

The Impact of Mediation on State Courts

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A common assumption regarding the mediation of matters in litigation is that mediation holds the potential to clear court dockets, ostensibly so that matters more deserving of trial are able to reach adjudication. From the perspective of court administration, the Author suggests that while mediation has not yet produced this result, the adoption of mediation practice in the court environment has been a significant catalyst in the emergence of a new judicial culture. This Article also speculates about the impact mediation may have on the court environment in the future, particularly in light of the ability of technology to increase litigants' awareness of courts' dispute resolution processes and their attendant risk factors. Finally, at a time when only a few percent of cases go to trial, questions are raised regarding the role of legal education in training lawyers to practice collaborative dispute resolution, more appropriately managing clients' disputes in light of a trial being unlikely, and the relevance of promoting as a predominant dispute resolution model the adversarial management of conflict through the courts.

I. HAVE CASE FILINGS INCREASED SINCE THE POUND CONFERENCE?

A key aspect of Professor Frank Sander's Pound Conference work was the suggestion that with an upward spiral of court filings, mediation might be one means to address docket management concerns.¹ Two propositions were housed in this single thought. First was the assumption that the then escalation of case filings would increase further, although not without some cap. The second assumption was that by resolving disputes through mediation, courts could better manage the increase in new filings. For our purposes—assessing the impact of mediation in the court environment—it is fair to assess whether the dramatic rate of case filings witnessed at the time of the Pound Conference continued and whether mediation has had an impact on docket management.

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¹ Frank E.A. Sander, *Varieties of Dispute Processing*, Address Delivered at the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice (Apr. 7-9, 1976), in 70 F.R.D. 111, 133-34 (1976).

Did the upward spiral in case filings continue? The answer is clearly “yes,” until about 1992. The National Center for State Courts reports that between 1984 and 1999 there was a fourteen percent increase nationally in civil filings.² In 1999, there were 5467 civil filings per 100,000 population, representing a total of 15.1 million civil filings in both general and limited jurisdiction courts.³ The peak of civil litigation filings occurred in 1991 and 1992 when there were approximately 5900 filings per 100,000 population.⁴

Criminal case filings increased forty-seven percent between 1984 and 1999, to about fifteen million cases.⁵ The peak in criminal filings occurred in 1998 with 14.5 million filings.⁶ Much has been made of the criminal docket essentially preempting the civil docket because of constitutional guarantees in bringing defendants to trial. But, even by 1992, the Court Statistics Project of the National Center for State Courts reported that only 3.7% of tort cases and 2.8% of contract cases were resolved by trial.⁷

In Michigan in the year 2000, less than one percent of general jurisdiction civil filings resulted in jury trials.⁸ Jury and non-jury trials collectively made up three percent of total case dispositions, and this was in a judicial environment that had not featured court-ordered mediation.⁹ Worth keeping in mind for the moment is the observation that the jury trial event remains a very small percentage of civil case outcomes. Nevertheless, it is this event that law schools focus on as being the primary means of resolving disputes in the judiciary.

Professor Sander’s speculation that case filings would increase, but not infinitely, proved accurate. There were increases in general civil case filings through the early 1990s. Thereafter, civil filings reached a plateau while criminal filings continued to escalate.

² CONFERENCE OF STATE ADM’RS ET AL., EXAMINING THE WORK OF STATE COURTS, 1999–2000: A NATIONAL PERSPECTIVE FROM THE COURT STATISTICS PROJECT 17 (Brian J. Ostrom et al. eds., 2000).

³ *Id.* at 16–17.

⁴ *Id.* at 17.

⁵ *Id.* at 60.

⁶ *Id.*

⁷ *Id.* at 29.

⁸ MICH. SUPREME COURT, ANNUAL REPORT (2000).

⁹ Michigan does have a history of using case evaluation post-discovery and prior to the final settlement conference. The evaluations, conducted by a panel of three attorneys, are non-binding; however penalties may attach if one party accepts an evaluation and the other does not. Evaluation acceptance rates are approximately twenty percent of all matters evaluated. See MICH. CT. R. 2.403 for the operation of this process and MICH. CT. R. 2.404 for the qualifications of case evaluators.

II. DID MEDIATION HAVE AN IMPACT ON DOCKET MANAGEMENT?

Without question, the use of mediation in the courts exploded after 1976. The West Group's three-volume set, *Mediation: Law, Policy & Practice*,¹⁰ devotes two entire volumes to tracking alternative dispute resolution (ADR) statutes and court rules in the fifty states. In Florida alone, a recognized leader in court-annexed ADR initiatives, over 130,000 cases were referred to mediation in 2000.¹¹

Currently, over 550 community dispute resolution centers, most initiated in the late 1980s and early 1990s continue to serve as the primary laboratories of applications of mediation.¹² Many attorneys, as well as others working in the ADR field, had their first contact with mediation through a community dispute resolution center, and many also trained there. Courts remain a primary component of these centers, often contributing fifty percent or more of a center's referrals.¹³

Mediation has been used in virtually every type of conflict brought to court, from permanency planning mediation in child abuse and neglect settings, to contested adoptions, criminal matters, divorce, and contested adult guardianship matters. To date, there seems to be no limit to the application of mediation in general civil matters.

The Policy Consensus Initiative, which for seven years has convened meetings for directors of statewide offices of dispute resolution, identifies thirty-six states as having a dispute resolution office housed in the judicial branch of state government.¹⁴ An additional 140 agencies outside the judicial branch are working on various aspects of public policy issues.¹⁵

While there is clearly much mediation afoot, it is generally occurring late in litigation, when cases would be settling regardless of the presence of an ADR process. As noted earlier, approximately ninety-seven percent of all

¹⁰ SARAH R. COLE ET AL., *MEDIATION: LAW, POLICY & PRACTICE*, (2d. ed. 1994 & Supp. 2001).

¹¹ FLA. DISPUTE RESOLUTION CTR., *FLORIDA MEDIATION & ARBITRATION PROGRAMS: A COMPENDIUM* (14th ed. 2001).

¹² National Association for Community Mediation, at <http://www.nafcm.org/pg5.cfm> (last visited Mar. 26, 2002).

¹³ At Michigan's community dispute resolution centers, the percentage of court referrals ranged from eight percent to ninety percent in 2000.

¹⁴ Policy Consensus Initiative maintains a website of statewide dispute resolution offices in both the judicial and executive branches. Policy Consensus Initiative, *Directory of DR Programs*, at <http://www.policyconsensus.org/directory/statelist.shtml> (last visited Mar. 26, 2002).

¹⁵ *Id.*

cases are disposed by some means other than a trial.¹⁶ In short, mediation or not, cases leave the docket.

So the question is, given the upward spiral of case filings and increased use of mediation, has mediation become a significant docket management tool as was proposed twenty-five years ago? With some localized exceptions, probably not. It turns out we did not need, and still do not need, mediation for docket management.

In the 1970s, and certainly in the early 1980s, court administration grew into its own field, and the following key principles emerged:

1. Judges should be in control of the docket, not lawyers;
2. Different types of cases could be better managed on different tracks; and
3. Judge specialization would expedite case management (*e.g.*, business court, family divisions, small claims, drug courts).

The confluence of these three notions resulted in the science of caseflow management: In response to the universal complaint that litigation simply took too long, judges seized control of dockets and developed sophisticated tools for managing, and hence “moving” cases. This gave rise to “differentiated case management” and specialized “rocket dockets.” Simultaneously, most state and federal courts adopted sweeping discovery rules that limited the time for discovery and the taking of depositions, and also mandated comprehensive pre-trial scheduling orders detailing every aspect of pre-trial activity. This essentially eliminated much of the former surprise a trial might harbor and, far more than mediation, these judicial enhancements have affected pre-trial resolution of matters.

In short, courts reacted to the spiraling increase in case filings by developing new case management techniques. Mediation was not a primary factor in addressing court caseloads. A more accurate view of mediation’s impact in the court environment may be that it has opened the door to courts thinking differently about how they serve citizens and the very role of the court in a community.

III. MEDIATION’S ROLE IN CREATING A NEW JUDICIAL CULTURE

Judges are beginning to think of litigants not just as cases to pump through a system, but as persons in their communities with problems to solve. Mediation, and the sensitivity it brings to finding solutions parties can live with, is paving the way for the era of the problem-solving court.

The focus on “underlying interests,” the recognition of important non-economic issues in disputes, the therapeutic role of an apology, the creativity

¹⁶ CONFERENCE OF STATE COURT ADM’RS ET AL., *supra* note 2, at 29.

of “expanding the pie,” and other mediation hallmarks have all helped judges break beyond mere legalistic thinking about problems.

In the past decade, problem-solving courts have been identified as drug treatment or mental health courts; however, the notion that the real problem should be the focus of a court intervention is clearly the hallmark of mediation.

The medical analogy is well suited here. Physicians once referred to a patient as a “heart attack case” and performed surgery and prescribed drugs to address the heart disease. But more holistic views have caused physicians to look beyond mere surgical and chemical interventions. Patients are now screened for lifestyle habits, including diet, stress patterns, exercise, spiritual outlook, and even service to others.¹⁷ In this same vein, courts are beginning to look for the heart of the problem when disputes are presented before them.

The emphasis on courts addressing the underlying problems of its litigants has quickly captured the attention of policymakers. In 2000, the Conference of Chief Justices adopted a resolution supporting the expansion of problem-solving courts.¹⁸

Despite its effectiveness, it would be wrong to suggest that mediation by itself has helped courts become comfortable with the notion that they have some problem-solving role in their communities. The companion practice and philosophy of “therapeutic jurisprudence” has helped encourage this new role as well.

Therapeutic jurisprudence proposes that courts can most effectively solve problems in mental health and drug-related cases by treating the person before the court from a health care perspective, backed up by the incentives of the punishment system. Rather than considering confinement as the only option in addressing an offense, the resources of the community are brought together to address the offender’s health issue.¹⁹

But certainly the dramatic rise of mediation has introduced courts to the notion that the “winner take all” approach to dispute resolution is not the only service the public should be offered. From a health perspective, broadly

¹⁷ See generally DEAN ORNISH, M.D., DR. DEAN ORNISH’S PROGRAM FOR REVERSING HEART DISEASE: THE ONLY SYSTEM SCIENTIFICALLY PROVEN TO REVERSE HEART DISEASE WITHOUT DRUGS OR SURGERY (1990).

¹⁸ Conference of State Court Administrators, Conference of Chief Justices, CCI Resolution 22, COSCA Resolution 4, In Support of Problem-Solving Courts (Aug. 3, 2000), available at <http://cosca.ncsc.dni.us/Resolutions/resolutionproblemsolvingcts.html> (last visited Mar. 26, 2002).

¹⁹ See generally Douglas A. Van Epps, *Multi-Door Courthouse: Therapeutic Justice Adds to Prescriptions for Problems*, DISP. RESOL. MAG., Spring 2000, at 9 (providing an additional explanation of the relationship between therapeutic jurisprudence and mediation).

defined, many courts have begun to assess their role in creating a healthy community by offering (or even mandating) a collaborative approach to problem solving.

There are additional impacts mediation has had on the court environment, and these are summarily discussed next.

A. Access to Justice

The American Bar Association and the Michigan State Bar Association have determined "access to justice" to be both the *raison d'être* and aspiration of both associations.²⁰ Justice should be easily accessible by all citizens. Theoretically the same persons making "access to justice" a cornerstone of bar activity know that only one percent to three percent of matters reach trial, so they cannot really be focusing on access to the trial event.

Although common "access to justice" discussions still harbor the aspiration that every citizen with a dispute should have "access" to the traditional system of adversarial fighting until some moment when "justice" is achieved, that result almost certainly is achieved without a trial. The irony in this discussion is that the "access" is almost exclusively obtained by persons with either limited or no resources using immense public resources to engage in a process that leads to an event that rarely happens. Through mediation, wherein litigants have complete control over the outcome of their matter, citizens have far more access to just resolutions than a decade ago when "access to justice" exclusively meant "you win or you lose."

B. User Satisfaction

Mediation is prompting courts to think about the quality and appropriateness of the process through which a dispute is resolved. A customer service attitude is slowly entering the judicial environment such that we are beginning to ask what the effect of the litigation or mediation process is on people, not just what the results of the process might be. It seems that soon we will begin asking people to rate their day in court.

At the risk of identifying yet more irony, it is very common that in implementing mediation services we want to know a host of information about the "success" of mediation, its user satisfaction rates, and its cost

²⁰ See, e.g., ACCESS TO JUSTICE FOR ALL GROUP, STATE BAR OF MICH. LONG RANGE PLANNING COMM. (1997), at <http://www.michbar.org/> (last visited Mar. 26, 2002); NAT'L CONFERENCE ON ACCESS TO JUSTICE IN THE 1990S, AM. BAR ASS'N, CIVIL JUSTICE: AN AGENDA FOR THE 1990S (1989), at <http://www.abanet.org/legalservices/downloads/sclaid/accessconf.pdf> (last visited Mar. 26, 2002).

effectiveness, while making virtually no similar queries of traditional hearings or litigation processes. In Michigan, which is fairly representative of other states in this regard, virtually every person participating in mediation, whether in a community or court-ordered setting, or in special education or agricultural mediation, is given a post-process survey. These surveys typically demonstrate extremely high levels of satisfaction with mediation. Of persons involved in the approximately 600,000 general civil cases filed annually in Michigan (involving at least 1.2 million citizens), however, the occurrences of surveying litigants about their court experience are exceedingly low, if not nonexistent.²¹

Courts are just now beginning to care what the litigant thinks about the court experience. Was the judge neutral? Were you informed of the process to be used? Did your matter begin on time? The in-depth assessment of mediation practice, in short, may soon be carried over to adjudication

This is natural, since it is from this intensive scrutiny of mediation that we have been able to build mediation models, which indeed are customer driven. Query how much more we could improve the litigation process if we engaged the litigants themselves in improving it?

C. Citizen Involvement in Dispute Resolution

Mediation practice is causing judges and lawyers to recognize that persons without law degrees can effectively contribute to dispute resolution. Well settled in the last quarter-century of mediation is the fact that lawyers do not own the work of resolving problems. In fact, it could be argued that the whole "field" of mediation has grown so terrifically over this time because the legal profession has been widely viewed as having forfeited its ability to resolve disputes in a timely and cost-effective manner that is satisfactory to the litigant. Until recently, it has been primarily non-lawyers entering the field to serve as mediators in cases brought to courts by lawyers.

D. Litigation Demystified

Mediation is causing the historically secret process of resolving disputes, whereby only lawyers know the court process, to open up for public viewing. Already mentioned has been the notion that courts will be able to offer litigants a substantial array of information about the litigation process and the

²¹ The National Center for State Courts has taken a leadership role in surveying the public about its "trust and confidence in the courts." For an excellent overview of the project and its latest findings, see Roger K. Warren, *Public Trust and Procedural Justice*, Ct. REV., Fall 2000, at 12.

lawyers practicing in their courts. In order to do a reality test with litigants in mediation, mediators frequently ask parties (not just the lawyers) to identify costs, risks, and probabilities attached to various options. This causes lawyers and clients to candidly assess local and national data on trial verdicts, to develop trial budgets, and to bring a clear economic analysis to each option on the table. In order for persons to understand what their best and worst alternatives to a negotiated agreement are, they need to know all of the risks attendant to processing a matter through traditional litigation.

In summary, mediation can fairly be said to have some emerging impacts on courts: to think about "cases" as problems to be solved, to take into account the litigants' satisfaction with the court experience, to recognize that non-attorneys have significant contributions to make in resolving problems, and to use extra-judicial resources in non-traditional ways.

IV. MEDIATION'S FUTURE IMPACT

In the Pound Conference's spirit of conjecturing about what might lie ahead, the following notes paint a picture of significantly greater litigant access to information about lawyers and the courts they work in, the yet-to-be defined role of technology in resolving disputes over the Internet, and a renewed introspection of the role and capacities of lawyers in resolving disputes.

A. Recasting the Public's Expectation of the Court Experience

In light of the preceding discussion, it is inevitable that courts will begin to recast the public's expectation of what "having my day in court" will involve. In this regard, it is likely that there will be a presumption of ADR in virtually every civil case. The presumption will not be one of "telling my story to the judge," but rather one of "working out the problem with a mediator." This is likely not because mediation is needed to manage dockets, but because the notion of problem-solving courts will continue to garner support.

State legislators, mindful of containing the cost of the judiciary, will increasingly observe that people are able to resolve matters out of court in a high percentage of cases and will mandate far more disputes to an ADR process. Mediation will have cradle-to-grave applications in a family, collaborative court setting. Already mediation has been tested and proven effective in virtually every family-related issue, from issues involved with having and raising kids, to conflicts encountered along life's path (both criminal and civil), and to end-of-life issues (guardianships and wills). In

short, it is very likely that every family court scheduling order will automatically include a referral to mediation.²²

The notion of unlimited public subsidization of private feuding will gain additional attention. Current public policy, which only approves of three percent of matters reaching trial, will undoubtedly continue. Greater percentages of matters reaching trial would mean the addition of new judgeships, new construction, and additional staff and physical support. At least in the past decade, legislators and local funding units have been loath to expand the size of the judiciary. This means that more creative ways of resolving the remaining ninety-seven percent of cases will continue to be sought.

B. Technology, Litigation, and Dispute Resolution

The public will get specific information from courts that will help determine how best to manage resolving the problem. Akin to the relatively recent phenomenon of patients becoming far more engaged in their medical treatment, litigants could be expected to become far more actively involved in the resolution of their disputes. Technology plays a big role here, with at least three aspects worth mentioning.

First, with the advent of electronic filing of court documents, all civil pleadings, except those few documents sealed by court order, will become available on the Internet. Creditors, news media, shareholders, even students writing term papers will have access to virtually all documents filed in civil matters. In a host of civil litigation case types, litigants will think twice about whether they want their matter broadcast on the Internet.

Second, related to an earlier notion, technology will make it possible to help recast litigant expectations about their court experience by providing them with case-specific "inside" information about how matters are managed through the court process. In other words, the day of "informed consent to litigate" is arriving soon. Given the amount of information courts are able to generate about docket management through electronic filings and computerized case management, litigants will be able to request information about how similar matters filed in the court have been handled. Furthermore, courts will be able to provide precise information about the timing of matters and about how many similar matters are currently filed with the judge and the court.

²² This is true except, of course, for matters in which domestic violence may be an issue, in certain child abuse and neglect matters, or in cases where power imbalances are too extreme to permit parties to negotiate effectively.

For example, a litigant might note that only one percent of matters akin to his or her own are actually tried before a judge, the average number of motions filed in similarly captioned cases, and the average length of a case from filing to disposition. In effect, computerized courts will allow a case management profile to be developed for any case type, thus helping litigants guide their dispute with a higher level of certainty than is currently available.

This court process profile would not need to be limited just to judicial activity, however. Statewide computer systems will allow both litigants and the public to track the filings of all attorneys in every court in the state. A state court administrative office, or other centralized judicial information facility, will be able to generate specific information about the number of cases filed by an individual attorney by case type, duration from filing to disposition, number of trials an attorney has conducted, number of show cause orders, and by any other attorney-specific information. Moreover, as with other court data, this information will become available over the Internet to assist consumers in selecting attorneys as part of state and national bar associations' interests to improve access to justice.²³

The third technological innovation likely to affect dispute resolution is the creation of the "cybercourt" as a quick and efficient means of resolving disputes. Private Internet-based dispute resolution systems have been with us for some time now, but there is every reason to believe that courts, as they increase their on-line presence, will offer local electronic dispute resolution services. Again, responding to "access" considerations and legislators' interests in making attractive business climates within their states, courts will help citizens avoid the considerable inconveniences of attending court by offering on-line dispute resolution services. The Michigan legislature, for example, has just created a "cybercourt" through which chiefly business disputes can be submitted for judicial determination completely in the electronic environment.²⁴ The legislation includes an ADR component, the details of which are deferred for design by the Michigan Supreme Court.

C. Mediation Will Cause a Reexamination of Legal Education

One necessary conclusion that must be made after surveying the aggregate changes courts have undergone in the past quarter-century is that we must begin to think differently about legal education. Given that so few cases will be poised toward the very rare trial event, we must ask if it continues to make sense to have all students train to resolve matters in the adversarial process. Perhaps legal education should be bifurcated so that some numbers of lawyers actually focus their training in collaborative

²³ See *infra* pp. 639–40 app.

²⁴ 2001 Mich. Pub. Acts 262.

dispute resolution processes, while others continue to be fairly exclusively trained for taking the select few matters to trial. Does collaborative lawyering—a practice gaining momentum across the country—require a different type of legal education?

The prevailing educational model continues to create lawyers who are demonstrably ill equipped to solve problems.²⁵ With legislatures and courts taking the lead in mandating ADR processes, it will be just as important for law schools to undergo strategic thinking about legal education as courts have had to think strategically about “court reform” initiatives in the past decade. Many courts have determined that citizens are owed alternatives to the adversarial litigation process; similarly, law schools will need to face the question of whether they wish to prepare lawyers to effectively assist clients in resolving problems through those alternative processes.

D. The Legal Profession Must Face the Question of Solving Problems Versus Enhancing Legal Economics

There is no way to state this elegantly or diplomatically: lawyers will need to squarely face whether they are abusing clients by unnecessarily dragging out their conflicts. Are we using the rules of discovery to waste huge sums of client resources for the benefit of our law firms? Are we forsaking potential early settlement moments to prolong litigation and thus maximize billable hours? Are we assessing every possible settlement opportunity at the earliest possible moment?

Perhaps even more serious is the question of whether we are using the banner of “access to justice” to promote the expectation that persons will have greater “access to trial.” No matter how well-intentioned the notion of access to the court environment is, should we be focusing far more on “access to just dispute resolution” and avoid exacerbating the all-too-prevalent misinformed expectation that everyone will have a trial? Clearly, we need to assess our intentions in promoting access to the traditional litigation model in tandem with our aspirations for ensuring that all citizens have access to a dispute resolution process that is just.

E. Evaluation of the Court System Will Take New Directions

With greater information available, and limited resources to create new judgeships and courtrooms, courts will continue to improve measures to

²⁵ There are a growing number of notable exceptions to this generalization, chiefly being those law schools that offer mediation training and education programs and encourage assessment of dispute resolution options throughout the academic curriculum.

“move cases,” albeit by more humane, problem-solving means. With this improved ability to collect and manage data comes a greater ability to measure the role of courts in the community. Working with other community organizations, courts may be able to help measure traditional outcomes of litigation and mediation (*e.g.*, were there fewer police contacts to the neighborhood, truancies reported by schools, or emergency room assault visits as a result of mediation?). Taking the notion of user satisfaction beyond traditional considerations, asking litigants “did the court help resolve your problem” may lead to a community’s ability to create a “conflictometer” of sorts to gauge the extent to which collaborative dispute resolution processes are improving the quality of life. In short, the role of the court in the community will undergo a new assessment as courts partner with other agencies to—in the terms of mediation—discover and address the underlying problems brought to the courthouse.

V. CONCLUSION

If the impact of mediation in the court environment has not been to affect burgeoning dockets, it has been to create a catalyst for changing the entire judicial culture. We are moving beyond a mere empirical study of moving cases off the docket to assessing what type of conflicts present themselves and studying what types of resources should be brought to bear in helping to resolve those conflicts.

Perhaps Professor Sander was modest in his original proposal that mediation would help resolve disputes and thus address burgeoning dockets. We do not know if he envisioned the far broader impacts of mediation that were mentioned above; however, he is to be saluted for helping set in motion discussions and practices that have dramatically changed the legal culture of this country for the great benefit of its citizens.

IMPACT OF MEDIATION ON STATE COURTS

APPENDIX

COURT SERVICE PROFILE

93rd Circuit Court
Fleet County
State of Wisconsin

Ms. Angela Lovett
Meatpies Galore, Ltd.
11 Fleet Street
London, Wisconsin

Filer Number: CM2002-0059

Dear Ms. Lovett:

Welcome to the Fleet County Circuit Court. On behalf of the judges and staff of this court, we look forward to assisting you in resolving the lawsuit you have filed.

To help you evaluate how best to use this court's services, we are providing you with the following information regarding other similarly filed legal actions. We encourage you to discuss this information with your lawyer if you are represented by counsel.

The type of matter you have filed is categorized as a "commercial" dispute for internal case tracking purposes. In the Fleet County Circuit Court, in the past calendar year, 488 commercial disputes were processed to conclusion. Ten (2%) of these claims were resolved by jury trial or trial by judge. In the ten trials, plaintiffs won judgments in four cases (40%) and defendants won judgments in six (60%) cases. The remaining 478 cases that did not go to trial were resolved through some other means.

Your dispute has been assigned to Judge Edmund Turpin. In the past calendar year, seventy cases involving commercial claims were resolved on Judge Turpin's docket. Two cases went to trial without a jury. Plaintiffs obtained a judgment in one case of these cases and defendants obtained a judgment in the other case. The remaining sixty-eight cases that did not go to trial were resolved through some other means. There were no jury trials in the "commercial" category of cases on Judge Turpin's docket.

The average amount of time litigants in commercial matters appeared before a judge or magistrate on motions in Fleet County Circuit Court in the past calendar year was seventeen minutes. The average duration of a trial

involving commercial matters, tried either before a judge or a jury, in the past calendar year was one-and-a-half days.

Of the 488 commercial claims resolved in the past calendar year, parties in 322 cases elected or were required by a judge to try resolving their dispute through mediation. This means that attorneys and parties met together with a neutral mediator in a structured process to find a way to resolve their dispute without trial by jury or judge. In 238 (74%) of these cases, parties resolved the case themselves, making a trial by judge or jury unnecessary. Annual surveys conducted by this court regarding compliance rates with mediated agreements indicate that 95% of the agreements are kept by the parties.

The remaining 156 cases that did not go to mediation or trial were otherwise resolved through negotiation without mediation or after preliminary mediation did not result in a resolution, or were dismissed by the parties or by ruling of the court on a motion by a party.

We hope this information helps you assess which resources of this court may best help you resolve your dispute. For additional information about these statistics, how your case may be assessed to determine whether mediation may be appropriate, or other resources our court has available, please feel free to contact Mr. Sweeney Todd, our Dispute Resolution Coordinator at 987-654-3210.

Thank you.

Sincerely,

Hon. Beadle Bamford
Chief Judge
Fleet County Circuit Court

cc: Attorneys of Record