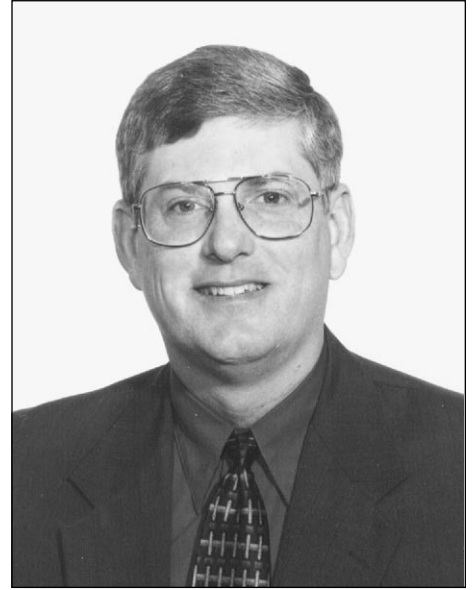


Update on Visiting Judge Program

by *Kevin M. Oeffner*
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During my tenure with the court there has never been so much attention and focus on trial court dockets and the timeliness in which individual judges move their cases. In its Fall 2005 report on judicial resources, the State Court Administrative Office determined that this circuit court is more than three judges understaffed. The analysis was based upon a complex set of variables, the explanation of which would require a separate article in itself.

The long story made short is that this circuit court needs additional judicial resources as determined by an organization independent of this court. We hope to receive approval for an additional judgeship down the road – perhaps in 2009 – but that’s also another article for another time.

In the meantime, an issue with which we grapple is how to handle the volume of cases and their increasing complexity with our current judicial and support staff resources. The visiting judge program has been of great value in trying to resolve this issue.

Those who practiced civil law in this court in the 1990s will remember that as many as three visiting judges would be here from time to time. The visiting judge program was a casualty in the budget cuts of 2002. Partly in response to the SCAO’s report on judicial resources issued in 2003, the Board of Commissioners granted us an appropriation sufficient to pay for one visiting judge. In late May 2004, our visiting judge program was reinstated. The data provided below represents the volume of work handled by the visiting judge from June 2004 through July 25, 2006.

As of July 25, 207 cases have been transferred to the visiting judge docket. The visiting judge has disposed of 168 cases, 82 of which have been by trial. The visiting judge

has spent 335 days in trial, with an average trial length of 4.1 days. The number of days spent in trial, as a percentage of the number of working days during the period referenced above (less the number of days when the visiting judge was away), is nearly 63 percent. The visiting judge is in trial nearly two of every three days. The number of trial days does not include the time needed to impanel juries.

Despite the requirement that cases be trial-ready before they can be transferred to the visiting judge docket and the fact that these cases have been subjected to one or more forms of alternative dispute resolution, the visiting judge has been successful in settling 22.6 percent (38 of 168) of the cases transferred. Forty-eight cases have been disposed by means other than trial or settlement. Thirty-nine cases are pending.

The work handled by the visiting judge has been substantial. Beyond the obvious benefit of enabling us to move the civil docket in a timely manner, a peripheral benefit is that the circuit judges can spend additional time on criminal cases in an effort to alleviate the overcrowding conditions that plague the county jail. In less than three years, the pending criminal docket has been reduced 30 percent, despite a slight increase in criminal filings. The visiting judge program has contributed to the success achieved on the criminal side of the ledger.

Someone might suggest that, given the workload of the visiting judge and the success in disposing of civil cases, a new judgeship is not necessary. Recall that I mentioned at the outset of this article the court’s interest in obtaining approval for a new judgeship in 2009. The SCAO’s determination that this court is more than three judges understaffed takes into account the presence and workload of the visiting judge.

Before concluding, I want to mention a few provisions of our visiting judge docket protocol about which practitioners should know. Only civil cases may be transferred to the visiting judge docket. Each case transferred must have first been subjected to case evaluation and facilitative mediation, unless the court finds good cause to exempt the case from facilitative mediation. Cases transferred must be trial-ready. Trial readiness means that all pre-trials, preliminary motions and hearings have been completed by the assigned judge.

The decision to transfer a case is left to the sole discretion of the assigned judge, within certain limits set by the bench as to the number of cases each judge may transfer within a given period of time. Only cases with jury trials and trials consisting of both jury and non-jury claims may be transferred. There is no age or trial-day limit for cases transferred.

The Court's Case Management Office will schedule a trial date and notify the appropriate parties within 24 hours of the transfer of the case to the visiting judge docket. Trial dates will generally be set not later than six weeks after transfer of the case. Attorneys should expect that adjournments – which must be on the record with a corresponding order entered – will be few and far between. A standby docket not exceeding four weeks is monitored by the court clerk assigned to the visiting judge.

The visiting judge program has proven itself to be of considerable value in moving cases as we strive to comply with the caseload management time guidelines established by the Supreme Court. Questions about the program may be directed to the Case Management Office at 248-858-0353 or the visiting judge's court clerk at 248-858-1704.

Until next time...



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