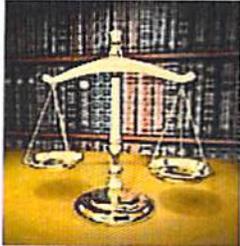
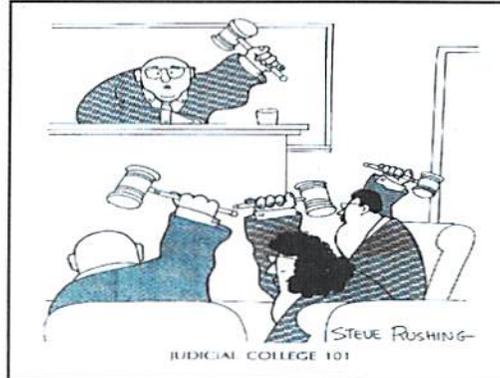


CASE MANAGEMENT



Tennessee Judicial
Academy
August 18, 2014
Hon. Cornelia A. Clark



An independent, fair and impartial judiciary is indispensable to our system of justice.

The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society.

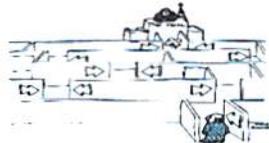
Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law.

[J]udges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

- A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

" [There is] . . . a widespread feeling that the courts are inefficient." The most direct causes of dissatisfaction ha[ve] to do with the archaic judicial organization and procedure, resulting in "uncertainty, delay and expense" that "have created a deep-seated desire to keep out of court, right or wrong." The court system is archaic in three respects: (1) having a multiplicity of courts, (2) preserving concurrent jurisdictions, and (3) wasting judicial resources that could be used to reduce court backlogs.

- Roscoe Pound (1906)



Functions of Courts

- Carry out justice
- Resolve disputes
- Protect individuals
- Deter/punish crime
- Provide restitution
- Ensure fair access

Why is Case Management Important?

Achieving those goals-

- Early
 - Fairly
 - Cost-effectively
 - Without excess complexity...
- instills confidence in the system.

Definition of Case Management

Coordination of court processes and resources to move cases timely from filing to disposition, regardless of the case type or the type of disposition.



STEVE RATTNER
"LET'S SETTLE THIS ONCE AND FOR ALL, JUST WHO IS THE FASTEST GAVEL IN THE CIRCUIT."

Why Does It Matter How Long It Takes to Complete Cases?

- A. Professional expectations: national standards
- B. Judges: caseload overload
- C. Parties: finality, emotional and otherwise
- D. Public perceptions: time, money, complexity

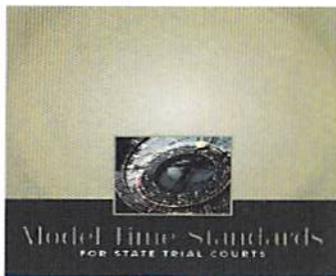


TABLE OF MODEL TIME STANDARDS

Case Category	Case Type	100% Standard	85% Standard	Model Standard
Criminal	Arrest	100% within 10 days	85% within 120 days	120 within 90 days
	Arrest	100% within 180 days	85% within 180 days	105 within 180 days
	Arrest	100% within 300 days	85% within 300 days	180 within 300 days
	Arrest	100% within 360 days	85% within 360 days	210 within 360 days
Domestic Violence	Arrest	100% within 90 days	85% within 90 days	90 within 90 days
	Arrest	100% within 90 days	85% within 90 days	90 within 90 days
	Arrest	100% within 90 days	85% within 90 days	90 within 90 days
	Arrest	100% within 90 days	85% within 90 days	90 within 90 days
Traffic and Local Offenses	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
Juvenile Cases and Delinquency	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
	Arrest	100% within 100 days	85% within 100 days	100 within 100 days
Civil	Contract Dispute	100% of cases within 12 months	85% within 18 months	720 within 180 days
	Contract Dispute	100% of cases within 18 months	85% within 24 months	900 within 240 days
	Contract Dispute	100% of cases within 24 months	85% within 36 months	1080 within 360 days
	Contract Dispute	100% of cases within 36 months	85% within 54 months	1260 within 540 days
Tort	Contract Dispute	100% of cases within 12 months	85% within 18 months	720 within 180 days
	Contract Dispute	100% of cases within 18 months	85% within 24 months	900 within 240 days
	Contract Dispute	100% of cases within 24 months	85% within 36 months	1080 within 360 days
	Contract Dispute	100% of cases within 36 months	85% within 54 months	1260 within 540 days
Probate	Contract Dispute	100% of cases within 12 months	85% within 18 months	720 within 180 days
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Who is responsible for managing cases?

- NOT attorneys
- NOT parties
- NOT court clerks
- NOT the standards agencies

Sine Qua Non of Caseflow Management

The **Court** is responsible for supervising case progress.



What if it is not happening now?

- The “fifty-year rule” is not necessarily the best rule.
- There is no time like the beginning (of your tenure) to make changes. It will be easier to change things now than at any other time.

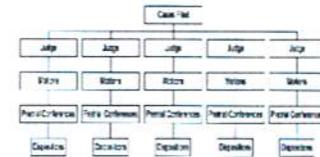
Three Levels of Case Management

- I. Assignment of *all* cases in a judicial district among all judges
- II. Management of all cases on *your* docket
- III. Management of *one* trial/hearing

Assignment of All Cases Among All Judges: How Are You Doing it Now?



1. Individual Calendar System



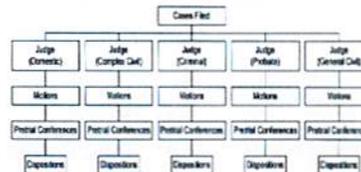
*Rotating assignment upon filing to single judge, who is responsible for all aspects of case until closure

2. Master /Central Calendar System



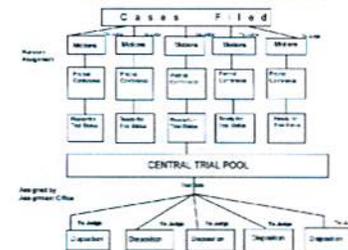
*Cases not assigned to judge for trial until shortly before trial; pretrial motions may be handled by a different judge; judges assigned to handle different phases.

3. Specialized Courts Calendar System



*Assignment based on type of case (civil, family, criminal) with judges assigned to hear only that type of case.

4. Hybrid Calendar System



Factors For Selecting a System

- Number of judges
- Management skill level and personalities of judges
- Number and type of cases being arranged
- Degree of cooperation among judges
- Preference of most judges
- Staff and information resources available and likely to support desired system
- Case management goals of court

Other Considerations

- Develop a process for regular review of the status of all cases on the docket.
- Consider whether different systems should be used to manage different types of cases based on length, complexity, pretrial procedural requirements.
- Implement rules for judges who, acting alone, do not manage cases efficiently.

Management of All Cases on *Your* Docket



Secrets of Docket Management

1. Common Sense Concepts
2. Early Judicial Control
3. Continuous Judicial Control

4. Short Scheduling

5. Reasonable Accommodation of Attorneys

6. Establishment of Expectations

7. Manage the Cases!



Common Sense Concepts of Effective Case Management

- Automation
- Regular motion and other non-jury days in all jurisdictions
- Avoid “under-” and “over-” scheduling
- Regular access for disposition of agreed or ex parte matters

Common Sense Concepts of Effective Case Management

- Create the expectation that events will occur when they are scheduled.

- Plan your calendar/schedule effectively.
- Set firm deadlines for all pretrial phases.
- Set firm trial dates as early in the process as possible.
- Learn the case.
- Control motion practice.

Common Sense Concepts of Effective Case Management

- Allow exceptions to the rules, but do not let the exceptions swallow the rule.
- Develop form orders for scheduling and conferences.
- Develop a process for regular review and dismissal of stale/inactive cases.

Common Sense Concepts of Effective Case Management

- Develop strategies for addressing lawyer noncompliance.
- Use a “team” approach.

But remember...

Terms of court no longer exist (Tenn. Code Ann. § 16-2-510). Courts are open continuously.

Docket calls of several hundred cases are very inefficient!

Management of One Trial/Hearing



Why worry about case management during an individual trial?

- Because shortening a trial will increase court capacity for other waiting matters!
- Fewer than 5% of cases filed result in trial, but 35-40% of the working time of an average general jurisdiction judge is spent in trials.
- Trials are the most public court events!

A well managed trial...

- Enhances the appearance of justice.
- Facilitates fairness and efficiency.
- Costs less.
- Achieves sound results.
- Eliminates backlog and delay.

The Judge's Role

- Remember: The judge is the **gatekeeper**, **timekeeper**, **referee**, and **hall monitor** in a trial. You must keep an ear open at all times for evidentiary lapses, and an eye open at all times for sleeping jurors, or those who need a bathroom break! Organization and management remain critical.

MANAGING SPECIFIC TYPES OF CASES



Pro Se Issues

- Effects of pro se nature of proceedings on case processing
- Programs serving pro se litigants
- Strategies for managing cases with pro se litigants

Final Thoughts on Effective Case Management



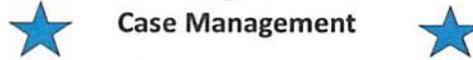
Final Thoughts on Effective Case Management

- More effective use can be made of the limited time available for trials. Sound trial management by judges results in trials that are more expeditious and more effective, without compromising fairness.

Final Thoughts on Effective Case Management

- Trial management is an aspect of the sound exercise of **judicial discretion**. Many judges already employ some techniques of effective trial management.

Final Thoughts on Effective Case Management



- There *is* broad support – by judges and lawyers – for effective management of cases by judges. Effective case management results in more easily comprehended outcomes, avoidance of unnecessary delay, elimination of unnecessary costs to litigants and to the court system, and a more positive public perception of the courts.

There are sticks a/w/a carrots!

- District Presiding Judges have powers to assign or reassign all your cases!
 - Tenn. Code Ann. 16-2-509 (c)
 - Sup. Ct. R. 11, Section III
- The weighted caseload study makes a difference. Tenn. Code Ann. 16-2-513

- If you don't decide a case after 60 days, or a motion more than 30 days, a party can ask presiding judge or the Supreme Court to make you do so... Tenn. R. Sup. Ct. 11, Section IIIc.
- A judge must perform duties competently, promptly, and diligently. Tenn. R. Sup. Ct. Rule 10, Rule 2.5 (A).



The founders realized there has to be someplace where being right is more important than being popular or powerful, and where fairness trumps strength. And in our country, that place is supposed to be the courtroom.

Sandra Day O'Connor