

20th Judicial Circuit Civil Case Management Proposal

- ❖ Current Situation
- ❖ Definitions & Best Practices -Caseflow management
- ❖ Preliminary recommendations/strategies
- ❖ Next Steps - Timetable

Why? Benefits of caseflow management?

- ◆ Improves continuous support and information to judges
- ◆ Timely & predictable case processing system for future
- ◆ Judges are empowered and have ability to affect change
- ◆ Innovation builds confidence and attracts staff/resources
- ◆ Public trust and community economic benefit of a timely and responsive system
- ◆ Better ability to adapt to changing needs

Civil Case Management –Initial Recommendations on Strategies

Backlog Reduction -

- Initial Focus on Magistrate and Case manager *assistance to judges in identifying cases for CMC's or status conferences on older cases pending over 18 months-*
- *Magistrate : Preset Discovery motion/CMC Calendar*

Complex cases-

- Case manager works with Clerk and may screen for potentially complex cases for review with judge;
- Judge may set interim CM conferences with Magistrate;
- Case Manager provides MIS case tracking reports and pretrial assistance for judges in problem cases

Standard cases—

- Magistrate preset docket for pretrial discovery motions;
- CMC's at judges referral at Mediation impasse or Notice for Trial to set CM scheduling order;
- Standing Order for case management with presumptive pretrial schedules;
- Case manager provides MIS, case tracking reports and coordinates with Clerk/IT
- Case Manager assists judge in early referral to ADR or other pretrial problems

Relevant Court Rules

❖ Complex case management - 1.201

- Criteria for complex cases/ motion by counsel or screening and designation on courts motion
- Initial Case Management Conference/Order
- Use of Magistrate in pretrial process/ conferences
- Time to disposition 24 months

❖ Case Management Time standards– 2.250 (a)

- Civil Jury – 18 months
- Non Jury – 12 months

❖ Case Tracking - Requirement for regular reporting and tracking of cases exceeding time standards -- 2.250 (b)

❖ Responsibility of Chief Judge for Case Management, Docket Control, Regular examination of dockets, take actions to keep docket current –2.215

❖ Early and continuous Case management – 2.545 (b) - Trial Judge shall take control at any early stage; early and continuous control; identify cases for ADR; ensure prompt resolution (assistance from staff)

Current Situation

Workload and Filing Trends
Age of Pending Cases
Overall Caseflow process

Court Performance measures:

3 measures to evaluate case processing & calendar performance

- ◆ Age of pending cases- number of cases pending over set time goals- Backlog= cases over 18 months (2.250)
- ◆ Calendar clearance- ability of court to keep pace with incoming filings- Dispositions/case filings- Goal 100%
- ◆ Time to disposition-On-time case processing- percentage of cases disposed within time goals- Goal 90% on-time 18 months

Performance measures- Current civil system performance vs standards

Goals

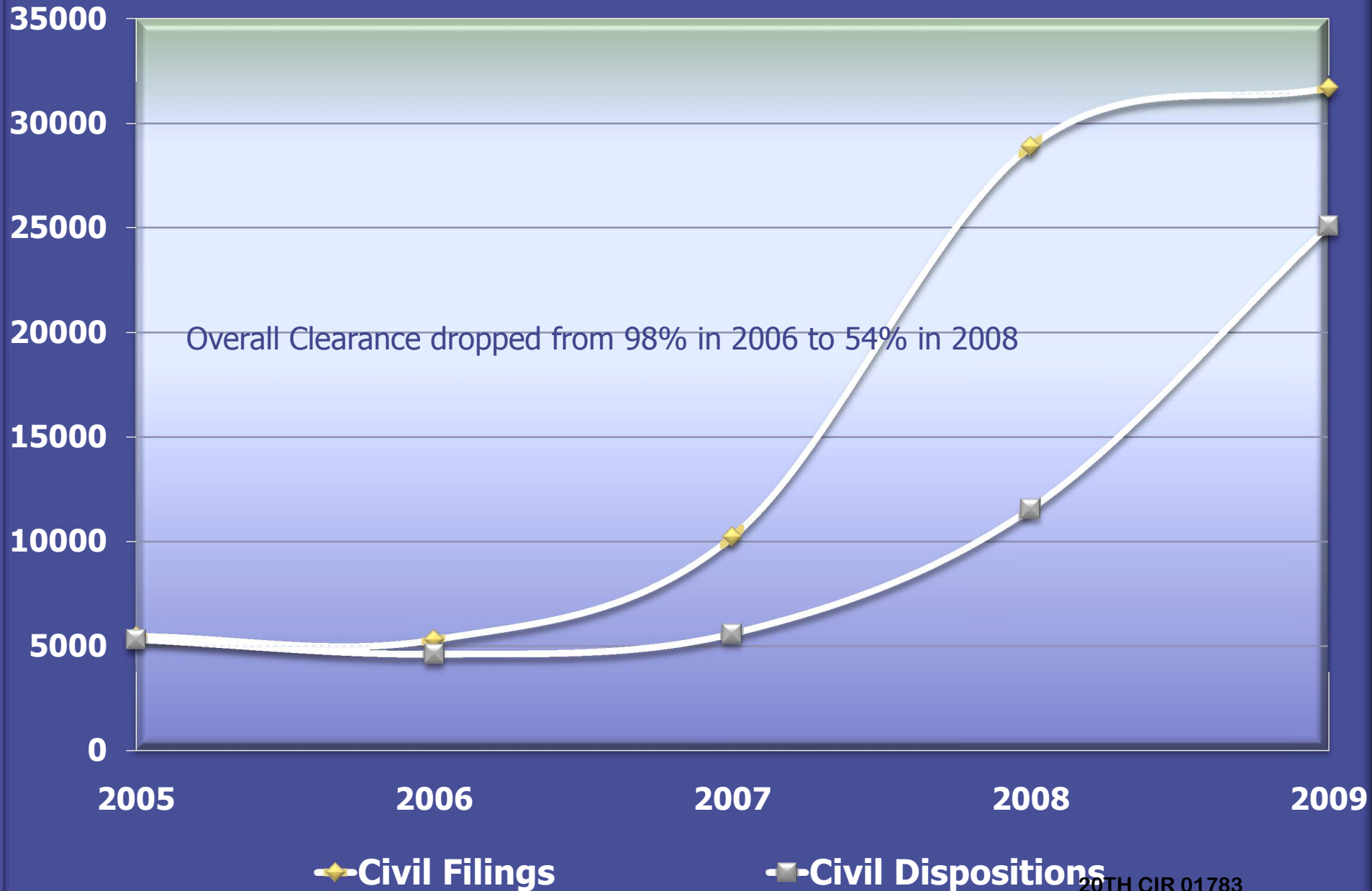
- ◆ Age of Pending -10% pending over goal- 18 months
- ◆ Calendar Clearance- 100% dispositions/filings
- ◆ Time to Disposition- 90% within goal of 18 months for standard; 90% within 2 years for complex

(ABA standards 90% within 1 year; 95% within 18 mos; 100% within 2 years)

Current assessment

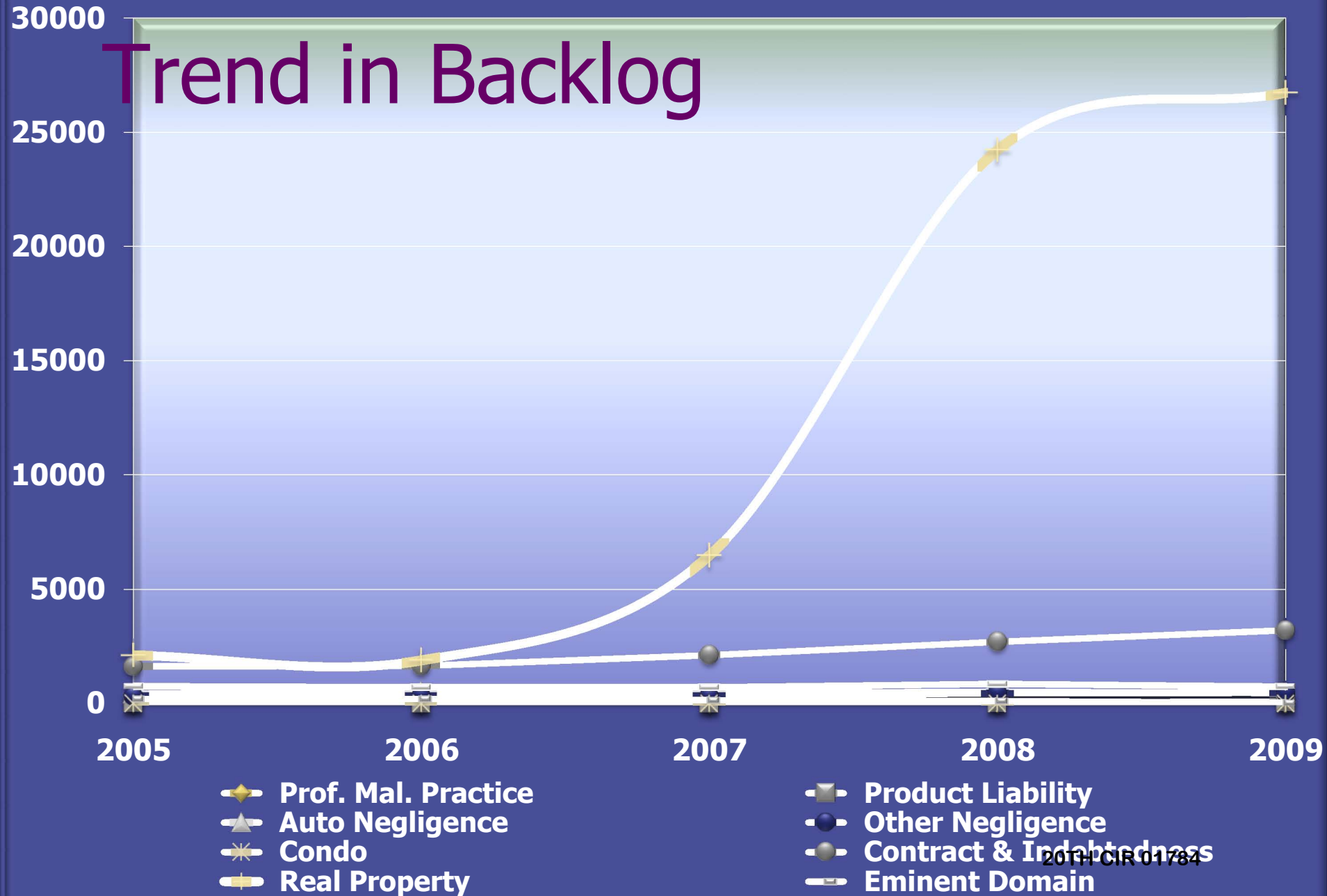
- ◆ Age of Pending-32% of civil (non foreclosure) over goal-backlog high & growing (1930 to 2300)over last 3 years
- ◆ Complex Case types show high percent over 18 months
- ◆ Clearance- Declined from 90% to 54% in 2008-Recent improvement due to expedited foreclosure
- ◆ Time to Disposition- 73% of regular civil within 18 mos; 96% within 2 years

Lee County - Circuit Civil Court Filings and Dispositions



Lee County - Circuit Civil Court Filings

Trend in Backlog



Lee County - Circuit Civil Court Dispositions



Lee County - Circuit Civil Court Filings



- ◆ Prof. Mal. Practice
- Product Liability
- ▲ Auto Negligence
- Other Negligence
- ✱ Condo
- Contract & Indebtedness
- + Eminent Domain
- Other Circuit Civil

Lee County - Circuit Civil Court Dispositions

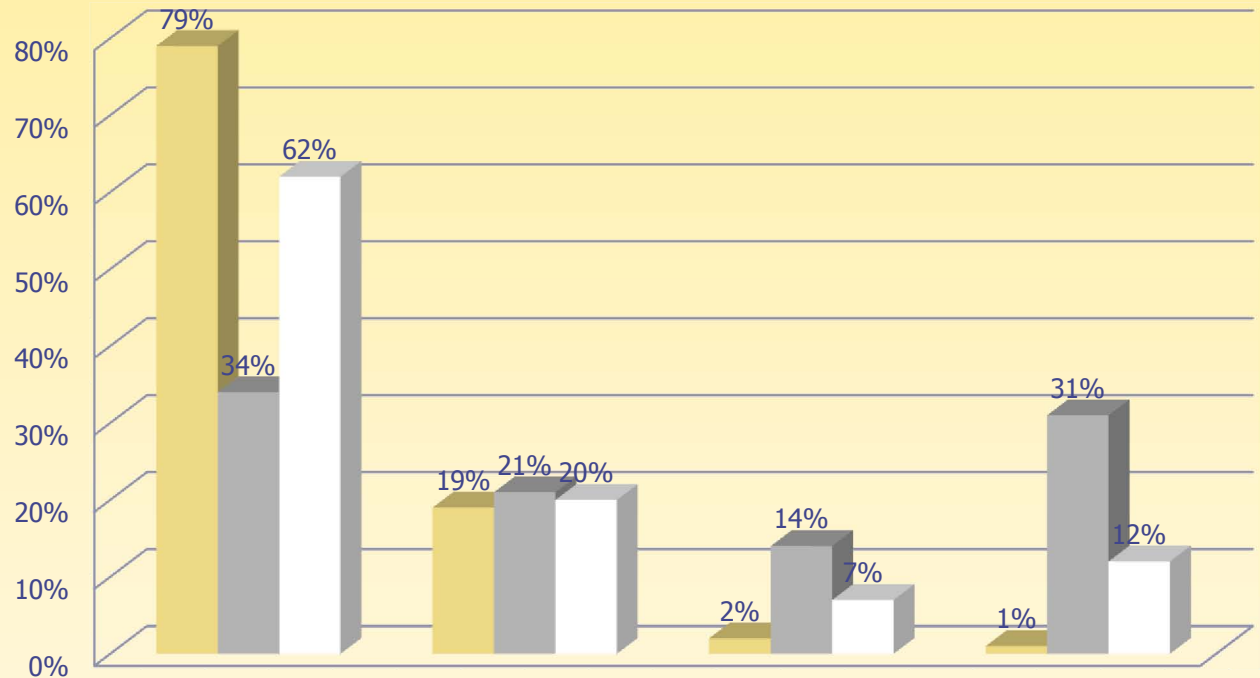


- ◆ Prof. Mal. Practice
- ▲ Auto Negligence
- * Condo
- ◆ Eminent Domain

- Product Liability
- Other Negligence
- Contract & Indebtedness
- Other Circuit Civil

Age of Pending Cases for Civil

End Date: 11-25-2007



Foreclosures (Total # 9,642)

Civil Cases without Foreclosures (Total # 6,240)

All Civil Cases (Total # 15,882)

Within 6 Months

79%

Within 12 Months

19%

Within 18 Months

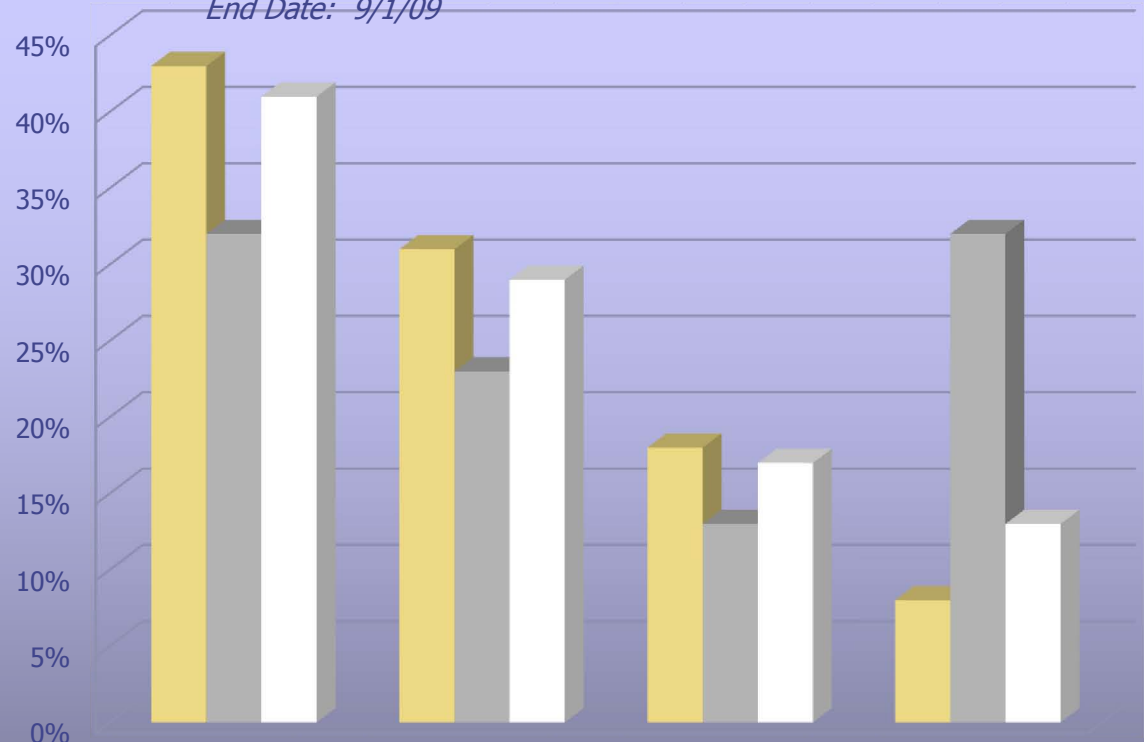
2%

Over 18 Months

1%

Age of Pending Cases for Civil

End Date: 9/1/09



Foreclosures (Total # 23,981)

Civil Cases without Foreclosures (Total # 7,231)

All Civil Cases (Total # 31,212)

Within
6
Months
43%

Within
12
Months
31%

Within
18
Months
18%

Over 18
Months
8%

32%

23%

13%

32%

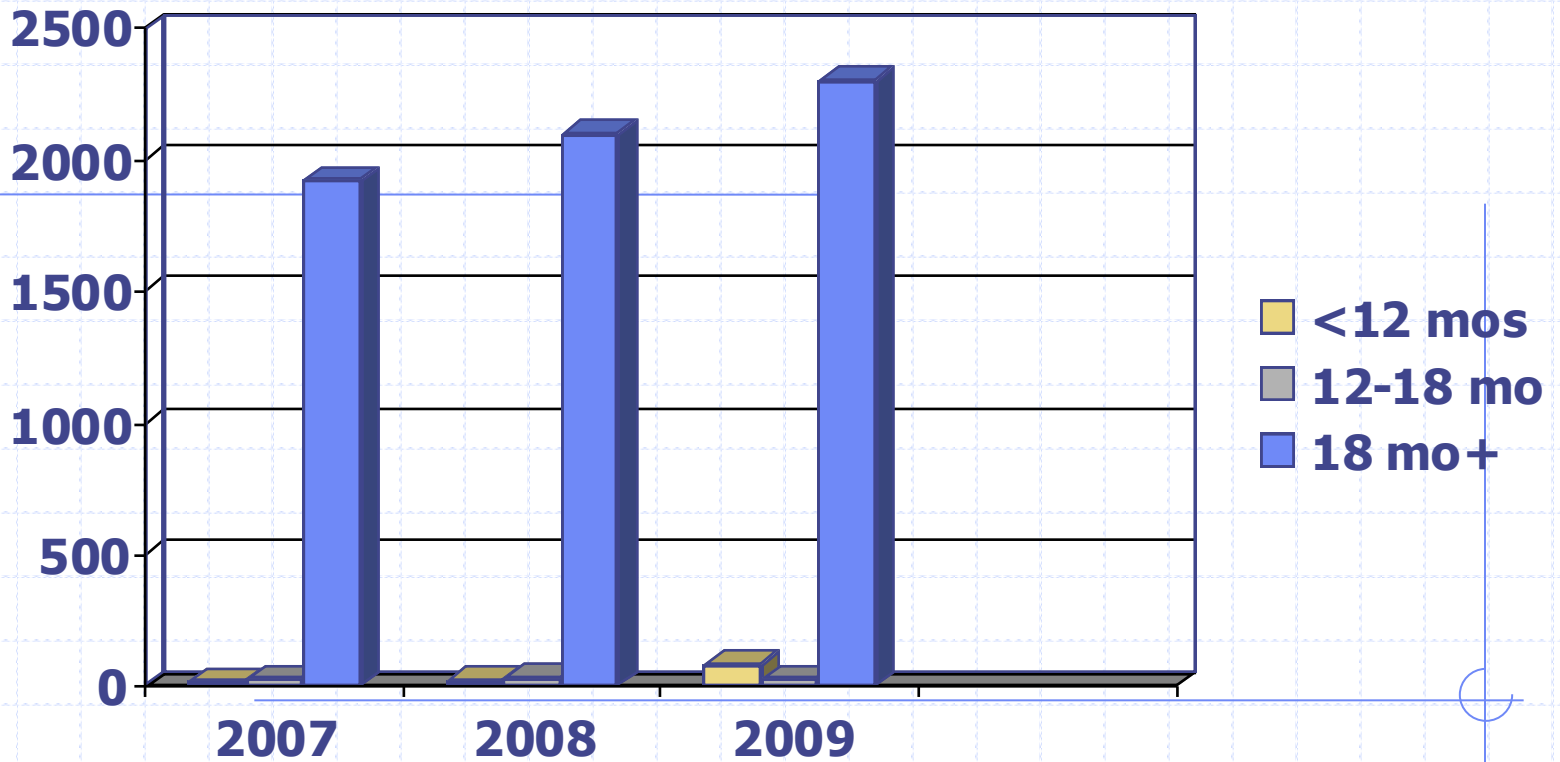
41%

29%

17%

13%

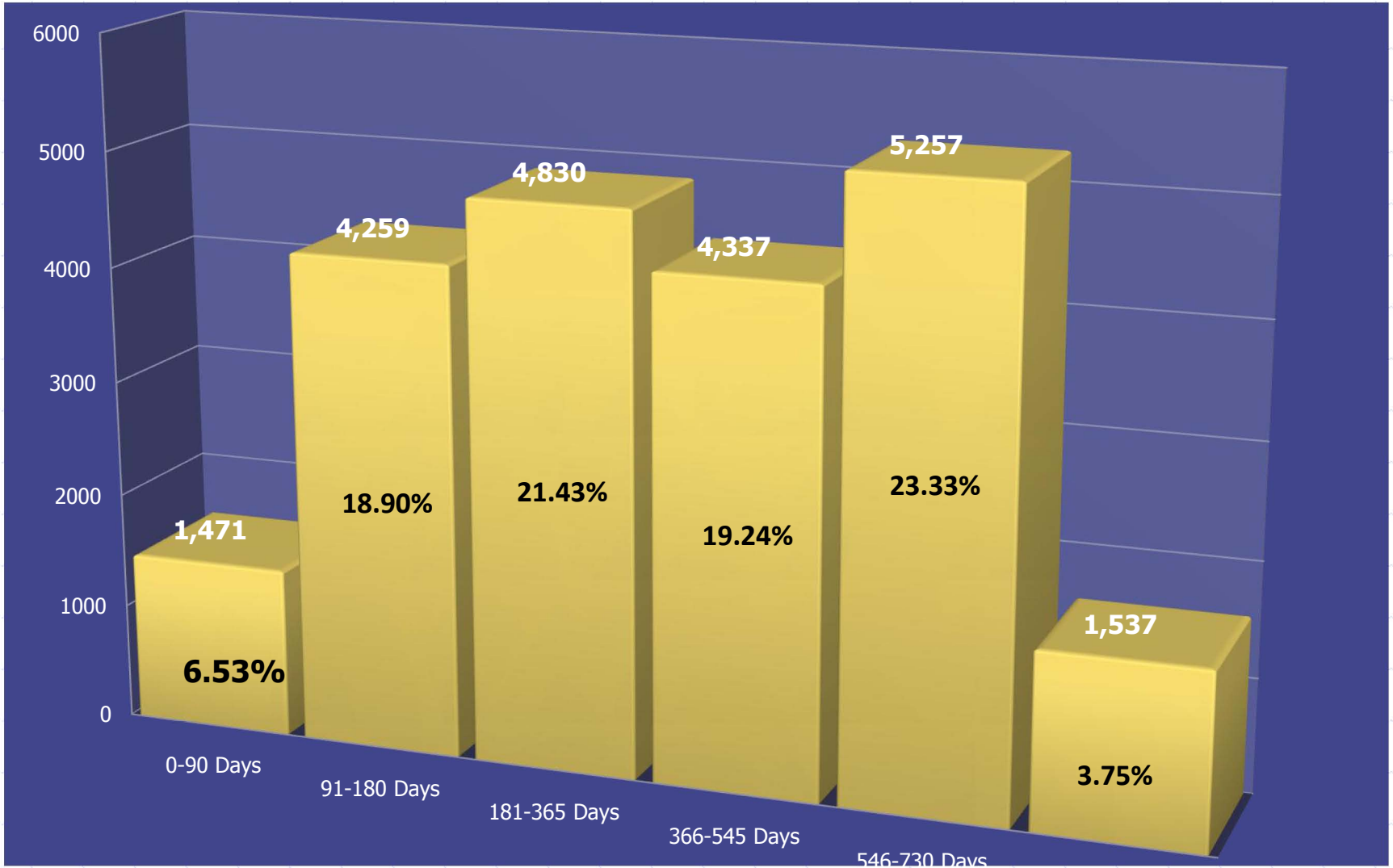
Civil Cases Pending over 18 months as of 9/30/09



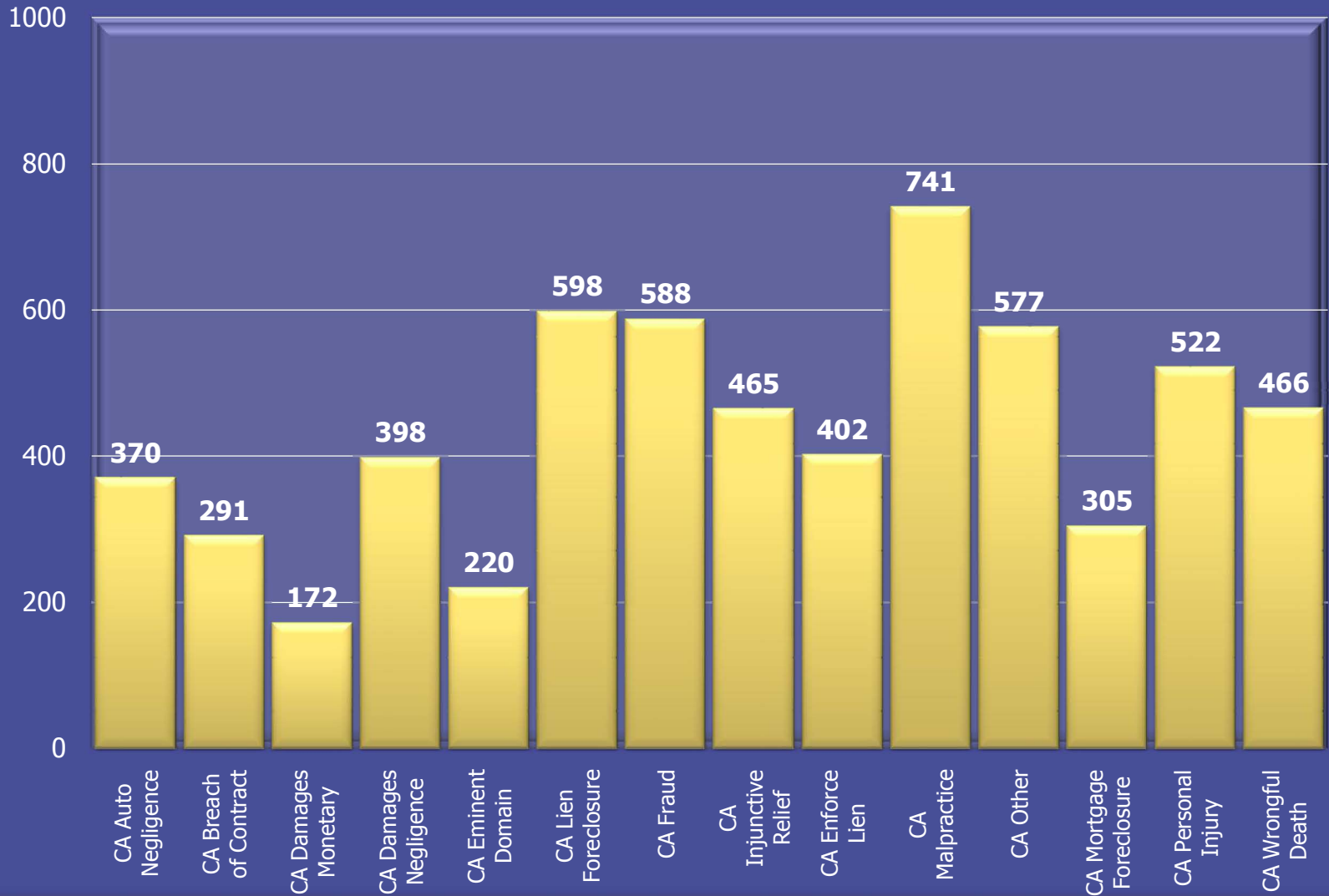
Major Case Types With Highest % Pending 546+ as of 10/30/09

◆ Wrongful Death	88 of 156	(57%)
◆ Specific Performance	39 of 59	(66%)
◆ Malpractice	27 of 64	(42%)
◆ Products Liability	39 of 108	(31%)
◆ Contract	456 of 1118	(41%)
◆ Partition	24 of 39	(62%)
◆ Lien foreclosure	192 of 323	(59%)
◆ Damages-Negligence	167 of 522	(32%)

(Note: Overall Pct civil cases pending over 18 mos =31% excludes foreclosure)



Lee County - Average Time to Dispo



Caseflow Management

Definition: Coordination of Court Processes and resources to move cases timely from filing to disposition regardless of the type of disposition

Objective: Creating a predictable system that sets expectations and helps assure that required action is taken.

Methods:

1. Creating Meaningful Events.
2. Managing the Time Between Events (Times must be long enough to allow preparation *but* short enough to encourage preparation.
3. Providing certainty that events will occur as scheduled and deadlines will be enforced.

Solomon, M. and Somerlot, D., Caseflow Management in the Trial Court: Now and in the Future. ABA, 1987

Fundamental Principles of Effective Caseflow Management

- ◆ Judicial Commitment and Leadership
- ◆ Consultation with the Bar
- ◆ Early Intervention and Case differentiation
- ◆ Court Supervision of Case Progress
- ◆ Standards and Goals
- ◆ Monitoring & Information System
- ◆ Scheduling for Credible Trial Dates

Key Components of DCM

- ◆ Defining factors that differentiate cases
(e.g. case type, number of issues/parties, value, procedural complexity, experts)
- ◆ Grouping cases according to these factors
- ◆ Procedures for Screening cases according to these factors/criteria
- ◆ Processing *Tracks* for each category/group
- ◆ Management procedures for each track
Early CM event, Pretrial CM discovery schedules, Cut off dates for Mediation, reasonable time goals)

20th Circuit- Sample Civil Case Tracks

Case Track	Case Type	Case Management Procedures	Presumptive Time Goals/ Standards
Complex	<ul style="list-style-type: none"> •Complex Business/Securities •Complex construction/contract/commercial •Malpractice/Wrongful Death •Products Liability/Specific Performance •Multi-Party (4+) •Procedurally complex discovery/experts 	<ul style="list-style-type: none"> •Motion by counsel for complex •Individual Judge Management •Initial screening at first answer for presumptive review •Initial CM Conference-Judge •Follow-up CM Conference by Magistrate •Pretrial Scheduling Plan/Trial Date •MIS/Tracking by Case Manager 	<ul style="list-style-type: none"> •Initial CM Conference - 90 days • Pretrial Discovery/Mediation- 450 - 540 - days •Trial/Disposition - 2 years
Standard	<ul style="list-style-type: none"> • Contract • Auto Negligence • Personal Injury • Insurance 	<ul style="list-style-type: none"> •Screening/Standing Order for Case Management •Magistrate discovery motions or CM Conference at Judge Referral •Case manager tracking/MIS reports •Magistrate CM/Status Conference/Report to Judge 	<ul style="list-style-type: none"> •Pretrial Discovery/Mediation - 300 days •Trial/Disposition - 18 months
Standard-Expedited (Future)	<ul style="list-style-type: none"> • Simple 2-party disputes • Collection/book account • Foreclosure • Non Jury 	<ul style="list-style-type: none"> •Standing Order for CM •Direct referral to Mediation at 180 days from first answer 	<ul style="list-style-type: none"> •Pretrial Discovery/Mediation - 180 days •Expedited trial listing - 270 days •Trial/Disposition-12 months

Civil Case Flow Process

Day 180-270

1st Discovery Motion

Day 90

Complex
Initial CM Conference
Judge

Day 40

Case Screened

Day 30

First Answer

Day 1

Complaint
Case Cover Sheet

- New Civil Case Cover Sheet with case type information
- New MIS tracking information based on case type/track

- Case screened for presumptive complex to judge for review

- Set for Initial CM Conference-Complex

- Standing Order for CM - Presumptive Pretrial Discovery/Mediation target dates

- Case Mgmt Order
- Discovery schedule
- Magistrate interim CM conference
- Pretrial Conference /tentative trial date

- Magistrate- Preset Discovery Motion Docket
- Counsel may request or Judge may Refer to Magistrate for CM Conference or Motion Hearing
- Case Mgmt Conf Report to Judge

Day 365-730

1st Trial Listing/
Pretrial Conference

Day 365-540

Notice for Trial

Mediation

Trial

Day 365-450
2nd Complex CM Conference

2nd Motion

- Judge may refer to Magistrate for CM Conference at Notice for Trial or Mediation Impasse

- Case Manager tracks- Cases pending over 365-540 may be set for Magistrate settlement or CM conference

Magistrate Case Mgmt conference report to judge

Next steps

- ◆ Decisions on complex/standard criteria, standard procedures & time goals
- ◆ Role of magistrate & case manager to assist
- ◆ Organize pending case review & Magistrate help on older cases & pretrial discovery (motions & CMC's)
- ◆ Standard Forms & Procedures
- ◆ Workshop
- ◆ Final plan and meeting/committee-Civil Bar leaders

Proposal: Civil DCM Staffing Model

- **Critical Need for Funding methodology model to support Civil DCM** - Magistrate and Case Manager judge-team model for civil differentiated caseload management
- **OPAGGA strongly supports DCM** initiatives as a key finding for improving judicial effectiveness
- **Civil/Foreclosure Backlog**- Lee County is ground zero in state/country- 24,000 foreclosure pending; overall 31,000 civil cases pending from economic downturn
- **Crisis has caused cascading backlogs** in Complex Commercial/Products/Construction cases over 2 years hurting courts ability to support economic recovery
- **NO current state Civil Case Management funding staff support to trial courts** --Despite \$3 million per month foreclosure state filing fee revenue, circuit court has no funding for staff support-No Magistrates, Case Manager, ADR funding to respond to crisis-- Relying on county budget for Case management support to address Civil/Foreclosure crisis-- county budget crisis will eliminate ALL Case Management staff support in 2010- 20th Circuit has 100% county funded Civil DCM staffing(2 Magistrates/2 Civil DCM Case managers in 5 counties)
- **NO current state funding or case management staffing model to support Supreme Court Complex Case Management/DCM rules (1.201)** - No ability to successfully implement SC mandate, Complex Civil Task Force or OPAGGA recommendations

Civil DCM Model

- Civil DCM model requires proactive screening, case differentiation/case track, early case management conferences, pretrial CM/discovery orders, MIS tracking
- Need Civil Judge-Case Manager Team staffing model
- Minimum staffing- One magistrate/one case manager per 2 civil judges
- Civil Mediation - One mediation/case manager to expedite early foreclosure mediation

20th Circuit -DCM Project

- *Delay/Backlog Reduction* - Initial Focus on Magistrate and Case manager assistance in CMC's or status conferences on older cases pending over 18 months- No trial date and judge order of referral
- *Civil DCM* - New CM Complex Procedures - New cases filed as of 4/1/2010
- *Complex cases*- Case manager and Magistrate screen potentially complex cases and judge may set interim CM conferences with Magistrate; MIS case tracking reports and pretrial assistance for judges
- *Standard cases*-- Magistrate use for judge-selected cases for pretrial CMC's at Mediation impasse or Notice for Trial to set CM scheduling order; Judge referral for hearing pretrial discovery motions; Suggest use of Standing Order for case management with presumptive pretrial schedule and tracking by case manager

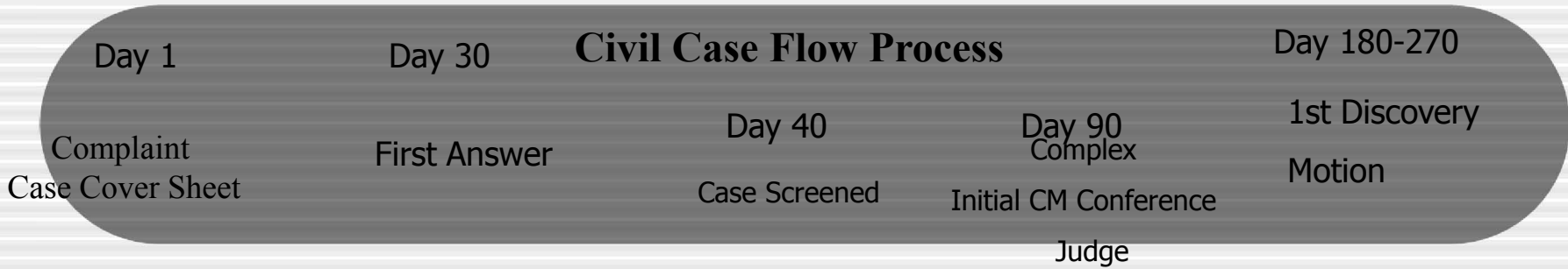
20th Circuit Civil DCM Case Tracks

Case Track	Case Type	Case Management Procedures	Presumptive Time Goals/Standards
Complex	<ul style="list-style-type: none"> •Complex Business/Securities •Multi-Party (4+) •Complex Construction/commercial •Malpractice •Toxic torts •Procedurally complex 	<ul style="list-style-type: none"> •Motion by counsel for complex •Individual Judge Management •Initial screening at first answer for presumptive review •Initial CM Conference-Judge •Follow-up CM Conference by Magistrate •Pretrial Scheduling Plan/Trial Date •MIS/Tracking by Case Manager 	<ul style="list-style-type: none"> •Initial CM Conference - 90 days •Pretrial Discovery/Mediation- 450 - 540 days •Trial/Disposition - 730 days
Standard	<ul style="list-style-type: none"> • Contract • Auto Negligence • Personal Injury • Insurance 	<ul style="list-style-type: none"> •Screening/Standing Order for Case Management •Magistrate discovery motions or CM Conference at Judge Referral •Case manager tracking/MIS reports •Magistrate CM/Status Conference/Report to Judge 	<ul style="list-style-type: none"> •Pretrial Discovery/Mediation - 300 days •Trial/Disposition - 540 days
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20th Circuit Civil Caseflow management Improvement Strategies

- Early screening - Case Information statement- clerk & case manager for case type & complex/standard
- Presumptive complex - to judge early for review and initial case management conference-Magistrate use in CMC's/Status conferences
- Pretrial discovery time standards/goals- reasonable & based on complexity(Standing Order for case management)
- Magistrate- Preset discovery motion calendar & referral by judge at impasse or notice for trial in problem cases
- Early Mediation -Case Manager help expedite process for early mediation for simple cases without waiting 12-24 months
- Magistrate- CMC's in older/backlog cases -no action
- Civil Bar/Judge Civil Case Management Committee- Get input & support from Civil Bar leaders

Civil Case Flow Process



- New Civil Case Cover Sheet with case type information
- New MIS tracking information based on case type/track

- Case screened for presumptive complex to judge for review
- Set for Initial CM Conference-Complex
- Standing Order for CM - Presumptive Pretrial Discovery/Mediation target dates

- Case Mgmt Order
- Discovery schedule
- Magistrate interim CM conference
- Pretrial Conference /tentative trial date

- Magistrate- Preset Discovery Motion Docket
- Counsel may request or Judge may Refer to Magistrate for CM Conference or Motion Hearing
- Case Mgmt Conf Report to Judge

Day 300-360

2nd Motion

Day 365-450
2nd Complex CM Conference

Magistrate Case Mgmt conference report to judge

Day 365-450

Notice for Trial

• Judge may refer to Magistrate for CM Conference at Notice for Trial or Mediation Impasse

• Case Manager tracks- Cases pending over 365-540 may be set for Magistrate settlement or CM conference

Day 365-730

Mediation

Day 365-730

1st Trial Listing/
Pretrial Conference

Day 400-700

Trial

Funding Options

- Legislative- Bill support OPAGGA recommendation for Civil DCM Initiative
- Immediate Minimum Funding Model for 2010-11 implementation of Supreme Court Complex civil reform initiative
- Amended LBR- Special Initiative funded from foreclosure filing fees- 2010-11

20th Circuit Civil DCM Minimum Funding Model- Costs

- Minimum 2010-11 Funding Model - 1 Magistrate/1 Case Manager per county - larger counties in circuit- Civil Filings(Non foreclosure) 3000 per Magistrate/case manager
- 20th Circuit Pilot- 1-2 Magistrates/1 Case Manager for 6 judges(Lee); 1 Magistrate/1 Case Manager for 2 judges Collier
- **Option 1 - Minimum -(Lee DCM Pilot)- One Magistrate/Case Manager for 5.5 Judges/24,000 cases- \$165,000**
- Option 2 - (Lee/Collier DCM Pilot)- 3 Magistrates/2 Case Managers- \$415,000.
- Option 3 - Full Circuit funding Civil DCM Judge Team model- 1 Magistrate/1 Case Manager per 2 judge team (3,000 cases) - 10 Judges/5 Magistrates/ 5 Case Managers - \$ 750,000
- **Option 4 - Full Circuit Civil DCM Model Add 1 Foreclosure Mediation/Case Manager per 10,000 Foreclosure filings - 2 Case Managers(\$100,000)- \$850,000**

Civil DCM Staffing Model - Judge Team Model

Civil Presiding Judge

Civil DCM Coordinator

Judge A

Judge B

Judge C

Judge D

Judge E
Foreclosure Dkt

Magistrate

Magistrate

Mediation/Case Manager

Case Manager

Case Manager

Civil DCM Recommended Staffing Model:
1 Magistrate/Case Manager per 2 judge
team- 3,000 civil cases(non foreclosure)

Foreclosure Case
Management: 1 Case
Manager/Mediation per
10,000 Foreclosure filings