide substantial support to the Court in our mediation and *pro bono* programs and in continuing legal education seminars.

And finally, the Court would like to thank the United States District Court for its continued support and assistance in the *pro bono* program.



**ANNUAL REPORT TO THE  
UNITED STATES COURT OF  
APPEALS FOR THE  
SIXTH CIRCUIT  
BY THE  
UNITED STATES  
BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF MICHIGAN  
MARCH, 1999**

*Retirement of Laurence E. Howard.* Laurence E. Howard, Bankruptcy Judge for the Western District of Michigan, retired on February 28, 1999. Judge Howard was first appointed to the bankruptcy bench in January 1976. He ably and conscientiously served this district for more than twenty-three years.

Judge Howard received a Bachelor of Science degree from University of Notre Dame in 1958, after service in the United States Army from 1954 to 1956. He subsequently earned his Juris Doctor degree from the University of Notre Dame Law School in 1961. Prior to assuming his responsibilities as a bankruptcy judge, he served as an Assistant City Attorney for Grand Rapids, Michigan and engaged in the private practice of the law. He ran for Congress, as a Democrat, in 1968 against Gerald R. Ford.

Judge Howard, and his wife Marilyn, will be living at Marco Island, Florida during the winter months. During the summer, he will return to his residence in the Grand Rapids area.

Laurence E. Howard engendered great respect for himself, and the bankruptcy bench, from bankruptcy attorneys, the court staff, and members of the public in the Western District of Michigan for many years. He will be much missed by all.

*Appointment of New Bankruptcy Court Clerk.* On December 31, 1998, Mark Van Allsburg left his position as the clerk of our bankruptcy court. Mr. Van Allsburg accepted the position as Clerk of the Court, United States Bankruptcy Court for the District of Hawaii, commencing in January, 1999.

Over 120 persons applied for our vacant clerk position. After screening all candidates' credentials, the bankruptcy judges interviewed 13 candidates. Daniel LaVille was selected as our new court clerk following careful consideration by the judges.

Mr. LaVille obtained his Bachelor of Science degree from the Ohio State University in 1973. After serving as a State of Ohio adult probation officer for two years, he attended the University of Notre Dame Law School, obtaining his Juris Doctor degree in 1978. He clerked for the Honorable James Hoff, circuit court judge for the State of Michigan and engaged in the private practice of law from 1978 to 1982 in Dowagiac, Michigan. From 1982 to January 1999, he served as an Assistant United States Attorney for the Western District of Michigan. In that position, he litigated cases in the federal courts and for twelve years served as the supervisor of the

Civil Division of the United States' attorney's office.

The bankruptcy court judges feel very fortunate to have Mr. LaVille as the new court clerk. Thus far, he has performed his duties in an excellent manner.

*Case Filings.* During 1998, 12,434 bankruptcy cases were filed in our district, which was approximately a 9% increase over 1997 filings. As in the past, the caseload was divided equally, by blind draw, among the three judges who held hearings in five cities, i.e., Grand Rapids, Kalamazoo, Lansing, Traverse City, and Marquette, Michigan. On March 1, 1999, Judge Stevenson and Judge Gregg divided Judge Howard's pending caseload of 4,500 cases between themselves. Also, all newly filed cases have been equally assigned to Judges Stevenson and Gregg who now are handling approximately 150% of their 1998 caseload. They shall continue to do so until such time that a successor to Judge Howard is appointed and assumes his or her responsibilities. Although the increase in workload is appreciable, the transition has gone very smoothly. Assistance was given to the bankruptcy judges by the Sixth Circuit Court of Appeals' decision to permit Judge Howard's former judicial assistant and judicial law clerk to continue to work with the two bankruptcy judges. Although it is difficult to predict, the court believes that approximately the same number of cases will be filed in 1999 as were filed during 1998.

*Court Automation.* In 1998, the bankruptcy court implemented a video conferencing link between Grand Rapids



and Marquette, Michigan. (Marquette is located in the upper peninsula of Michigan approximately 400 miles from Grand Rapids.) On two occasions the bankruptcy court has used the video conferencing system to conduct a motion day and on one occasion to try a single adversary proceeding. The judges believe that this technology will be a very important tool to permit attorneys and citizens in the upper peninsula to have access for court hearings to be held on an emergency basis, or more than the one time a month when the court sits in Marquette. The district court has also used the video conferencing system several times and the technology has been, and shall be, made available to other federal agencies upon advance request to the clerk.

Our bankruptcy court has also instituted a pilot program for document imaging. This technology will permit the judges and the court staff to electronically review pleadings that have been filed in Marquette, Michigan. It will reduce, and perhaps eventually eliminate, the necessity for the Marquette court staff to make photocopies of pleadings and transmit them by mail or facsimile. Document imaging will also be instituted in Grand Rapids on a limited basis. Ultimately, the time may come when members of the Bar and the public can access all filed pleadings over the Internet.

Since May, 1998, our court has served as one of four nationwide test courts (and the only one in the Sixth Circuit) to implement the Automated

Case Opening Program--"AutoCOP". This software program has allowed us to open cases with greater accuracy in approximately five minutes per case, compared to the old method which averaged fifteen minutes per case.

*Space and Facilities.* Our major problem in the near future will be to maintain adequate space for our court operations. On-going meetings have taken place between Ronald Weston, the district court clerk, and Daniel La Ville, the bankruptcy court clerk, regarding this problem. Some discussions have also occurred between district court judges and bankruptcy court judges in an attempt to find a solution to their respective court's space needs in the Grand Rapids Federal Building. The bankruptcy court believes that through cooperative mutual efforts, satisfactory space arrangements will be achieved.

The proposed bankruptcy court-room remodeling in Lansing, Michigan, is still pending. Last year, the bankruptcy court dedicated funds toward commencement of this project. It is hoped that sufficient additional funds will be found in the 1999 budget to fully fund this project. Discussions have occurred, and will continue to occur, with the district court so the remodeled courtroom, and new chambers facilities, may be utilized as a joint use courtroom as needed. This arrangement is contemplated to be similar to the joint use courtroom currently used by the magistrate judge and the bankruptcy judges in Marquette.

Respectfully submitted,  
James D. Gregg and Jo Ann C. Stevenson

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

**Annual Report - 1998**

The Honorable James H. Williams announced his retirement in August 1998 to become effective February 28, 1999. Judge Williams was appointed by the Sixth Circuit Court of Appeals to serve as a recalled Bankruptcy Judge from March 1, 1999 through August 31, 1999. Judge Williams will have completed more than 27 years of distinguished service on the bench.

The Honorable Randolph Baxter was appointed to serve on the Bankruptcy Appellate Panel (BAP) for the Sixth Circuit on January 1, 1997. He served on the Panel through December 1998 and is succeeded by the Honorable Pat E. Morgenstern-Clarren.

The Sixth Circuit Court of Appeals announced the reappointment of Judge William T. Bodoh and Judge Randolph Baxter to fourteen year terms commencing June 10, 1999 and December 16, 1999 respectively.

Kenneth J. Hirz succeeded Beth A. Ferguson as Clerk in June 1998 following her retirement earlier in the year. William Kurtz succeeded Mr. Hirz as Chief Deputy Clerk in November 1998.

Bankruptcy filings were at a

national high in 1998. The impact of this caseload was so significant that the Honorable David F. Snow served as a visiting judge in the Eastern District of Michigan to assist in alleviating the backlog of Chapter 7 adversary proceedings.

The Northern District of Ohio experienced an 8% filing increase in calendar year 1998 compared to 1997 with a total of 28,295 cases. The breakdown of filings by chapter includes 82% Chapter 7's and 17.5% Chapter 13 cases. Cases filed under Chapters 11 and 12 accounted for less than 1% of the total filings for the year.

The Clerk's Office operated with 89 staff throughout the five court locations in 1998. The Administrative Office's allocation for staff funding was at the 84% level. Due to the efficiencies brought about by automation and a hard working staff, the Bankruptcy Court continued to function at 70% of the workload formula. This compares favorably to the national average of 72%.

Several of our judges participated in various CLE programs, including the Second Annual White-Williams Institute in May 1998 and the William J. O'Neill Bankruptcy and Commercial Law Institute in December 1997 and 1998.

The District's Joint Court Unit Training Committee initiated a number of programs, such as workplace skills, retirement benefits and automation. Our Tuition Assistance Program (TAP) provided employees with the opportunity to attend job skills specific programs. Participation in TAP increased by 56%. Court employees

completed 1900 training hours of which 925 were dedicated to automation, 676 to customer service, 232 to retirement planning and 67 to Administrative Office and Federal Judicial Center programs.

Our District presented a two-day Technology Fair where participants could sample up to 22 mini seminars on various automation applications and programs. Staff members served as presenters.

A new Employee Handbook was developed and distributed this fiscal year to effectively update the many changes in personnel policies and salary plans.

The judges, clerk and staff members serve on a Strategic Planning Committee which was established in 1997. Committee members, along with members of the Bar, continue to work on key issues in areas of electronic case filing, standard and uniform procedures and pleadings, and exposure to Alternative Dispute Resolution. The Court continues to examine every opportunity for improving and expanding the efficiencies of its operation.

Hon. Richard L. Speer, Chief Judge  
United States Bankruptcy Court  
Northern District of Ohio

## UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF OHIO

*Retirement and Recall of Bankruptcy Judges.* Chief Judge William A. Clark retired from the Dayton office on April 29, 1999, and Judge Donald E. Calhoun, Jr., retired from the Columbus office on May 1, 1999. Both judges were recalled by the Circuit to serve three year terms. In addition, Judge Burton Perlman's term as a recalled judge in Cincinnati was extended for another three years. The services of these three judges will be invaluable in dealing with the district's caseload.

*New Chief Bankruptcy Judge.* On May 1, 1999, Judge Thomas F. Waldron succeeded Judge William A. Clark as the Chief Bankruptcy Judge for the district. During the past several years, the court has successfully met a variety of challenging tasks under the guidance of Judge Clark. Under the capable leadership of Judge Waldron, we expect the bankruptcy court to meet the challenges of the twenty-first century.

*Bankruptcy Appeals Panel.* Judge Thomas F. Waldron will continue to serve as the BAP's first Chief Judge until January of 2001.

*Amended Local Bankruptcy Rules.* With the assistance of a tireless advisory rules committee, composed of bankruptcy attorneys in the district and chaired by Judge Barbara J. Sellers, the Judges of the United States Bankruptcy Court for the Southern



*Hon. William A. Clark*  
*Chief Judge*  
*May 1, 1993-April 29, 1999*

District of Ohio adopted Amendments to the Local Rules of the Bankruptcy Court which became effective on January 1, 1999. The court made the rules available on PACER, diskette and by conventional printed material.

*Workload and State of the Docket.* In 1996 the filing of bankruptcy petitions increased by almost 30% over the previous year. During 1997 the district's bankruptcy filings were 22% more than in 1996. Although 1998 was yet another record year for bankruptcy filings in our district (approximately 28,300), the increase slowed to 3% over the previous year. Despite the record filings, the judges of our court kept the docket current as is evidenced by the fact that the pending caseload at the end of 1998 was only 0.7% higher than at the end of 1997.

*Personnel.* The Administrative Office is currently reviewing the formulas for funding court operations.

Although bankruptcy filings have increased significantly during the past several years, the court recognizes the uncertainty of future funding amounts and has sought to keep its staff at an optimally efficient level. The Clerk's staff is at 65.9% of the FY99 formula provided by the Administrative office, although the court has been funded at 74% of that formula.

*Training.* The court's employees were provided with more than 1,400 hours of classroom training during 1998. The employees learned a variety of automation applications, including Windows 95, WordPerfect8, cc:Mail 8, and Lotus Organizer. Some of the training was a result of a cooperative agreement among all court units of the district.

*Automation.* 1998 was the culmination of transforming our system of dumb terminals to one of personal computers. This enabled our divisional offices to access our Integrated Case Management System (BANCAP) via the Data Communications Network (DCN) rather than by troublesome multiplexes and modems. Access to the DCN was extended to every desktop computer in the district. Software (WordPerfect8, cc:Mail8, and Lotus Organizer 97) was standardized throughout the district, and state of the art computers were installed in courtrooms. Solutions to the Y2K problem were initiated throughout the court's automated services.

*Clerk's Leadership Role.* On November 1, 1998, this court's clerk, Michael D. Webb, finished his term as President of the National Conference of

Bankruptcy Clerks (NCBC). As NCBC President, Mr. Webb served on the AO's Bankruptcy Clerks' Advisory Group, the Court Administration Advisory Council, and the Human Resources Advisory Group. During Mr. Webb's tenure as president, the NCBC provided an increased emphasis on the professional development of deputy clerks through annual workshops.

#### *New Procedures and Programs.*

As part of the district's emphasis on sharing resources, a mid-career retirement seminar was held for all court employees in the Southern District of Ohio, including those of the Sixth Circuit Court of Appeals. A three-member Judges' Automation Committee was established in order to plan for future developments of automation in the court. The last teams for case administration were established, and the Clerk's office continued team development in the offices where teams had already been established. "Call Tracking" was installed so that automation problems could be reported online to our systems staff.

*Federal Judicial Center Traveling Seminars.* Under the leadership of Chief Judge William A. Clark, the district promoted two seminars presented by Professors John P. Kaminski and Richard Leffler of the University of Wisconsin. The topics were *Assessing the Founding Fathers* in August, 1998, and *Origins of the Independent Judiciary* in May, 1999. The district, bankruptcy and magistrate

judges who attended enthusiastically evaluated the seminar as *outstanding*. The success of the 1998 seminar encouraged us to invite circuit judges and local state judges in 1999.

Fifteen federal judges attended the *Assessing the Founding Fathers* seminar in August, 1998. More than thirty federal and state judges attended *Origins of the Independent Judiciary* in May, 1999.

---

## REPORT OF THE BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TENNESSEE

The Bankruptcy Court for the Eastern District of Tennessee serves forty-one counties and is comprised of a headquarters office in Chattanooga, with divisional offices in Knoxville, Greeneville, and Winchester. Five bankruptcy judges, Richard Stair, Jr., John C. Cook, Marcia P. Parsons, R. Thomas Stinnett, and Ralph H. Kelley, who has remained on recall status since his retirement in 1993, serve the district. The clerk of court, Ralph T. Brown, oversees offices in Chattanooga, Knoxville, and Greeneville. The court makes the following report:

*Space and Facilities.* The Knoxville court and clerk's office completed a successful move in September 1998, to the Howard H. Baker, Jr. United States Courthouse. The move provided much

needed additional space for chambers, courtrooms and the clerk's office.

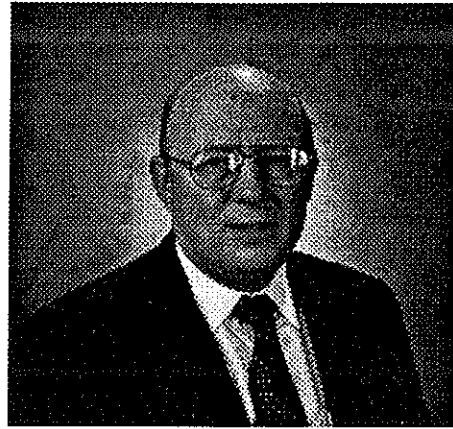
Prospectus plans for a new courthouse in Greeneville have been finalized. The court and clerk's office, currently in separate buildings, will move to the new space within two years.

The Chattanooga court and clerk's office continue to be housed in the Historic U.S. Courthouse completed in 1892. The facility promises to provide adequate space for many years to come.

**Statistical Information.** In the past decade, the bankruptcy court has experienced drastic changes in the number of filings. In 1997 we had a record year with 16,257 bankruptcy cases. In 1998 the number of bankruptcy filings dropped slightly with a total number of 15,984 cases which represented a 1.68% decline. Fifty-four percent of the filings in 1998 were chapter 7 cases, forty-five percent were chapter 13 cases.

### *Automation*

**Video Conferencing:** Sony 5100 Tricom Video Conferencing units have been installed in Chattanooga and Greeneville. These systems will be used for intra-district management, committee, and chambers meetings as well as for hearings and meetings with other bankruptcy courts. These systems have the capability of having four sites connected during a session without



*Hon. Richard S. Stair, Jr.  
Chief Judge*

having to pay or use a bridging connection at the phone company. These systems are being equipped with VCRs which will allow for recording of the session as well as allow us to use these systems for FJC satellite broadcasts. An added benefit will be using the 42" monitor as a VGA computer monitor for training and demos of our software programs.

**FJC Satellite Network:** Satellite dish systems have been installed for our three manned offices: Chattanooga, Knoxville and Greeneville. Each office will have the push to talk feature and each judge's chamber will be connected.

**Courtroom Automation:** Space saving ergonomic AKIA personal computers have been installed in each courtroom. These personal computers have been placed at the judge's bench, courtroom deputy and ECRO positions. These personal computers have crisp 15" LCD monitors and take up little room on the bench and can be moved out of the way with ease. They are connected to the network and provide each user the same set of programs that users

have at their office desktops.

**DOAR EPS:** This evidence presentation system has been installed in our courtroom in Knoxville. The system includes a document camera, printer, monitors at the judge's and witness locations as well as a video projector and screen.

Electronic Courtroom Recording equipment has been installed in Knoxville. Additional state of the art equipment has been incorporated in the Knoxville courtroom. This includes translator and hearing impaired headphones and wireless microphones. In Chattanooga, we have installed wireless microphones for the judges.

**Chambers Automation:** Chambers personal computers have been upgraded to either Dell Pentium 400 or flat screen AKIA computers.

**Voice Case Information System - VCIS:** We were a Beta site for the new VCIS server which utilizes four phone lines. We assisted the AO in correcting numerous bugs in the system. We are now receiving an average of 7500 calls per month on our stable VCIS system.

**Pacer System:** We are a lead court in converting from the old Interactive PC to the new Y2K compliant Solaris personal computer. We expect to have the new Pacer Software, Web-Pacer, BNC, and Pacer Mirroring converted by the end of April.

**Bancap System:** We have converted to the Solaris operating system and have installed all the nationally supported Y2K patches on the system. We are presently working on local applications to become fully Y2K compliant. We have enhanced our backup procedures with the latest backup technology and provide users with system availability from 7 am to 6 pm Monday through Friday. We have upgraded the methods we use to maintain the files that contain the archived data for over 100,000 cases. The upgraded methods make storage, maintenance, accounting, and restoration much more efficient.

**Windows NT Server:** We are testing applications for the NT operating system and servers. We have converted cmail routers to NT servers. We have the ability to use these servers with Reachout software to make changes to remote workstations and servers without having to travel to remote locations. We plan on using NT server for our Intranet server.

**Network:** We have installed all locations with 3 com 3000 switches and have converted almost all of our personal computers to 100 mips.

### **Training**

The court operates under a policy of continuing education. Court sponsored seminars as well as outside training programs are endorsed when the court benefits directly from the requested training. Since July 1998, we have had personnel attend the following court sponsored training: EDR Training, Automation

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

**ANNUAL REPORT**

Manager Meetings, AO User Group Meetings, Procurement Seminars, CPS Training, and a TSP Seminar. In addition, the court has approved training for individual personnel to attend the following non-government programs: Fred Pryor Seminars and a MidSouth Commercial Law Institute Seminar.

In the area of automation, we have trained staff through outside programs as well as AO sponsored training. The Assistant Systems Manager has passed the certification as a CNE for Novell 3.xx and 4.xx and is working on certification for 5.xx. Our Network Administrator has passed the Microsoft program and is certified as a MSCE for NT. Other system staff have taken various training such as Frontpage 98 and have attended a seminar on Pacer System Administration.

*Ongoing Studies and Projects*

We continue to examine new uses of the Bankruptcy Noticing Center. Postage expenditures have been reduced by more than one-half throughout the district.

Electronic filing applications and the implementation of digital scanning are high priority projects for possible implementation by 2001 - 2002.



*Judgeship Vacancy.* On November 27, 1998 Bankruptcy Judge Aleta Trauger was sworn in as a district judge replacing District Judge John Nixon who had assumed senior status. Judge Trauger had been with bankruptcy court for five years and her presence will be sorely missed by the court. Advertising for the vacancy has been accomplished and a local review committee appointed. It is expected and fervently prayed for that an appointment will be made to fill this vacancy by early summer. Judge Tom Stinnett of the Eastern District of Tennessee at Chattanooga has volunteered to help his colleagues out here and has been extremely gracious in his time and availability in hearing cases in this district. His efforts, both in the Nashville and Cookeville divisions has considerably lessened the burden and impact of the vacancy that was compounded by the filing of two mega cases.

*Two Mega Cases.* Exacerbating the situation of the vacancy that required two judges to handle the caseload of three, was the filing of two mega cases.

On November 6, 1998, Nu-Kote Corporation comprised of 15 corporate entities, almost half of which were foreign, filed for protection under Chapter 11. Nu-Kote, an international company with over-



**UNITED STATES  
BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
SIXTH CIRCUIT**

**1998 ANNUAL REPORT**



*Hon. George C. Paine II  
Chief Judge*

seas affiliates, has both employees and creditors in the thousands. The case is complicated by a patent infringement/restrain of trade lawsuit with Epson, Sony, and Hewlett Packard Corporation in the district court of the Southern District of California with possible exposure for the litigants in the billions.

On March 27, 1999, Service Merchandise Corporation filed its Chapter 11. It is a Fortune 400 company with 16 corporate entities and is the largest retail jeweler in the country. Debt exceeds \$1.3 billion, annual revenues are in excess of \$3 billion from its 350 retail stores, and it has over 22,000 employees.

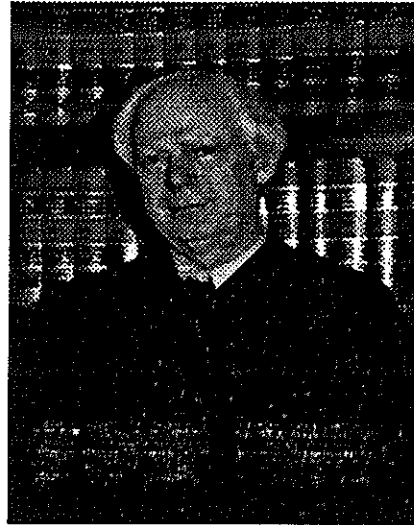
During CY 1998, the Bankruptcy Court received 22,794 new case filings as compared to 23,834 new case filings in CY 1997. This change represents a decrease of 4.4 percent. Chapter 13 case filings decreased by 8 percent to reach 16,749 case filings. Chapter 13 case filings represent approximately 73 percent of the district's raw case filings. This figure has decreased slightly each calendar year from 1996 at which time chapter 13 case filings represented nearly 78 percent of the district's case filings and 76 percent in 1997.

An increase of 5 percent in chapter 7 case filings resulted in CY 1998 for a total filing of 5,991 chapter 7 cases. Total filings under chapter 11 and chapter 12 were down slightly with these cases still representing 0.2 percent and 0.01 percent respectively of the district's overall new case filings. This district also received 1,773 adversary proceedings for CY 1998 while closing 1,952 adversary proceedings during the year. This left the district with 452 adversary proceedings pending at the end of CY 1998. During CY 1998 the court closed a total of 21,737 cases, representing 857 more case closings (4.1 percent) than the previous year.



The Bankruptcy Court for the Western District of Tennessee entered CY 1998 at a staffing level of approximately 74 percent (i.e., 80 positions). During CY 1998, the court was permitted to staff up to 107.5 positions (at 84 percent of formula). The salary savings for these positions were used to: create and complete staff training programs, continue strategic planning initiatives, complete space alterations for newly acquired space (2,500 sq. ft.) at Memphis (Western Division), and fund space modifications in both the District and Bankruptcy Courts new facility at Jackson (Eastern Division), Tennessee. The Administrative Office of the United States Courts also benefitted from these positions not being filled by not having to contribute to retirement, health and life insurance benefits which they otherwise had budgeted for the positions. Additionally, the Clerk returned to the Administrative Office the sum of \$300,000 for a net gain to the Judiciary of nearly one half million dollars.

In 1997 the Judicial Conference approved an additional judgeship position for the Bankruptcy Court for the Western District of Tennessee and thereafter transmitted a request to Congress, which was later approved but stalled in the Senate along with bankruptcy reform legislation during the latter stages of the Second Session of the 105<sup>th</sup> Congress. We anticipate that the Judgeship Bill will be reintroduced during the current session of Congress.



*Hon. David S. Kennedy*  
*Chief Judge*

During CY 1996, the General Services Administration released a Solicitation For Offers (SFO) for a lease construct project in the Court's Eastern Division Office, located at Jackson, Tennessee. After the project was completed, the District and Bankruptcy Courts relocated to the new United States Courthouse in August and September 1998 respectively. The dedication of the facility was held in December 1998 followed by a reception at the new Courthouse, which was attended by nearly 300 individuals.

FOR THE COURT  
Jed G. Weintraub  
Clerk of Court

Approved by:  
Chief Judge David S. Kennedy



**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 - 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 Total Filings
	MEM	JAX	
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>Jan. 1 - Dec. 31, 1997</b>			
	Memphis	Jackson	Total
Chapter 7	4,378	1,346	5,724
Chapter 11	40	31	71
Chapter 13	14,422	3,612	18,034
Chapter 9		1	1
Chapter 12	2	2	4
<b>TOTAL</b>	<b>18,842</b>	<b>4,992</b>	<b>23,834</b>

	% of Filings by Chap by Div		Chapter % of Total Filings
	MEM	JAX	
Chapter 7	76%	24%	24.02%
Chapter 11	56%	44%	0.30%
Chapter 13	80%	20%	75.67%
Chapter 9	0%	100%	0.00%
Chapter 12	50%	50%	0.02%
<b>TOTAL</b>	<b>79%</b>	<b>21%</b>	<b>100%</b>

<b>Jan. 1 - Dec. 31, 1998</b>			
	Memphis	Jackson	Total
Chapter 7	4,475	1,516	5,991
Chapter 11	32	19	51
Chapter 13	13,432	3,317	16,749
Chapter 9	-	-	-
Chapter 12	-	3	3
<b>TOTAL</b>	<b>17,939</b>	<b>4,855</b>	<b>22,794</b>

	% of Filings by Chap by Div		Chapter % of Total Filings
	MEM	JAX	
Chapter 7	75%	25%	26.28%
Chapter 11	63%	37%	0.22%
Chapter 13	80%	20%	73.48%
Chapter 9	0%	0%	0.00%
Chapter 12	0%	100%	0.01%
<b>TOTAL</b>	<b>79%</b>	<b>21%</b>	<b>100%</b>

<b>1998 Over 1997</b>			
	Memphis	Jackson	Total
Chapter 7	97	170	5%
Chapter 11	(8)	(12)	-28%
Chapter 13	(990)	(295)	-7%
Chapter 9	-	(1)	-100%
Chapter 12	(2)	1	-25%
<b>TOTAL</b>	<b>(903)</b>	<b>(137)</b>	<b>-4%</b>

<p><b>Overall Change 1997 to 1998 (Both Divisions)</b></p> <p><b>-4.364%</b></p>
--

<b>1998 Over 1997</b>		
	Jackson	Total
Chapter 7	170	12.63%
Chapter 11	(12)	-38.71%
Chapter 13	(295)	-8.17%
Chapter 9	(1)	-100.00%
Chapter 12	1	50.00%
<b>TOTAL</b>	<b>(137)</b>	<b>-2.74%</b>

<b>1998 Over 1997</b>		
	Memphis	Total
Chapter 7	97	2.22%
Chapter 11	(8)	-20.00%
Chapter 13	(990)	-6.86%
Chapter 12	(2)	-
<b>TOTAL</b>	<b>(903)</b>	<b>-4.79%</b>

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

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

<b>Jan. 1 - Dec. 31, 1996</b>			
	Memphis	Jackson	Total
Chapter 7	4,290	1,107	5,397
Chapter 11	50	37	87
Chapter 13	11,327	2,375	13,702
Chapter 12	1	6	7
<b>TOTAL</b>	<b>15,668</b>	<b>3,525</b>	<b>19,193</b>

	% of Closings by Chap by Div		Chapter % of Total Filings
	MEM	JAX	
Chapter 7	79%	21%	28.12%
Chapter 11	57%	43%	0.45%
Chapter 13	83%	17%	71.39%
Chapter 12	14%	86%	0.04%
<b>TOTAL</b>	<b>82%</b>	<b>18%</b>	<b>100%</b>

<b>Jan. 1 - Dec. 31, 1997</b>			
	Memphis	Jackson	Total
Chapter 7	5,133	1,416	6,549
Chapter 11	42	33	75
Chapter 13	11,474	2,779	14,253
Chapter 9	-	-	-
Chapter 12	1	2	3
<b>TOTAL</b>	<b>16,650</b>	<b>4,230</b>	<b>20,880</b>

	% of Closings by Chap by Div		Chapter % of Total Filings
	MEM	JAX	
Chapter 7	78%	22%	31.36%
Chapter 11	56%	44%	0.36%
Chapter 13	81%	19%	68.26%
Chapter 9	0%	0%	0.00%
Chapter 12	33%	67%	0.01%
<b>TOTAL</b>	<b>80%</b>	<b>20%</b>	<b>100%</b>

<b>Jan. 1 - Dec. 31, 1998</b>			
	Memphis	Jackson	Total
Chapter 7	5,436	1,847	7,283
Chapter 11	32	27	59
Chapter 13	11,704	2,688	14,392
Chapter 9	-	-	-
Chapter 12	-	3	3
<b>TOTAL</b>	<b>17,172</b>	<b>4,565</b>	<b>21,737</b>

	% of Closings by Chap by Div		Chapter % of Total Filings
	MEM	JAX	
Chapter 7	75%	25%	33.51%
Chapter 11	54%	46%	0.27%
Chapter 13	81%	19%	66.21%
Chapter 9	0%	0%	0.00%
Chapter 12	0%	100%	0.01%
<b>TOTAL</b>	<b>79%</b>	<b>21%</b>	<b>100%</b>

<b>1998 Over 1997</b>			
	Memphis	Jackson	Total
Chapter 7	303	431	11%
Chapter 11	(10)	(6)	-21%
Chapter 13	230	(91)	1%
Chapter 9	-	-	0%
Chapter 12	(1)	1	0%
<b>TOTAL</b>	<b>522</b>	<b>335</b>	<b>4%</b>

**Overall Change**  
**1997 to 1998**  
**(Both Divisions)**

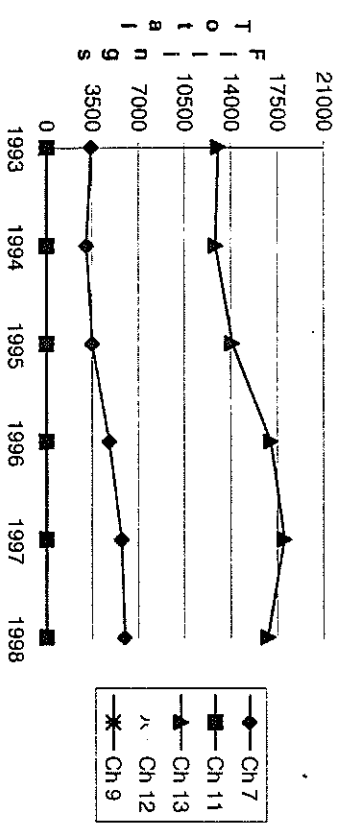
**4.104%**

<b>1998 Over 1997</b>		
	Jackson	Total
Chapter 7	431	30.44%
Chapter 11	(6)	-18.18%
Chapter 13	(91)	-3.27%
Chapter 9	-	0.00%
Chapter 12	1	50.00%
<b>TOTAL</b>	<b>335</b>	<b>7.92%</b>

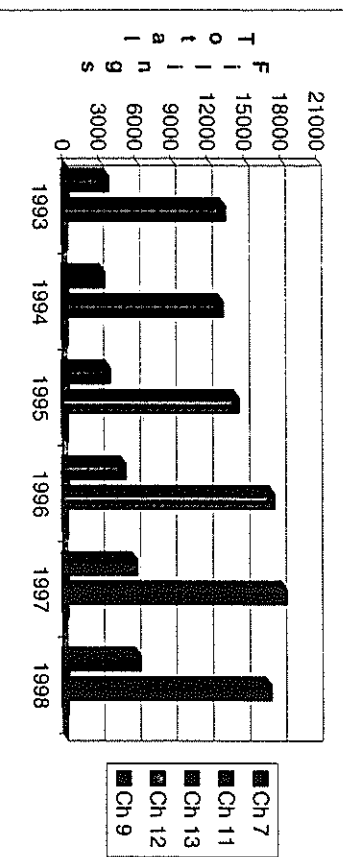
<b>1998 Over 1997</b>		
	Memphis	Total
Chapter 7	303	5.90%
Chapter 11	(10)	-23.81%
Chapter 13	230	2.00%
Chapter 12	(1)	-
<b>TOTAL</b>	<b>522</b>	<b>3.14%</b>

## United States Bankruptcy Court Western District of Tennessee

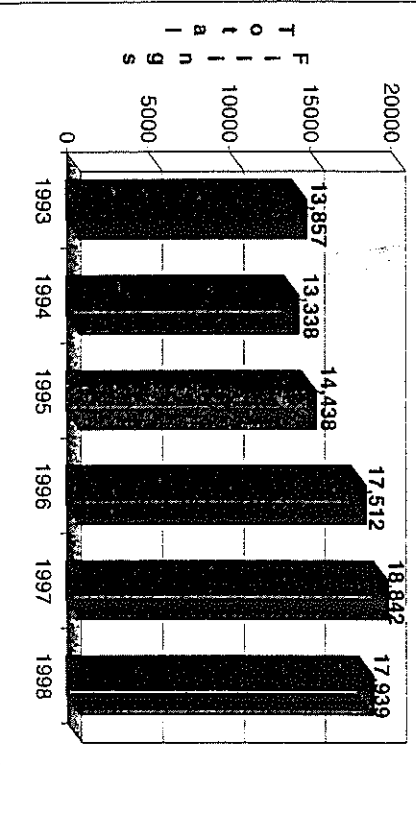
### Bankruptcy Case Filings Six Year Comparison



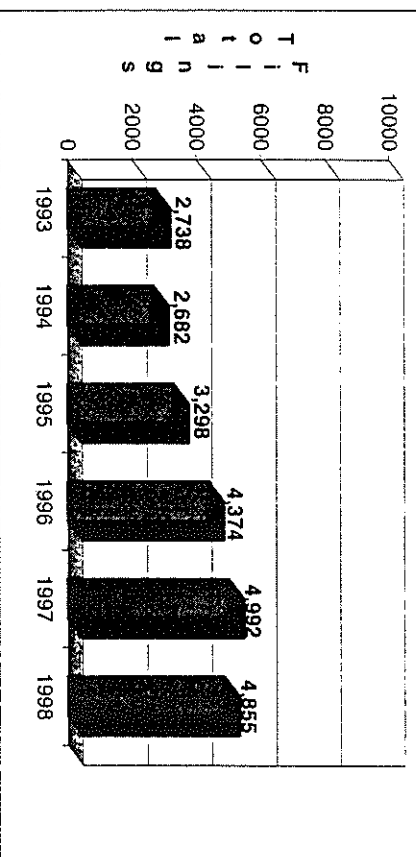
### District Wide Total By Chapter



### Total Filings For Western Division By Calendar Year

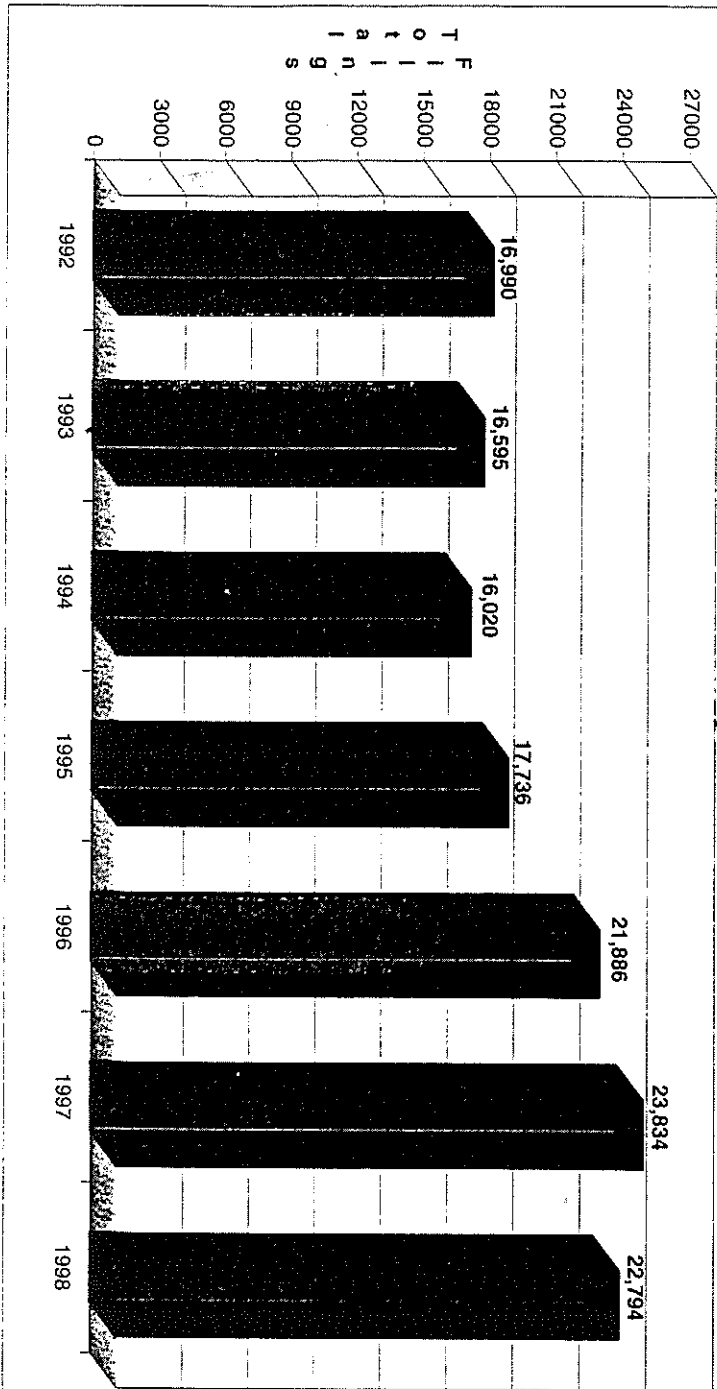


### Total Filings For Eastern Division By Calendar Year

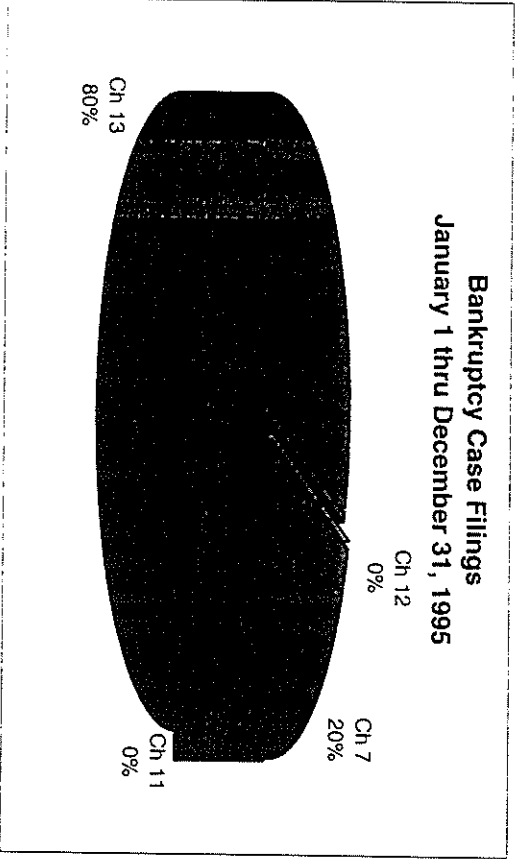
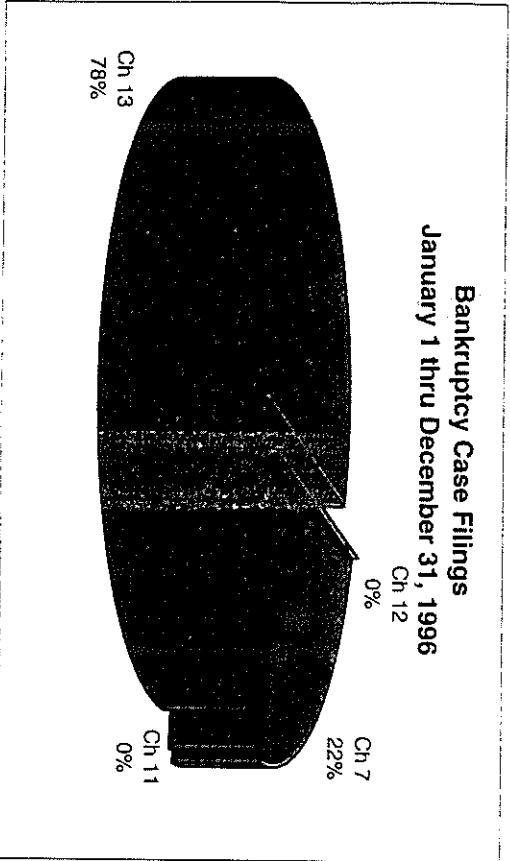
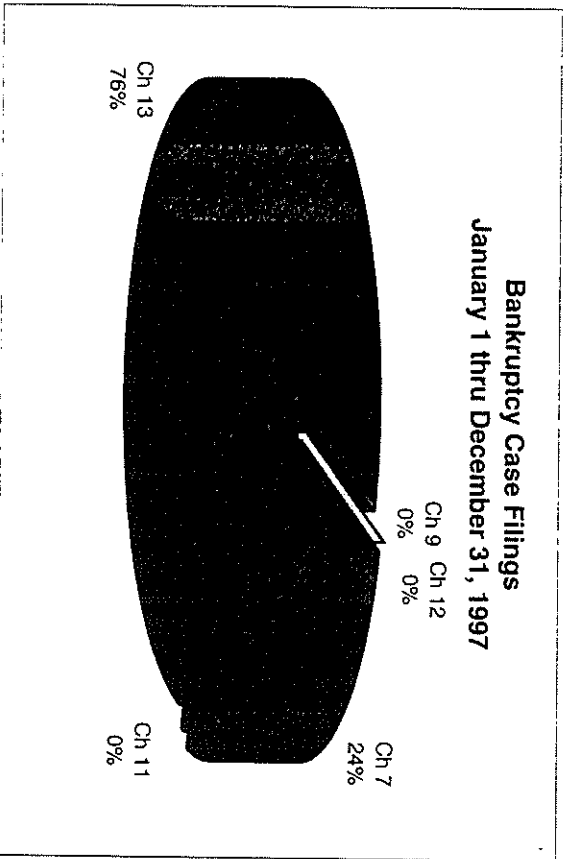
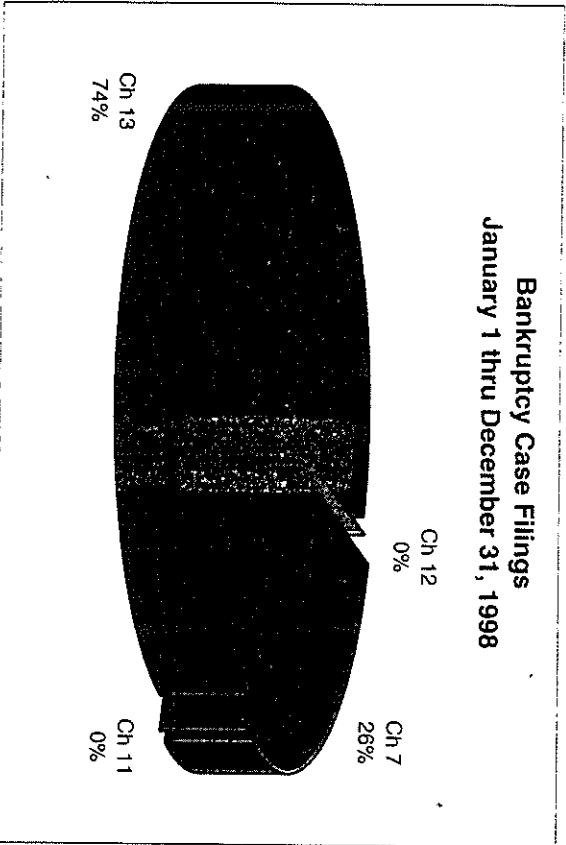


United States Bankruptcy Court  
Western District of Tennessee

Total Filings For  
Western District  
By Calendar Year



United States Bankruptcy Court  
 Western District of Tennessee







*In Memoriam*

*Honorable Paul C. Weick*

*Honorable Anthony J. Celebrezze*

*Honorable L. Clure Morton*

*Honorable Robert E. DeMascio*

**MEMORIAL RESOLUTION  
FOR  
PAUL C. WEICK  
UNITED STATES CIRCUIT JUDGE  
SIXTH CIRCUIT COURT OF APPEALS**

---

Judge Paul C. Weick was born on August 25, 1899, and died on May 23, 1997. He was appointed United States District Judge in 1956 and in 1959 was appointed to the Sixth Circuit Court of Appeals, where he served for 22 years. He was a native of Youngstown, Ohio, and served in the Army Student's Training Corps in World War I. On the termination of the war, he secured his legal education at the University of Cincinnati Law School. He completed his legal education at the age of 20, and he had to delay taking the Ohio Bar exam inasmuch as he had not attained the age of 21. After being admitted to practice law, he practiced in Youngstown, Ohio, and subsequently moved to Akron, Ohio.

During World War II, he served as counsel for the Civil Defense Organization in Akron, Ohio, and chaired the Selective Service Board. He was President of the Akron Bar Association and President of the Ohio State Bar Association. He served as a member of the Board of Bar Examiners for the State of Ohio from 1946 to 1950.

He was married to Hilda Richard from 1929 until her death in 1960, and he was married to Nelle Edwards from 1962 until her death in 1992. He had one son, Paul A. Weick of Silver Lake, Ohio, four grandchildren, and eight great-grandchildren.

Judge Weick was truly a legal scholar. He was an individual of undaunted courage; a judge of impeccable values; and a man of abundant wisdom. Honesty and integrity were his guidelines. Respected as a no-nonsense judge, he was a man of sterling principles and was possessed of an inner goodness. He approached complex problems with a wealth of legal knowledge, tempered by an uncommon amount of common sense. His written opinions were cogent, direct and thoroughly analytical.

Even though he was short in stature, he walked tall in the path of federal

jurisprudence. His scholarly talents were infused with a deep sense of legal wisdom. No legal problem was too great for his skills. No legal problem was too small for his time and attention. Sincerity, love of the law, and a strong desire to strengthen the foundation of the judicial process were high on his agenda. He was always methodical in his analysis. Compassion was part of his makeup and was infused in his inner soul. He was quoted on many occasions as saying, "in our changing times, a strong scholarly bench is a critical element in the democratic process of our government." He is credited with leaving a lasting impact on the Sixth Circuit Court of Appeals.

THEREFORE, BE IT RESOLVED that the Fifty-ninth Judicial Conference of the Sixth Circuit in session at Traverse City, Michigan, this 23th day of June, 1999, pays tribute and appreciation to the memory of Judge Paul C. Weick who served this nation and this circuit faithfully and well.

BE IT FURTHER RESOLVED that a copy of this Resolution be preserved upon the records of this Conference and that copies be furnished to the family as a mark of sympathy and esteem.

Respectfully submitted,  
Leroy J. Contie, Senior Judge  
David A. Nelson, Circuit Judge  
Alan E. Norris, Circuit Judge

**MEMORIAL TRIBUTE TO  
HONORABLE ANTHONY J. CELEBREZZE  
(1910-1998)**

When President Lyndon B. Johnson tapped his illustrious Secretary of Health, Education and Welfare to become a judge of the United States Court of Appeals for the Sixth Circuit in 1965, he presented this august body with a unique colleague. With that appointment Anthony J. Celebrezze came to this court with an unparalleled range of public service that included five terms as Mayor of Cleveland, service as a distinguished member of the Ohio State Senate, and a Cabinet member under two Presidents, John F. Kennedy and Lyndon B. Johnson. He served as an active judge until October 1, 1980, when he took senior status. On February 20, 1996, Judge Celebrezze retired, due to ill health. On October 19, 1998, he died in Cleveland, Ohio.

Judge Celebrezze's rich early life, in combination with the wide scope of his later public service, added a perspective to the decision-making process that ensured reflective, measured consideration of complex problems. Having served in the executive and legislative branches, he came to the judiciary with a deep respect for the separation of powers. This enabled the new judge to easily embrace and work with colleagues, irrespective of differing political backgrounds. During his tenure Judge Celebrezze served with six Chief Judges.

Born in Anzi, Italy in 1910, he arrived in the United States at the age of two. He grew up in a slum-ridden area of Cleveland to which immigrant families were relegated. Nevertheless, Judge Celebrezze, encouraged by resolute parents, and through dint of hard work, defied the various ethnic myths and stereotypes that would have defeated a lesser person. He went through Cleveland's public schools, John Carroll University and Ohio Northern Law School. Emerging during the depths of the Great Depression in 1936, Judge Celebrezze decided on a political career as a way of dealing with the oppressive, but

challenging circumstances confronting him, his family and other contemporaries. In doing so, he vowed to his mother that if he ever had an opportunity as a public official, he would tear down the slums and tenements in which the family grew up. Upon achieving the office of Mayor of Cleveland, he did just that by embarking upon a slum clearance program that attracted national attention.

At each level of his public service, Anthony Celebrezze left an indelible mark. As Cabinet Secretary, Judge Celebrezze was on the cutting edge of President Kennedy's New Frontier and President Johnson's Great Society, leading the effort to win enactment of the Medicare Act, the Economic Opportunity Act and the Civil Rights Act of 1964. Those particular statutes have had a major effect on the jurisprudence developed by this and other courts.

The impact of a judge in shaping the law is often gauged by noting the quality of the dissents filed. In this regard, Judge Celebrezze ranks with judges who have played a significant role, for in at least nine instances, the reasoning advanced in his dissents was adopted by the United States Supreme Court. His opinions reflected a common sense approach, and an uncanny ability to discern what an informed Congress must have intended and what a living constitution ought to mean. The contributions he made to the advancement of the rule of law as a distinguished member of the United States Court of Appeals for the Sixth Circuit are clear and lasting.

Honors too numerous to fully cite, found their way to him. He held at least ten honorary degrees. And the moot courtroom at Ohio Northern Law School bears his name. A federal office building that towers over Lake Erie in Cleveland and a fireboat on the Cuyahoga River ensure that the name of Anthony J. Celebrezze will be known by generations yet unborn.

Finally, note must be taken of the pride that Judge Celebrezze had in his family. The devotion of his beloved wife, Anne, was a constant source of inspiration. The accomplishments of his son, two daughters, and grandchildren, reflect the faith that Judge

Celebrezze had in the American Dream. His son, Anthony Jr., followed in his father's steps, distinguishing himself as Secretary of State and Attorney General of Ohio. One of his daughters, Susan Marie Sullivan, is Librarian at Boston College and the other, Jean Anne Porto resides in Washington, D.C.

We, his colleagues, revere his service and his memory.

THEREFORE, BE IT RESOLVED that the Fifth-Ninth Judicial Conference of the Sixth Circuit, in session at Traverse City, Michigan this 23rd day of June, 1999, pays tribute and appreciation to the memory of United States Circuit Judge Anthony J. Celebrezze, who served the nation, this Circuit, and the State of Ohio faithfully and well.

BE IT FURTHER RESOLVED that a copy of this resolution be preserved upon the records of this Conference and that a copy hereof be forwarded to the family as a testament to the affection and admiration in which Judge Celebrezze was held by his colleagues and by the members of this Conference.

Respectfully submitted,

Honorable Pierce Lively

Honorable Albert J. Engel

Honorable Nathaniel R. Jones

**Memorial Resolution**  
**In Honor of**  
**The Honorable Leland Clure Morton**  
**February 20, 1916 - April 11, 1998**

Between these dates a good man and devoted servant of the Constitution of this country lived and died.

Born in Knoxville, he received his early education in the local schools and entered the University of Tennessee at the age of fourteen. He completed his law school studies at the University when he was twenty and had to wait until his twenty-first birthday to receive his law license.

He began the practice of law in Knoxville and in 1941 became a special agent of the Federal Bureau of Investigation. He served in an undercover capacity, attached to the embassies of the United States in several Latin American countries, where he was engaged in counter-espionage work. While on this assignment, he met and married his beloved wife, Marjorie Hernandez Morton.

He returned to the private practice of law in Knoxville in 1946, and was the founder of a prominent law firm. Among the members of the firm was his younger brother George W. Morton, Jr.

In his thirty-five years at the Bar, Judge Morton engaged in matters related to the practice of corporate and tax law. He was also an active trial lawyer.

As a lawyer, he earned and enjoyed the success that one might expect would come to an able, industrious and forceful advocate, as well as an astute counselor in the field of banking and commercial law.

On October 14, 1970, he was appointed to the United States District Court for the Middle District of Tennessee, and later served as Chief Judge from 1977 to 1984, when he took senior status.

Upon his entry on active service on the district bench, he demonstrated his ability and industriousness, developed while at the bar, in the management and disposition of the business of the Court. In doing so, he reflected his adherence to the high standards and values that marked his character. In a word, and his own word, "No one had an edge in the United States District Court."

He decided cases of importance to private litigants, as well as some of the most controversial and significant public issues which have confronted our society. He did so without fear or favor and became a judge in the great tradition by observing the maxim laid down by Judge Learned Hand that a judge "shall abstain from substituting his personal choice."

Judge Morton and his lovely wife, who died February 2, 1993, after a long illness, paid a high price for the fearless and independent decisions he rendered.

Judge Morton was a man of quiet faith and, when troubled, said he would get on the phone to the Man upstairs and seek the guidance that can come only from prayer to our Creator.

Recognized as a man of absolute intellectual integrity, he was a blunt and firm taskmaster. However, he was no more demanding of lawyers who appeared before him than he was of himself.

In paying tribute to him, his brother George said:

He was a man of a lot of intelligence, strength and courage.

He never backed down from what he believed in.

Today, we remember a man who discharged his oath of office to support and defend the Constitution of the United States and who fairly and justly applied the law, regardless of the consequences.

Judge Morton's judicial services enriched the professional life of an uncounted number of lawyers and added honor and renown to the federal judiciary and the legal profession.



By this resolution, we honor his memory and extend our deep felt sympathy to his brother George W. Morton, Jr., and sister Alyse Morton.

THEREFORE, BE IT RESOLVED that the Fifty-Ninth Judicial Conference of the Sixth Circuit, in session at Traverse City, Michigan this 23rd day of June, 1999, pays tribute and appreciation to the memory of United States District Judge Leland Clure Morton, who served the nation, this Circuit, and the State of Tennessee faithfully and well.

BE IT FURTHER RESOLVED that a copy of this resolution be preserved upon the records of this Conference and that a copy hereof be forwarded to the family as a testament to the affection and admiration in which Judge Morton was held by his colleagues and by the members of this Conference.

Respectfully submitted,

Gilbert S. Merritt

Thomas A. Wiseman, Jr.

Thomas A. Higgins

**MEMORIAL RESOLUTION  
FOR  
ROBERT E. DeMASCIO  
UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF MICHIGAN**

It is with great sorrow and a profound sense of loss that we take note of the death on March 23, 1999, of our beloved friend and distinguished colleague Robert E. DeMascio who served as a United States District Judge for the Eastern District of Michigan for nearly 28 years.

Robert Edward DeMascio was born on January 11, 1923, to Peter and Rosa DeMascio in Coraopolis, Pennsylvania. He served in the United States Naval Reserve from 1943 to 1946. He attended Wayne State University, the University of Illinois and obtained his law degree at Wayne State in 1951. He was in private practice from 1951 to 1953 and 1961 to 1966. He served as an Assistant United States Attorney from 1954 to 1961, which included time as Chief of the Criminal Division, and was a Judge on the Detroit Recorder's Court from 1967 to 1971.

On August 6, 1955, Robert E. DeMascio married Margaret Loftus. He doted on his beloved "Snooks" until the time of her death on September 13, 1996.

President Richard M. Nixon appointed Robert E. DeMascio a United States District Judge for the Eastern District of Michigan on July 22, 1971, filling the vacancy created by the death of Judge Theodore Levin. He later served on the Judicial Conference Committee for the Administration of the Bankruptcy System from 1975 to 1987, and as its chairperson from 1979 to 1987. Judge DeMascio took senior status on January 15, 1988, and, despite his illness, continued to work until just weeks before his death.

From the date Judge DeMascio entered on duty, this Court was central in his life. His other deep and abiding love was his wife Margaret and when she died in 1996, it became clear to those close to him that his vitality, his love of life, began to ebb. Her death, while

it did not directly affect the caliber of his judicial work, did take a considerable edge off his delight in being a part of this Court. Close personal friends began to observe that his loss began slowly to affect his own health.

An extremely private man, not much is known of Judge DeMascio's life outside the Court. For decades, he played in an all-Italian golf foursome. His close friendship with colleague George Woods began while the two served in the United States Attorney's Office and remained constant through the years.

One of the most significant accomplishments of Judge DeMascio's long judicial career was his handling of the Detroit school desegregation case. His colleague Judge James Churchill described the case as "perhaps the most publicly controversial case in the history of the state." *Bradley v Milliken*, 426 F Supp 944 (ED Mich 1977). In determining that there was no ground for questioning the Judge's impartiality in the case, Judge Churchill said that "the manner in which Judge Robert E. DeMascio has presided in this case has been exemplary and should command the respect of the parties, counsel, the judiciary, and the public." *Id.* The United States Court of Appeals for the Sixth Circuit, in one of its many opinions in the case, echoed that evaluation. *Bradley v Milliken*, 620 F2d 1143, 1158 (CA 6 1980).

Judge DeMascio presided over this contentious case from the time of Judge Stephen Roth's death in 1974 until 1980. He received the case after the United States Supreme Court struck down Judge Roth's cross-district busing plan, which would have included dozens of suburban school districts and revamped the educational landscape of southeast Michigan.

His overriding concern was to implement a desegregation plan that would not only achieve some racial balance in an increasingly black school system, but one that would also garner community acceptance, improve the educational environment of Detroit students and be implemented without the violence and opposition that had accompanied other desegregation efforts. To accomplish this, he involved the community and drew on resources from around the state to help formulate and implement a plan. The Sixth Circuit later

affirmed and a unanimous Supreme Court, addressing for the first time the question whether educational components of the type included in this plan were a proper part of a school desegregation order, also affirmed. Judge DeMascio was undeterred from doing what he saw as his duty in this emotional case, despite criticism and threats to his personal well-being. For a time, he lived with round-the-clock Marshals Service protection. He took pride in the fact that the plan he ordered was implemented peacefully.

His conduct in this case showed his best judicial qualities. He had an acute sense of fairness and labored long and hard to do the right thing. It was only with reluctance that he gave up the case in response to the Sixth Circuit's suggestion that the case be reassigned. A testimony to the burden he bore in handling this case is that when it came time to reassign the case the court took the unusual step of assigning a three-judge panel rather than assignment to a single judge. In this case, as in all matters he handled through the years, Judge DeMascio met his responsibilities with dignity and decorum, insisting on the same from those appearing before him.

Judge DeMascio had a special relationship with his law clerks who agree it was a privilege to work for him. He had lunch with his clerks almost daily, including - in the early days - Saturdays. He made it a practice to select one man and one woman to work as his law clerks. Judge DeMascio was an advisor, mentor and friend to his many clerks through the years. The strong personal bond that he forged with them was clear to all when former clerks from across the country gathered to celebrate his 25 years on the federal bench.

Judge John Feikens, a colleague and close personal friend of Judge DeMascio, said:

“Judge DeMascio’s capacity for hard work, combined with his strong desire to deal firmly and justly with those who appeared before him, is a measure of his stature.”

NOW, THEREFORE, BE IT RESOLVED that the Fifty-Ninth Judicial Conference

of the Sixth Circuit in session at Traverse City, Michigan, this 23rd day of June, 1999, pays tribute and appreciation to the memory of Robert E. DeMascio, who served this Court well.

BE IT FURTHER RESOLVED that a copy of this Resolution be preserved upon the records of this Conference and that copies be furnished to his family as a mark of sympathy and esteem.

Respectfully submitted,

Lawrence P. Zatkoff  
Chief Judge  
United States District Court  
Eastern District of Michigan

John Feikens  
Senior Judge  
United States District Court  
Eastern District of Michigan

Barbara K. Hackett  
Senior Judge  
United States District Court  
Eastern District of Michigan

Photograph on Front Cover  
Courtesy of  
Grand Traverse Balloons, Inc.  
Traverse City