

**ANNUAL REPORT OF THE
ALTERNATIVE DISPUTE RESOLUTION COORDINATING
COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Honorable William D. Maddux, Chairperson

Honorable Harris H. Agnew, Ret.
Honorable Claudia Conlon
Honorable Jacqueline P. Cox
Honorable Annette A. Eckert
Honorable Donald J. Fabian
Honorable Robert E. Gordon
Honorable Randye A. Kogan

Kent Lawrence, Esq.
Honorable Loren P. Lewis
Honorable Lewis E. Mallott
Cheryl I. Niro, Esq.
John T. Phipps, Esq.
Honorable Stephen R. Pacey
Honorable Lance R. Peterson

Honorable Anton J. Valukas, Ret.

October 2002

I. STATEMENT OF COMMITTEE CONTINUATION

Since the 2001 Annual Meeting of the Illinois Judicial Conference, the Alternative Dispute Resolution Coordinating Committee (“Committee”) has found that the climate for alternative dispute resolution (“ADR”) continues to be favorable and the legal community has become increasingly receptive to ADR programs. This conference year, the Committee was busy with many activities which are enumerated below.

Early in the year, the Committee finalized two amendment proposals to Supreme Court Rules regarding arbitration and forwarded them to the Administrative Office of the Illinois Courts for consideration. The Committee also considered several other proposed amendments to Supreme Court Rules.

The Committee met with arbitration administrators and their supervising judges to discuss topics related to arbitration practice. Prior to this meeting, the Committee arranged for arbitration administrators to meet with the Committee liaison to assist in the development of an agenda comprised of arbitration issues to be discussed with the Committee.

As part of the Committee’s charge, court-annexed mandatory arbitration programs operating in fifteen counties continued to be monitored throughout the Conference year.

In the area of mediation, the Committee continued to oversee the court-sponsored major civil case mediation programs operating in seven circuits. During State Fiscal Year 2002, more than 334 cases have gone through these programs statewide.

During the 2003 Conference year, the Committee plans to continue to monitor the court-annexed mandatory arbitration programs, to oversee and facilitate the improvement and expansion of major civil case mediation programs, to monitor proposed amendments to Supreme Court Rules for mandatory arbitration, and to continue to study and evaluate other ADR options.

Because the Committee continues to provide service, recommendations, and information to Illinois judges and lawyers, as well as to monitor developments and the effectiveness of court-annexed and court-sponsored alternative dispute resolution programs, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Court-Annexed Mandatory Arbitration

As a part of its charge, the Committee surveys and compiles information on existing court-supported dispute resolution programs. Court-annexed mandatory arbitration has been operating in Illinois for a little more than fifteen years. Since its inception in Winnebago County in 1987, under Judge Harris Agnew’s leadership, the program has steadily and successfully grown to meet the needs of fifteen counties. Most importantly, court-annexed mandatory arbitration has become an effective case management tool to reduce the number of cases tried and the length of time cases spend in the court system. Court-annexed mandatory arbitration has become widely

accepted in the legal culture.

In January of each year, an annual report on the court-annexed mandatory arbitration program is provided to the legislature. A copy of the Fiscal Year 2002 Annual Report which will be provided to the legislature is attached hereto as Appendix 1.¹ A complete statistical analysis for each circuit is contained in the Fiscal Year 2002 Report. The Committee emphasizes that it is best to judge the success of a program by the percentage of cases resolved before trial through the arbitration process, rather than focusing on the rejection rate of arbitration awards.

The following is a statement of Committee activities since the 2001 Annual Meeting of the Illinois Judicial Conference concerning court-annexed mandatory arbitration.

1. Considerations of Proposed Amendments to Supreme Court Rules

a. The Committee considered a proposal to amend Supreme Court Rule 86(b) to increase the arbitration jurisdictional limits to \$50,000 or such lesser jurisdictional limits as may be implemented by local circuit option. This recommendation was reviewed at the 2001 annual meeting between the Committee, supervising judges, and arbitration administrators. The consensus was that most programs would have enough cases to sustain a stable level of activity, bring more cases through the arbitration program, and ultimately reduce even more of the caseload burden in the courtroom.

The Committee sent the proposal to amend Supreme Court Rule 86(b) to the Director of the Administrative Office of the Illinois Courts for consideration. The Director notified the Committee that the Supreme Court traditionally treated requests for jurisdictional limits on a case-by-case basis. Therefore, the Court has voted not to forward this proposal to the Rules Committee, continuing to reserve unto itself the opportunity to review requests for increases of the limit on a case-by-case basis. Subsequently, the Committee advised all judicial circuits operating a mandatory arbitration program, subject to the discretion of the chief circuit judge of the respective circuit with a program, that they may petition the Supreme Court to increase jurisdictional limits to \$50,000. Since this advisement and during this Conference year, the counties of Lake, Mc Henry, Winnebago, and Boone have successfully petitioned the Court and are now operating under the increased jurisdictional limit.

b. The Committee drafted a proposed amendment to Supreme Court Rule 90(c) along with a proposed form. This recommendation would require the plaintiff to file summary cover sheets detailing money damages incurred by category as set forth in Supreme Court Rule 90(c) (1) - (4). The language added was to specify if the bills have been paid or unpaid. This proposal should aid in the Committee's objective of seeing if arbitration awards might become more in line with a jury

¹The AOIC's Court-Annexed Mandatory Arbitration Fiscal Year 2002 Annual Report can be found on the AOIC portion of the Supreme Court website (www.state.il.us/court) and on the website of the Center for Analysis of Alternative Dispute Resolution Systems (www.caadrs.org).

verdict. The general purpose is to merge the awards between jurors and arbitrators toward a commonality.

The Committee sent the proposal to amend Supreme Court Rule 90(c) to the Director of the Administrative Office of the Illinois Courts for consideration. The Director notified the Committee that she forwarded the proposal to the Supreme Court Rules Committee for placement on the Committee's Public Hearing Agenda. Members of the Committee discussed the impact of this decision and await a determination by the Supreme Court Rules Committee.

2. Meeting with Supervising Judges and Arbitration Administrators

Initially, in June 1998, the Committee met with supervising judges and arbitration administrators of the program. The arbitration administrators requested that the Committee schedule future meetings for the administrators and the A.O.I.C. staff Committee liaison to meet to discuss plans and orders of business for their annual meeting each year. The Committee therefore arranged for them to meet in Kane County for that year and each subsequent year.

In preparation for this year's meeting with the Committee, the arbitration administrators met at the Kane County Courthouse in April 2002. At that meeting, the arbitration administrators discussed items of concern with the operation of arbitration centers, including computer equipment and software needs to assist in the preparation of arbitration statistics, the possibility of a supplemental retraining for arbitrators, the removal of inadequate arbitrators from the circuit's list of arbitrators, a proposed amendment to Supreme Court Rule 89, and the issue of awarding costs in arbitration hearings. The arbitration administrators assisted in the development of an agenda for the June 2002 annual meeting with the Committee.

On June 17, 2002, Committee members met with supervising judges and arbitration administrators at a meeting held in Chicago to discuss issues concerning the arbitration program and proposed rule amendments.

One of the major topics of discussion was the disparity between rejected arbitration awards and resultant jury verdicts. Extensive discussion and consideration took place concerning a recommendation from State Farm Insurance Companies which would allow a layperson to serve as an arbitrator on an arbitration panel. The Committee will continue to study the feasibility and applicability of this recommendation. Another recommendation regarding this issue was to keep arbitrators apprized of jury verdicts rendered subsequent to rejected arbitration awards via a feedback system. It was agreed that the circuits would further examine the feasibility of implementing some type of a system for feedback to inform arbitrators of the ultimate disposition of a case as compared to the dispositions of an arbitration hearing. It is contemplated that a feedback system would also educate them on the factors and principles of law applied for more common cases.

3. Pilot Program in 18th Circuit

Since 1996, the Supreme Court has authorized the 18th Circuit's (Du Page County) pilot

project which allows cases seeking more than \$30,000 but less than \$50,000 in money damages to be subject to mandatory arbitration. The first hearings were held in May 1997. The Supreme Court removed the pilot project designation during this Conference year and Du Page County now operates permanently at the \$50,000 jurisdictional limit. (Statistics for all court-annexed mandatory arbitration programs are contained in Appendix 1.)

4. Good Faith Participation

The Supreme Court forwarded a letter to the Committee regarding good faith participation in arbitration hearings. This has been an issue that the Committee has studied and monitored since the inception of the program. In order to ensure good faith participation, a suggestion was made to monitor this issue throughout the entire arbitration process. Currently, Supreme Court Rule 91(b) states that "all parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner. If a panel of arbitrators unanimously finds that a party has failed to participate in good faith and in a meaningful manner, the panel's finding and factual basis therefor shall be stated on the award. Such award shall be *prima facie* evidence that the party failed to participate in the arbitration hearing in good faith and a meaningful manner and a court, when presented with a petition for sanctions or remedy therefor, may order sanctions as provided in Rule 219(c), including, but not limited to, an order debarring that party from rejecting the award, and costs and attorney fees incurred for the arbitration hearing and in the prosecution of the petition for sanctions, against that party."

The Committee discussed good faith participation in all stages of the arbitration proceedings with arbitration supervising judges and arbitration administrators to receive their input. The Committee is still evaluating data that has been collected and plans to continue to study this process throughout the next Conference year.

B. Mediation

Presently, court-sponsored mediation programs continue to operate in the Eleventh, Twelfth, Sixteenth, Seventeenth, Eighteenth, and Nineteenth Circuits² for cases in which *ad damnum* exceeds the limit for court-annexed mandatory arbitration. In addition, a program was started in the Fourteenth Judicial Circuit in February 2002. During State Fiscal Year 2002, over 334 cases have gone through major civil case mediation statewide. These programs are designed to provide quicker and less expensive resolution of major civil cases.

A total of 334 cases were referred to mediation in the seven programs from July 1, 2001, through June 30, 2002. Of these, 184 resulted in a full settlement of the matter; 16 reached a partial settlement of the issues; and 134 of the cases that progressed through the mediation process did not reach an agreement at mediation. (See Appendix 2 for statistics for these

²See Appendix 2 for a listing of counties in each circuit that operates a mediation program.

programs.)

In addition to the circuits mentioned above, the Circuit Court of Cook County operates a mediation program in its Law Division. The Law Division program uses sitting judges and trained volunteer lawyers to mediate cases. Under the rules of the program, all parties agree to have the case mediated and then they select a mediator who is agreed upon by all parties. The rules provide that mediation will not affect a set trial date.

In April 2001, the Supreme Court adopted Rule 99 which allows circuits to undertake mediation programs with the approval and direction of the Supreme Court. Additionally, programs already operating a mediation program were allowed to continue the program for one year after the effective date and were required to submit rules to the Supreme Court for approval within ninety days of the effective date.

The Committee studied and monitored mediation for several years and observed the enactment of Rule 99. With the advent of the rule, the Committee proposed language to the Supreme Court to provide immunity for a mediator to the same extent as a judge. On October 10, 2001, the Supreme Court accepted the specific recommendations of the Committee and amended Rule 99 to provide for such immunity.

Court-sponsored mediation programs have been successful and well received and have resulted in a quicker resolution of many cases. It is important to recognize that the benefits of major civil case mediation cannot be calculated solely by the number of cases settled. Because these cases are major civil cases by definition, early settlement of a single case represents a significant savings of court time for motions and status hearings as well as trial time. Additionally, in many of these cases, resolving the complaint takes care of potential counterclaims, third-party complaints and, of course, eliminates the possibility of an appeal. Finally, court-sponsored mediation programs are considered by many parties as a necessary and integral part of the court system.

C. Education

Under the Comprehensive Education Plan, there was an Education Conference for all judges which began in the year 2000. The mandatory arbitration program was presented at the Conference by the Committee and was successful. Education committee members agreed that a course in Alternative Dispute Resolution could be valuable to many judges. In Education Conference Year 2002, the Committee made a presentation on arbitration and mediation. This Committee stands ready to provide any necessary support and looks forward to working with the Committee on Education at future conferences.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2003 Conference year, the Committee plans to continue to monitor and assess the court-annexed mandatory arbitration programs, suggest broad-based policy recommendations,

explore and examine innovative dispute resolution processing techniques, and to continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft, and propose rule amendments in light of the suggestions and information received from program participants, supervising judges, and arbitration administrators.

The Committee also plans to oversee and facilitate the improvement and expansion of the major civil case mediation programs. The Committee also plans to actively study and evaluate other Alternative Dispute Resolution options, such as summary jury trials and early neutral evaluation.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

2002 REPORT

APPENDIX 1

FISCAL YEAR 2002 ANNUAL REPORT TO THE ILLINOIS GENERAL
ASSEMBLY ON COURT-ANNEXED MANDATORY ARBITRATION

INTRODUCTION	55
OVERVIEW OF COURT-ANNEXED MANDATORY ARBITRATION	57
Program Jurisdiction	57
Pre-Hearing Matters	58
Arbitration Hearing	58
Rejecting an Arbitration Award	58
Appointment, Qualification, and Compensation of Arbitrators.....	59
Alternative Dispute Resolution Coordinating Committee Activities... ..	59
FISCAL YEAR 2002 STATISTICS	60
Introduction	60
Pre-Hearing Calendar	60
Pre-Hearing Statistics	61
Post-Hearing Calendar	66
Post-Hearing Statistics	66
Post-Rejection Calendar	70
Post-Rejection Statistics	70
CONCLUSION	72
CIRCUIT PROFILES	72
Eleventh Judicial Circuit	72
Twelfth Judicial Circuit	73
Fourteenth Judicial Circuit.....	73
Sixteenth Judicial Circuit	73
Seventeenth Judicial Circuit	73
Eighteenth Judicial Circuit	74
Nineteenth Judicial Circuit	74
Twentieth Judicial Circuit	74
Circuit Court of Cook County	75
Administrative Office of the Illinois Courts	75

INTRODUCTION

This Fiscal Year 2002 Annual Report on the court-annexed mandatory arbitration program is presented to satisfy the requirements of Section 1008A of the Mandatory Arbitration Act, 735 ILCS 5/2-1001A *et seq.*

The Supreme Court of Illinois and the Illinois General Assembly created court-annexed mandatory arbitration to reduce the backlog of civil cases and to provide litigants with a system in which their complaints could be more quickly resolved by an impartial fact finder.

Arbitration was instituted after deliberate planning. Efforts by the Supreme Court to devise a high quality arbitration system spanned nearly a decade. When developing the Illinois program, the Supreme Court and its committees secured the input of public officials representing all branches of Illinois government, as well as the general public. As a result, the system now in place is truly an amalgamation of the best dispute resolution concepts.

Beginning in September of 1982, Chief Justice Howard C. Ryan urged the judiciary to explore suitable court-sponsored alternative dispute resolution techniques. In September, 1985, the Illinois General Assembly passed and the Governor signed House Bill 1265¹, authorizing the Supreme Court to institute a system of mandatory arbitration. Before the end of May, 1987, the Supreme Court adopted arbitration-specific rules recommended by a committee of prominent judges and attorneys. Later that year, Winnebago County began operating a pilot court-annexed mandatory arbitration program.

Expanding on the success of the Winnebago County program, the Supreme Court authorized the following counties to implement court-annexed mandatory arbitration programs in the following order:

- ▶ Cook, DuPage, and Lake Counties in December, 1988
- ▶ Mc Henry County in November, 1990
- ▶ St. Clair County in May, 1993
- ▶ Boone and Kane Counties in November, 1994
- ▶ Will County in March, 1995
- ▶ Ford and Mc Lean Counties in March, 1996

The most recent request for implementation of an arbitration program came from the 14th Judicial Circuit. In November of 1999, the Supreme Court approved the program for all four counties in the 14th Circuit (Rock Island, Henry, Mercer, and Whiteside Counties) and the program began in October, 2000. Future expansion of court-annexed mandatory arbitration programs may occur if sufficient public funding is made available and with approval by the Supreme Court.

This Fiscal Year 2002 Annual Report summarizes the accomplishments of the arbitration

¹H.B. 1265, 83rd Gen. Assem., Reg. Sess., P.A. 84-844, (Il. 1985)

program from July 1, 2001, through June 30, 2002. The report begins with a general description of the court-annexed mandatory arbitration program in Illinois and provides information on recent changes made to the program. The second section of the report explains the statistics maintained by arbitration administrators. Statewide statistics are provided as an aggregate or average of the statistics furnished by the fifteen court-annexed mandatory arbitration programs operating around the state. Jurisdictions may have significantly different statistics. Therefore, when appropriate, individual program statistics are provided. The final section of the report provides information on the day-to-day operation of the court-annexed mandatory arbitration programs.

OVERVIEW OF COURT-ANNEXED MANDATORY ARBITRATION

In Illinois, court-annexed mandatory arbitration is a mandatory, non-binding form of alternative dispute resolution. In those jurisdictions approved by the Supreme Court to operate a court-annexed mandatory arbitration program, all civil cases filed seeking money damages within the program's jurisdiction are subject to the arbitration process. These modest sized claims are directed into the arbitration program because they are amenable to closer management and faster resolution using a less formal, alternative process.

Program Jurisdiction

Cases enter the arbitration program in one of two ways. In all counties operating a court-annexed mandatory arbitration program, except Cook County, litigants may file their case with the office of the clerk of the court as an arbitration case. The clerk records the case using an AR designation. These AR designated cases are placed directly on the calendar of the supervising judge for arbitration. Summons are returnable before the supervising judge for arbitration and all prehearing matters are argued before them.²

In the Circuit Court of Cook County, however, cases seeking between \$5,000 and \$50,000 in money damages are filed in the Municipal Department and are given an "M" designation by the clerk. Cases within this category which are arbitration-eligible (cases seeking up to \$30,000 in money damages) are subsequently transferred to arbitration. After hearing all preliminary matters, the case is transferred to arbitration.

In all jurisdictions operating a court-annexed mandatory arbitration program, a case may also be transferred to the arbitration calendar from another calendar if it appears to the court that no claim in the action has a value in excess of the monetary limit authorized by the Supreme Court for that county's arbitration program. For example, if the court finds that an action originally filed as a Law case (actions seeking over \$50,000) has a potential for damages under the jurisdiction for arbitration, the court may transfer the Law case to the arbitration calendar.

During Fiscal Year 1997, the Supreme Court amended a number of rules which affect arbitration. In November, 1996, the Supreme Court increased the jurisdictional limit for small claims actions from cases seeking up to \$2,500 in damages to cases seeking up to \$5,000 in damages, effective January 1, 1997. Concerns about enlarging the small claims calendar have led a number of counties operating arbitration programs to transfer cases seeking over \$2,500 in money damages into arbitration.

Also in November, 1996, the Supreme Court acted on the request of the Eighteenth Judicial Circuit to increase the jurisdiction of arbitration-eligible cases from cases seeking up to \$30,000 in money damages to cases seeking up to \$50,000 in money damages. The Supreme Court

²See Illinois Supreme Court Rule 86(d). The monetary limit for arbitration cases filed in Cook, Ford, Kane, Mc Lean, and Will Counties is \$30,000. The monetary limit for arbitration cases filed in Boone, Du Page, Henry, Lake, Mc Henry, Mercer, Rock Island, Whiteside, and Winnebago Counties is \$50,000. In St. Clair County, cases seeking up to \$20,000 in money damages are subject to arbitration.

decided to allow the Eighteenth Judicial Circuit to increase the jurisdictional limit for arbitration-eligible cases as a pilot project.³ During Fiscal Year 2002, the Supreme Court removed the pilot designation from Du Page County and the program now operates permanently at the \$50,000 jurisdictional limit.

Pre-Hearing Matters

The pre-hearing stage for cases subject to arbitration is similar to the pretrial stage for cases not subject to arbitration. Summons are issued, motions are made and argued, and discovery moves forward. However, discovery is limited for cases subject to arbitration pursuant to Illinois Supreme Court Rules 222 and 89.

One of the most important features of the arbitration program is the court's control of the time elapsed from the date of filing of the arbitration case, or the transfer of the case to arbitration, and the arbitration hearing. Illinois Supreme Court Rule 88 provides that all arbitration cases must go to hearing within one year of the date of filing or transfer to arbitration. As a result, faster dispositions are possible in the arbitration system.

Arbitration Hearing

The arbitration hearing resembles a traditional trial conducted by a judge, but the hearing is conducted by a panel of three trained attorney-arbitrators. Each party to the dispute makes a concise presentation of his/her case to the attorney-arbitrators. The Illinois Code of Civil Procedure and the rules of evidence apply in arbitration hearings; however, Illinois Supreme Court Rule 90(c) makes certain documents presumptively admissible. These documents include bills, records, and reports of hospitals, doctors, dentists, repair persons, and employers as well as written statements of opinion witnesses. By taking advantage of this streamlined evidence mechanism, lawyers can present the case quickly, and hearings are completed in approximately two hours.

Immediately after the hearing, the three arbitrators deliberate privately and decide the issues presented by the parties. They file their award on the same day as the hearing. To find in favor of one party, the concurrence of at least two arbitrators must be present and an award is determined.

After the arbitration hearing, the clerk of the court records the arbitration award and then forwards notice of the award to the parties. As a courtesy to the litigants, many of the arbitration centers post the arbitration award after it is submitted by the arbitrators so the parties will know the outcome on the same day as the hearing.

Rejecting an Arbitration Award

Illinois Supreme Court Rule 93 allows any party to reject the arbitration award. However, a party must meet four conditions when they seek to reject the award. First, the party who wants to reject the award must have been present, personally or via counsel, at the arbitration hearing

³At the same time the Supreme Court amended Illinois Supreme Court Rule 93 to provide that parties wishing to reject an award of over \$30,000 must pay a \$500 rejection fee.

or that party's right to reject the award will be deemed waived.⁴ Second, that same party must have participated in the arbitration process in good faith and in a meaningful manner.⁵ Third, the party wanting to reject the award must file a rejection notice within thirty days of the date the award was filed.⁶ Finally, except for indigent parties, the party who initiates the rejection must pay a rejection fee of \$200 to the clerk of the court.⁷ The rejection fee is intended to discourage frivolous rejections. If these four conditions are not met, the party may be barred from rejecting the award and any other party to the action may petition the court to enter a judgment on the arbitration award.

After a party successfully rejects an arbitration award, the supervising judge for arbitration places the case on the trial call.

Appointment, Qualification, and Compensation of Arbitrators

The Supreme Court provides the rules that govern the mandatory arbitration program. The requirements of arbitrators and court-supported arbitration jurisdiction can be located in Supreme Court Rule 86 *et seq.*

Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference Activities

The Alternative Dispute Resolution Coordinating Committee is a committee of the Illinois Judicial Conference which was created by the Supreme Court.

The charge of the Committee is to monitor and assess the court-annexed mandatory arbitration programs. The Committee also surveys and compiles information on existing court-supported dispute resolution programs, suggests broad-based policy recommendations, explores and examines innovative dispute resolution processing techniques, and studies the impact of proposed rule amendments. In addition, the Committee also works on drafting rule amendments in light of suggestions and information received from program participants, supervising judges, and arbitration administrators.

One of the Committee's main activities this past year was drafting rule amendments and proposals. The Committee sent a proposal to amend Supreme Court Rule 86(b) to the director of the Administrative Office of the Illinois Courts for consideration. The director notified the Committee that the Supreme Court traditionally treated requests for jurisdictional limits on a case-by-case basis. Therefore, the Court has voted not to forward this proposal to the Supreme Court

⁴See Illinois Supreme Court Rule 91(a).

⁵See Illinois Supreme Court Rule 91(b).

⁶See Illinois Supreme Court Rule 93(a).

⁷See Illinois Supreme Court Rule 93. As noted earlier, the Supreme Court amended Rule 93 to mandate that when the arbitrators return an arbitration award of over \$30,000 a party must pay \$500 to reject the award.

Rules Committee, continuing to reserve unto itself the opportunity to review requests for increases of the limit on a case-by-case basis. Subsequently, the Committee advised all judicial circuits operating a mandatory arbitration program, subject to the discretion of the chief circuit judge of the respective circuit with a program, that they may petition the Supreme Court to increase jurisdictional limits to \$50,000. Since this advisement and during this fiscal year, the counties of Lake, Mc Henry, Winnebago, and Boone have successfully petitioned the Court and are now operating under the increased jurisdictional limit.

The Committee continues to monitor the effects of Supreme Court Rules on arbitration practice and will continue to provide direction for the successful implementation of the program.

FISCAL YEAR 2002 STATISTICS

Court-annexed mandatory arbitration has now been operating in Illinois for a little more than fifteen years. The statistics discussed below provide a detailed depiction of the continued success of the program.

Introduction

Statistics are maintained by each of the fifteen arbitration programs to ensure that the program is meeting its goals of reducing case backlog and providing faster dispositions to litigants. The arbitration calendar is divided into three stages for the collection of arbitration statistics. The stages are pre-hearing, post-hearing, and post-rejection. Close monitoring and supervision of events at each of these stages helps to determine the efficacy of the arbitration process. Each arbitration stage has its own inventory of cases pending at the beginning of each reporting period, its own statistical count of cases added and removed during each reporting period, and its own inventory of cases pending at the end of each reporting period.

Pre-Hearing Calendar

Cases at the first stage of the arbitration process, the pre-hearing stage, are cases that are pending an arbitration hearing. There are three sources from which cases are added to the pre-hearing calendar: new filings, reinstatements, and transfers from other calendars.

Cases may be removed from the pre-hearing arbitration calendar in either a dispositive or non-dispositive manner. A dispositive removal from the pre-hearing arbitration calendar is one which terminates the case prior to commencement of the arbitration hearing. There are generally three types of pre-hearing dispositive removals: the entry of judgment; some form of dismissal; or the entry of a settlement order by the court.

A non-dispositive removal of a case from the pre-hearing arbitration calendar may either remove the case from the arbitration calendar altogether or simply move it along to the next stage of the arbitration process. An example of a non-dispositive removal which removes the arbitration case from the arbitration calendar altogether is when a case is placed on a special calendar. A case assigned to a special calendar is removed from the arbitration calendar, but not terminated. For example, a case transferred to a bankruptcy calendar generally stays all arbitration-related activity and assignment to this special calendar is considered a non-dispositive removal from the arbitration calendar.

Another type of non-dispositive removal from the pre-hearing calendar is a transfer out of arbitration. Occasionally a judge may decide that a case is not suited for arbitration. The judge may then transfer the case to a more appropriate calendar. Finally, an arbitration hearing is also a non-dispositive removal from the pre-hearing calendar.

Pre-Hearing Statistics

To reduce backlog and to provide litigants with the quickest disposition for their cases, Illinois' arbitration system encourages attorneys and litigants to focus their early attention on arbitration-eligible cases. Therefore, the practice is to set a firm and prompt date for the arbitration hearing so that disputing parties, anxious to avoid the time and cost of an arbitration hearing, have a powerful incentive to negotiate prior to the hearing. In instances where a default judgment can be taken, parties are also encouraged to seek that disposition at the earliest possible time.

Therefore, as cases move through the steps in the arbitration process, a sizeable portion of each court's total caseload should terminate voluntarily or by court order in advance of the arbitration hearing if the process is operating well. Fiscal Year 2002 statistics demonstrate that parties are carefully managing their cases, working to settle their disputes without significant court intervention, and settling their differences prior to the arbitration hearing.

During Fiscal Year 2002, 17,108 cases on the pre-hearing arbitration calendar were disposed through default judgment, dismissal, or some other form of pre-hearing termination.⁸ Therefore, a statewide average of 48% of the cases referred to arbitration were disposed prior to the arbitration hearing.⁹ While it is true that a large number of these cases may have terminated without the need for a trial, arbitration tends to induce disposition sooner in the life of most cases because firm arbitration hearing dates are set within one year of the case's entrance into the arbitration process.

Additionally, these terminations via court-ordered dismissals, voluntary dismissals, settlement orders, and default judgments typically require very little court time to process. To the extent that arbitration encourages these dispositions, the system helps save the court and the litigants the expense of costlier, more time consuming proceedings that might have been necessary without arbitration programs.

This high rate of pre-hearing terminations also allows each court to remain current with its hearing calendar and may allow the court to reduce a backlog. It is this combination of pre-hearing terminations and arbitration hearing capacity that enables the system to absorb and process a

⁸Cases disposed during Fiscal Year 2002 will include those cases pending at the end of Fiscal Year 2001. Additionally, not all cases referred to arbitration during Fiscal Year 2002 will have disposition information available. Some cases are still pending. Therefore, the statistics provided in this report give the reader a snapshot of the progress of arbitration cases through June 30, 2002.

⁹This number is derived by dividing the number of cases disposed via some form of prehearing termination during Fiscal Year 2002, (17,108) by the inventory of arbitration cases at the prehearing stage during Fiscal Year 2002. The inventory of cases at the prehearing stage is the sum of the number of arbitration cases pending statewide at the end of Fiscal Year 2001, (3,905) and the number of cases transferred or filed in arbitration during Fiscal Year 2002 (31,927).

greater number of cases in less time. In some instances, individual county numbers are even more impressive.

St. Clair County

St. Clair County reported that 1,824 cases were referred to court-annexed mandatory arbitration during Fiscal Year 2002 and 456 cases were pending on the pre-hearing arbitration calendar at the end of Fiscal Year 2001. During Fiscal Year 2002, 1,718 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2002, 75% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2002, 183 arbitration hearings were held in St. Clair County. Therefore, as of June 30, 2002, 8% of the cases on the arbitration pre-hearing calendar progressed to the arbitration hearing.

Winnebago County

During Fiscal Year 2002, Winnebago County reported that 1,217 cases were funneled into the arbitration program. At the end of Fiscal Year 2001, 134 cases were pending on the pre-hearing arbitration calendar.

Prior to the arbitration hearing, 1,081 cases were terminated. Therefore, as of June 30, 2002, 80% of cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2002, Winnebago County reported that 105 cases progressed to hearing. Therefore, as of June 30, 2002, only 8% of the cases on the pre-hearing arbitration calendar went to hearing.

McHenry County

McHenry County reported that 974 cases were transferred or filed as arbitration-eligible during Fiscal Year 2002. At the end of Fiscal Year 2001, 274 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2002, 789 cases were disposed in some way prior to the arbitration hearing. Therefore, 63% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

During Fiscal Year 2002, McHenry County held 109 arbitration hearings. Therefore, as of June 30, 2002, only 9% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Lake County

Lake County reported that 2,591 cases were filed in or transferred to the arbitration calendar during Fiscal Year 2002. There were 639 cases pending on the pre-hearing calendar at the end of Fiscal Year 2001. During Fiscal Year 2002, 1,989 cases were disposed prior to their progression to an arbitration hearing. Therefore, as of June 30, 2002, 62% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

Lake County reported conducting 450 hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 14% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Du Page County

Du Page County reported that 3,679 cases were filed in or transferred to the arbitration calendar during Fiscal Year 2002. During Fiscal Year 2002, 2,961 cases were disposed prior to their progression to an arbitration hearing. Therefore, as of June 30, 2002, 80% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

Du Page County reported conducting 612 hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 17% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Kane County

Kane County reported that 1,621 cases were referred to arbitration during Fiscal Year 2002. At the end of Fiscal Year 2001, 75 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2002, 1,384 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2002, 82% of the cases on the pre-hearing arbitration calendar were disposed prior to an arbitration hearing.

During Fiscal Year 2002, Kane County conducted 225 arbitration hearings. Therefore, as of June 30, 2002, only 13% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Boone County

Boone County reported that 98 cases were referred to arbitration during Fiscal Year 2002. At the end of Fiscal Year 2001, 27 cases were pending on the pre-hearing arbitration calendar. In Fiscal Year 2002, prior to the arbitration hearing, 81 cases were disposed. Therefore, as of June 30, 2002, 65% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

Boone County held 6 arbitration hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 5% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Will County

In Fiscal Year 2002, Will County reported that 1,800 cases were filed or transferred to arbitration. At the end of Fiscal Year 2001, 680 cases were pending on the pre-hearing calendar. During Fiscal Year 2002, 1,468 pre-hearing dispositions were reported. Therefore, as of June 30, 2002, 59% of all cases filed or transferred into arbitration were disposed prior to the arbitration hearing.

Will County reported that it held 226 hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 9% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

2002 REPORT***McLean County***

McLean County reported that in Fiscal Year 2002, 1,149 cases were filed or transferred into arbitration. At the end of Fiscal Year 2001, 567 cases were pending on the pre-hearing arbitration calendar. McLean County reported that 954 cases were disposed pre-hearing. Therefore, 56% of the cases filed or transferred into arbitration were disposed pre-hearing.

McLean County reported that it held 105 hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 6% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Ford County

In Fiscal Year 2002, Ford County reported 57 cases filed or transferred into arbitration with 46 of those cases disposed pre-hearing. Therefore, 74% of the cases in the arbitration program were disposed prior to hearing.

Ford County reported that it conducted 6 arbitration hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 10% of the arbitration-eligible cases progressed to hearing in Ford County.

Rock Island County

In Fiscal Year 2002, Rock Island County reported 660 cases filed or transferred into arbitration. At the end of Fiscal Year 2001, 178 cases were pending on the pre-hearing calendar. Rock Island County reported that 453 cases were disposed pre-hearing. Therefore, 54% of the cases filed or transferred into arbitration were disposed pre-hearing.

Rock Island County reported that it held 91 arbitration hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 11% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Henry County

In Fiscal Year 2002, Henry County reported 92 cases filed or transferred into arbitration. At the end of Fiscal Year 2001, 47 cases were pending on the pre-hearing calendar. Henry County reported that 76 cases were disposed pre-hearing. Therefore, 55% of the cases filed or transferred into arbitration were disposed pre-hearing.

Henry County reported that it held 9 arbitration hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 6% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Mercer County

In Fiscal Year 2002, Mercer County reported 24 cases filed or transferred into arbitration. At the end of Fiscal Year 2001, 6 cases were pending on the pre-hearing calendar. Mercer County reported that 13 cases were disposed pre-hearing. Therefore, 43% of the cases filed or transferred

into arbitration were disposed pre-hearing.

Mercer County reported that it held 2 arbitration hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 7% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Whiteside County

In Fiscal Year 2002, Whiteside County reported 212 cases filed or transferred into arbitration. At the end of Fiscal Year 2001, 63 cases were pending on the pre-hearing calendar. Whiteside County reported that 176 cases were disposed pre-hearing. Therefore, 64% of the cases filed or transferred into arbitration were disposed pre-hearing.

Whiteside County reported that it held 20 arbitration hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, only 7% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Cook County

The Cook County statistics differ significantly. During Fiscal Year 2002, 15,929 cases were transferred into the Cook County arbitration program. At the end of Fiscal Year 2001, 754 cases were pending on the pre-hearing arbitration calendar. As of June 30, 2002, 3,919 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2002, 23% of the cases in the arbitration program in Cook County were disposed prior to the arbitration hearing.

The Cook County program conducted 11,182 hearings during Fiscal Year 2002. Therefore, as of June 30, 2002, 67% of the cases on the pre-hearing arbitration calendar progressed to hearing.

This is a much different picture than the one reported by other counties and can be explained by examining the Cook County arbitration program. As noted above, in Cook County, cases seeking between \$5,000 and \$30,000 in money damages are filed as Municipal Department cases. Cases within this category that are arbitration-eligible (cases seeking up to \$30,000 in money damages) are transferred to arbitration only after all pre-hearing matters have been heard and decided. Statistics are not available on the number of cases that may have been arbitration-eligible but were disposed prior to their transfer to arbitration.

Instead, statistics are available only on those cases which were transferred to arbitration and then were disposed prior to the hearing. This window of time is much shorter than the window of time for which statistics are provided by other counties. Additionally, a number of cases have already been disposed of, meaning the cases transferred have already gone through a substantial review process prior to their transfer to the arbitration program. Therefore, although it appears that fewer cases are disposed prior to an arbitration hearing in the arbitration process in the Cook County system, we cannot be sure that this is true because in Cook County cases are counted substantially later in the process and for a substantially shorter time frame.

In the Circuit Court of Cook County, after preliminary hearing matters are decided and the case has been transferred to arbitration, the clerk of the court will set a date for the arbitration

hearing. The clerk of the court waits until 30 days prior to the closure date for discovery before setting the arbitration hearing date to ensure that discovery is closed prior to the arbitration hearing.

In summary, the statistics provided by all programs on cases at the arbitration pre-hearing stage demonstrate that the parties are working to settle their differences without significant court intervention, prior to the arbitration hearing. The arbitration hearings induce these early settlements by forcing the parties to carefully manage the case prior to the arbitration hearing. Because arbitration hearings are held within one year of the filing of the arbitration case or the transfer of the case to the arbitration program, in most counties the circuit court can dispose of approximately 80-90% of the arbitration caseload within one year of the filing of the case. This case management tool provides swifter dispositions for litigants.

Post-Hearing Calendar

The post-hearing arbitration calendar consists of cases which have been heard by an arbitration panel and are waiting further action. Upon conclusion of an arbitration hearing, a case is removed from the pre-hearing arbitration calendar and added to the post-hearing calendar. Although the arbitration hearing is the primary source of cases added to the post-hearing calendar, cases previously terminated following a hearing may subsequently be reinstated (added) at this stage. However, this is a rare occurrence even in the larger courts.

The arbitration administrators report three types of post-hearing removals from the arbitration calendar: entry of judgment on the arbitration award; some other post-hearing termination of the case including dismissal or settlement by order of the court; or rejection of the arbitration award. While any of these actions will remove a case from the post-hearing calendar, only judgment on the award, dismissal, and settlement result in termination of the case, which are dispositive removals. Post-hearing terminations, or dispositive removals, are typically the most common means by which cases are removed from the post-hearing arbitration calendar.

A rejection of an arbitration award is a non-dispositive removal of a case from the post-hearing arbitration calendar. A rejection removes the case from the post-hearing arbitration calendar and places it on the post-rejection arbitration calendar.

Post-Hearing Statistics

A commonly cited measure of performance for court-annexed arbitration programs is the extent to which awards are accepted by the litigants as the final resolution of the case. However, parties have many resolution options after the arbitration hearing is concluded. Therefore, tracking the various options by which post-hearing cases are removed from the arbitration inventory gives a more accurate picture of the movement of cases than would looking only at the number of arbitration awards rejected.

When a party is satisfied with the arbitration award, they may move the court to enter judgment on the award. If no party rejects the arbitration award, the court may enter judgment on the award.

Additionally, figures reported show that approximately another 62% of the cases which progress to a hearing were disposed after the arbitration hearing on terms other than those stated

in the award. These cases are disposed either through settlement reached by the parties or by dismissals.

These statistics demonstrate that in a significant number of cases which progress to hearing, although the parties may agree with the arbitrator's assessment of the worth of the case, they may not want a judgment entered against them so they work to settle the conflict prior to the deadline for rejecting the arbitration award.

The post-hearing statistics for counties with arbitration programs consisting of judgments entered on the arbitration award,¹⁰ settlements reached after the arbitration award and prior to the expiration for the filing of a rejection, are detailed herein.

- **St. Clair County** reported the entry of 99 judgments on arbitration awards during Fiscal Year 2002. Therefore, in St. Clair County, 50% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 29 cases were settled prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in St. Clair County, 15% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing settlement.
- **McHenry County** reported the entry of 37 judgments on arbitration awards during Fiscal Year 2002. Therefore, in McHenry County, 29% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 26 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in McHenry County, 21% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Lake County** reported the entry of 103 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Lake County, 20% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 117 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Lake County, 23% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **DuPage County** reported the entry of 127 judgments on arbitration awards during Fiscal Year 2002. Therefore, in DuPage County, 21% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 191 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in DuPage County, 31% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

¹⁰ Judgment on the award statistics are generated by dividing the number of judgments on an arbitration award into the total number of cases on the post-hearing calendar. The total number of cases on the post-hearing calendar is generated by adding the number of cases added during FY2002 to the number of cases pending on the post-hearing calendar as of 7/01/01.

- **Will County** reported the entry of 50 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Will County 19% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 54 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Will County, 21% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Winnebago County** reported the entry of 33 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Winnebago County, 30% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 19 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Winnebago County, 17% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Kane County** reported the entry of 56 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Kane County, 21% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 31 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Kane County, 12% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Boone County** reported the entry of 3 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Boone County, 50% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. There were no cases dismissed prior to the expiration for the filing of a rejection. Therefore, no cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **McLean County** reported the entry of 47 judgments on arbitration awards during Fiscal Year 2002. Therefore, in McLean County, 30% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 11 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in McLean County, 7% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Ford County** reported that 4 cases were added to the post-hearing calendar and all of them received a judgment on the arbitration award entered during Fiscal Year 2002. Therefore, in Ford County, 67% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. One additional case was either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Ford County, 17% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- **Rock Island County** reported the entry of 30 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Rock Island County, 29% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 20 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Rock Island County, 20% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Mercer County** reported the entry of 1 judgment on an arbitration award during Fiscal Year 2002. Therefore, in Mercer County, 50% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. One additional case was either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Mercer County, 50% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Henry County** reported the entry of 2 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Henry County, 22% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. One additional case was either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Henry County, 11% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Whiteside County** reported the entry of 7 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Whiteside County, 28% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 9 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Whiteside County, 36% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Cook County** reported the entry of 3,064 judgments on arbitration awards during Fiscal Year 2002. Therefore, in Cook County, 27% of the cases in which a hearing was held on or before June 30, 2002, were disposed when judgment was entered on the arbitration award. An additional 4,725 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2002 in Cook County, 42% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

As indicated earlier, parties may also reject the arbitration award and proceed to trial. Parties may file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. It's the opinion of the Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference that the rejection rate, when studied alone and out of context, may be a misleading indicator of the actual success of the arbitration programs.

Rejection rates for arbitration awards varied from county to county. The overall statewide average for the rejection rate was 46% in Fiscal Year 2002.

During Fiscal Year 2002, the mandatory arbitration programs reported the following rejection rates: Boone County, 50%; Cook County, 48%; Du Page County, 56%; Ford County, 0%; Henry County, 56%; Kane County, 55%; Lake County, 51%; McHenry County, 50%; McLean County, 19%; Mercer County, 0%; Rock Island County, 47%; St. Clair County, 33%; Whiteside County, 30%; Will County, 53%; Winnebago County, 55%.

Post-Rejection Calendar

The post-rejection calendar consists of arbitration cases in which one of the parties rejects the award of the arbitrators and seeks a trial before a judge or jury. In addition, cases which are occasionally reinstated at this stage of the arbitration process may be added to the inventory of cases pending post-rejection action. Removals from the post-rejection arbitration calendar are generally dispositive. When a case is removed by way of judgment before or after trial, dismissal, or settlement, it is removed from the court's inventory of pending civil cases.

Post-Rejection Statistics

Although rejection rates are an important indicator of the success of an arbitration program, parties have many resolution options still available after rejecting the arbitration award. As noted above, parties file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. Therefore, a more important number than the rejection rate may be the frequency with which arbitration cases are settled subsequent to the rejection but prior to trial in the circuit court.

Arbitration statistics demonstrate that few arbitration cases proceed to trial even after the arbitration award is rejected.

- In *Cook County* (Fiscal Year 2002), of the 5,336 cases placed on the post-rejection calendar, 569 cases were disposed via trial and 2,523 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 3% of the total cases funneled into the arbitration program in Cook County during Fiscal Year 2002 resulted in trial.
- In *Du Page County* (Fiscal Year 2002), of the 612 cases placed on the post-rejection calendar, 79 cases were disposed via trial and 267 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 2% of the total cases funneled into the arbitration program in DuPage County during Fiscal Year 2002 resulted in trial.
- In *Ford County* (Fiscal Year 2002), there was no activity on the post-rejection calendar.
- In *Winnebago County* (Fiscal Year 2002), of the 64 cases placed on the post-rejection calendar, 22 cases were disposed via trial and 30 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 2% of the total cases funneled into the arbitration program in Winnebago County during Fiscal Year 2002 resulted in trial.
- In *Lake County* (Fiscal Year 2002), of the 239 cases placed on the post-rejection calendar, 57 cases were disposed via trial and 181 were settled or dismissed or otherwise disposed

and removed from the post-rejection calendar. This means only 2% of the total cases funneled into the arbitration program in Lake County during Fiscal Year 2002 resulted in trial.

- In *McHenry County* (Fiscal Year 2002), of the 58 cases placed on the post-rejection calendar, 25 cases were disposed via trial and 31 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 2% of the total cases funneled into the arbitration program in McHenry County during Fiscal Year 2002 resulted in trial.
- In *McLean County* (Fiscal Year 2002), of the 21 cases placed on the post-rejection calendar, 6 cases were disposed via trial and 16 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means less than 1% of the total cases funneled into the arbitration program in McLean County during Fiscal Year 2002 resulted in trial.
- In *St. Clair County* (Fiscal Year 2002), of the 61 cases placed on the post-rejection calendar, 13 cases were disposed via trial and 50 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 1% of the total cases funneled into the arbitration program in St. Clair County during Fiscal Year 2002 resulted in trial.
- In *Kane County* (Fiscal Year 2002), of the 124 cases placed on the post-rejection calendar, 33 cases were disposed via trial and 88 were settled or otherwise disposed and removed from the post-rejection calendar. This means only 2% of the total cases funneled into the arbitration program in Kane County during Fiscal Year 2002 resulted in trial.
- In *Will County* (Fiscal Year 2002), of the 120 cases placed on the post-rejection calendar, 26 cases were disposed of via trial and 101 cases were settled, dismissed, or otherwise disposed and removed from the post-rejection calendar. This means that 1% of the total cases funneled into the arbitration program in Will County during Fiscal Year 2002 resulted in trial.
- In *Boone County* (Fiscal Year 2002), of the 4 cases placed on the post-rejection calendar, no cases were disposed of via trial and 5 cases were either settled or dismissed and removed from the post-rejection calendar. This means that no cases funneled into the arbitration program in Boone County during Fiscal Year 2002 resulted in trial.
- In *Rock Island County* (Fiscal Year 2002), of the 43 cases placed on the post-rejection calendar, 12 cases were disposed of via trial and 21 cases were either settled or dismissed and removed from the post-rejection calendar. This means that 1% of the total cases funneled into the arbitration program in Rock Island County during Fiscal Year 2002 resulted in trial.
- In *Henry County* (Fiscal Year 2002), of the 5 cases placed on the post-rejection calendar, no cases were disposed of via trial and 2 cases were either settled or dismissed and removed from the post-rejection calendar. This means that no cases funneled into the arbitration program in Henry County during Fiscal Year 2002 resulted in trial.

2002 REPORT

- In *Mercer County* (Fiscal Year 2002), there was no activity on the post-rejection calendar.
- In *Whiteside County* (Fiscal Year 2002), of the 6 cases placed on the post-rejection calendar, 1 case was disposed of via trial and 2 cases were either settled or dismissed and removed from the post-rejection calendar. This means that less than 1% of the total cases funneled into the arbitration program in Whiteside County during Fiscal Year 2002 resulted in trial.

These percentages were generated with figures submitted through June 30, 2002. Some cases in which an arbitration award was rejected and the case was transferred to the post-rejection calendar remain pending.

CONCLUSION

Taken together, these figures are convincing evidence that the arbitration system is operating consistent with policy makers' initial expectations for the program.

Statewide figures show that only a small number of the cases filed or transferred into arbitration proceed to an arbitration hearing. Arbitration-eligible cases are resolved and disposed prior to hearing in ways that do not use a significant amount of court time. Court-ordered dismissals, voluntary dismissals, settlement orders, and default judgments typically require very little court time to process. Arbitration encourages dispositions earlier in the life of cases, helps the court operate more efficiently, saves the court the expense of costlier proceedings that might have been necessary later, and saves time, energy, and money of the individuals using the court system to resolve their disputes.

Statewide statistics also show that a large number of cases that do proceed to the arbitration hearing are terminated in a post-hearing proceeding when the parties either petition the court to enter judgment on the arbitration award or remove the case from the arbitration calendar via another form of post-hearing termination, including settlement.

Finally, the overall success of the program can be quantified in the fact that a statewide average of only 2% of the cases processed through an arbitration program proceeded to trial in Fiscal Year 2002.

CIRCUIT PROFILES**Eleventh Judicial Circuit**

The Supreme Court of Illinois entered an order in March, 1996, allowing both McLean and Ford Counties to begin arbitration programs. Therefore, two counties within the five-county circuit currently use court-annexed mandatory arbitration as a case management tool. The Eleventh Judicial Circuit arbitration program is housed near the McLean County Law and Justice Center in Bloomington, Illinois.

The supervising judge for arbitration in McLean County is Judge Kevin P. Fitzgerald. The supervising judge for arbitration in Ford County is Judge Stephen R. Pacey. The supervising

judges are assisted by one administrative assistant for arbitration for both the McLean and Ford County programs.

Twelfth Judicial Circuit

The Twelfth Judicial Circuit is one of only three single-county circuits in Illinois. The Will County Arbitration Center is housed near the courthouse in Joliet, Illinois. According to the 2000 federal census, the county is home to 502,266 residents. Straddling the line between a growing urban area and a farm community, Will County is working to keep current with its increasing caseload.

After the Supreme Court approved its request, Will County began hearing arbitration cases in December of 1995. Judge Paula Gamora is the supervising judge for arbitration in the Twelfth Judicial Circuit. She is assisted by a trial court administrator and an administrative assistant.

Fourteenth Judicial Circuit

The Fourteenth Judicial Circuit is comprised of Rock Island, Henry, Mercer, and Whiteside Counties. This circuit is the most recent to receive Supreme Court approval to begin operating an arbitration program. In November of 1999, the Supreme Court authorized the inception of the program and arbitrations began in October, 2000. Hearings are conducted in an arbitration center located in downtown Rock Island.

The Fourteenth Circuit is the first program to receive permanent authorization to hear cases with damage claims between \$30,000 and \$50,000. The supervising judge for arbitration is Judge Mark A. VandeWiele.

Sixteenth Judicial Circuit

The Sixteenth Judicial Circuit consists of DeKalb, Kane, and Kendall Counties. During Fiscal Year 1994, the Supreme Court approved the request of Kane County to begin operating a court-annexed mandatory arbitration program. Initial arbitration hearings were held in June, 1995.

Judge Richard J. Larson is the supervising judge for arbitration in Kane County. He is assisted by an administrative assistant for arbitration.

Seventeenth Judicial Circuit

The Seventeenth Judicial Circuit is a two-county circuit in north central Illinois consisting of Winnebago and Boone Counties. The arbitration center is located in Rockford, which is one of the largest cities in the state and has a population of 320,204, according to 2000 federal census data. In the fall of 1987, court-annexed mandatory arbitration was instituted as a pilot program in Winnebago County, making it the oldest court-annexed arbitration system in the state.

Since its inception, the arbitration program in Winnebago County has consistently processed nearly 1,000 civil cases every year. Judge Timothy R. Gill is the supervising judge for Winnebago County. The Boone County program, which began hearings in February, 1995, is supervised by Judge Gerald F. Grubb. The supervising judges are assisted by an arbitration administrator and an assistant administrator for arbitration.

Eighteenth Judicial Circuit

The Eighteenth Judicial Circuit is a suburban jurisdiction serving the residents of Du Page County. Located west of Chicago, Du Page is one of the fastest growing counties in the state and the third most populous judicial circuit in Illinois. The continuing increase in population creates demands on the public services in the county. The circuit court has strived to keep pace with those demands in order to provide services of the highest quality. Court-annexed arbitration has become an important resource for assisting the judicial system in delivering those services.

The Supreme Court approved an arbitration program for the circuit in December, 1988. A few years later, on January 1, 1997, a pilot program was instituted for cases with money damages seeking up to \$50,000. During Fiscal Year 2002, the Supreme Court authorized DuPage County to permanently operate at the \$50,000 jurisdictional limit. Judge Kenneth A. Abraham is the supervising judge for arbitration. He is assisted by an arbitration administrator and administrative assistant, who help ensure the smooth operation of the program.

Nineteenth Judicial Circuit

Lake and McHenry Counties combine to form the Nineteenth Judicial Circuit. This jurisdiction ranks as the second most populous judicial circuit in Illinois, serving 904,433 citizens. Lake County sought Supreme Court approval to implement an arbitration program and that approval was granted in December, 1988.

As in the other circuits, the arbitration caseloads are assigned to a supervising judge. During Fiscal Year 2002, Judge Emilio B. Santi served as the supervising judge for arbitration in Lake County. He is assisted by an arbitration administrator and an administrative assistant. Arbitration hearings are conducted in a facility across the street from the Lake County Courthouse in downtown Waukegan.

Late in 1990, the Supreme Court was asked to consider the Nineteenth Judicial Circuit's request to expand the arbitration program into McHenry County. That request was approved. The Nineteenth Judicial Circuit was the first multi-county circuit-wide arbitration program in Illinois. Although centrally administered, the arbitration programs in Lake and McHenry Counties use their own county-specific group of arbitrators to hear cases.

Judge Maureen P. McIntyre serves as the supervising judge in McHenry County. Arbitration hearings are conducted in the McHenry County Courthouse in Woodstock. The arbitration administrator and administrative assistant in Lake County administer the program in McHenry County as well.

Twentieth Judicial Circuit

The Twentieth Judicial Circuit is comprised of five counties: St. Clair, Perry, Monroe, Randolph, and Washington. This circuit is located in downstate Illinois and is considered a part of the St. Louis metropolitan area. Circuit population is 355,836 according to the 2000 federal census.

The Supreme Court approved the request of St. Clair County to begin an arbitration program on May 11, 1993. The first hearings were held in February, 1994. This circuit is the first and only circuit in the downstate area to have an arbitration program.

The arbitration center is located across the street from the St. Clair County Courthouse. Judge Jan V. Fiss is the supervising judge. He is assisted by an arbitration administrator and an administrative assistant, who oversee the program's operations.

Circuit Court of Cook County

As a general jurisdiction trial court, the Circuit Court of Cook County is the largest unified court in the nation. Serving a population of more than 5.3 million people, this court operates through an elaborate system of administratively created divisions and geographical departments.

The Supreme Court granted approval to implement an arbitration program in Cook County in January, 1990, after the Illinois General Assembly and the Governor authorized a supplemental appropriation measure for the start-up costs. Cases pending in the circuit's Law Division were initially targeted for referral to arbitration and hearings for those cases commenced in April, 1990. Today, the majority of the cases transferred to arbitration are Municipal Department cases.

The Cook County program is supervised by Judge Jacqueline P. Cox, and day-to-day operations are managed by an arbitration administrator and deputy administrator.

Administrative Office of the Illinois Courts

The Administrative Office of the Illinois Courts (AOIC) works with the circuit courts to coordinate the operations of the arbitration programs throughout the state. The administrative staff assists in establishing new arbitration programs that have been approved by the Supreme Court. Staff also provide other support services such as drafting local rules, recruiting personnel, acquiring facilities, training new arbitrators, purchasing equipment, and developing judicial calendaring systems.

The AOIC also assists existing programs by preparing budgets, processing vouchers, addressing personnel issues, compiling statistical data, negotiating contracts and leases, and coordinating the collection of arbitration filing fees. The office also monitors the performance of each program. In addition, AOIC staff act as liaison to Illinois Judicial Conference committees, bar associations, and the public.

FISCAL YEAR 2002 PRE-HEARING CALENDAR

ARBITRATION CENTER	CASES PENDING HEARING 07/01/01 AS REPORTED	CASES REFERRED TO ARBITRATION	TOTAL CASES ON CALENDAR	PRE-HEARING DISPOSITIONS	PERCENT OF CASES ON PRE-HEARING CALENDAR DISPOSED PRIOR TO ARBITRATION HEARING	ARBITRATION HEARINGS	PERCENTAGE REFERRED TO HEARING	CASES PENDING HEARING 06/30/02
Boone	27	98	125	81	65.00%	6	5.00%	38
Cook	754	15,929	16,683	3,919	23.00%	11,182	67.00%	1,582
DuPage	N/A	3,679	3,679	2,961	80.00%	612	17.00%	N/A
Ford	5	57	62	46	74.00%	6	10.00%	10
Henry	47	92	139	76	55.00%	9	6.00%	54
Kane	75	1,621	1,696	1,384	82.00%	225	13.00%	87
Lake	639	2,591	3,230	1,989	62.00%	450	14.00%	791
McHenry	274	974	1,248	789	63.00%	109	9.00%	350
McLean	567	1,149	1,716	954	56.00%	105	6.00%	657
Mercer	6	24	30	13	43.00%	2	7.00%	15
Rock Island	178	660	838	453	54.00%	91	11.00%	294
St. Clair	456	1,824	2,280	1,718	75.00%	183	8.00%	379
Whiteside	63	212	275	176	64.00%	20	7.00%	79
Will	680	1,800	2,480	1,468	59.00%	226	9.00%	786
Winnebago	134	1,217	1,351	1,081	80.00%	105	8.00%	165

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook, Ford, Kane, McLean, and Will Counties is \$30,000.

The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Henry, Lake, McHenry, Mercer, Rock Island, Whiteside, and Winnebago Counties is \$50,000.

The monetary jurisdictional limit for arbitration cases filed in St. Clair County is \$20,000.

FISCAL YEAR 2002
POST-HEARING CALENDAR

ARBITRATION CENTER	CASES PENDING ON POST HEARING CALENDAR 07/01/01 AS REPORTED	CASES ADDED	JUDGMENT ON AWARD	POST-HEARING PRE-REJECTION DISPOSITION DISMISSED	AWARDS REJECTED	AWARDS REJECTED AS A PERCENTAGE OF HEARINGS	TOTAL CASES IN SYSTEM AS A PERCENTAGE OF ALL WHICH WERE REJECTED AS OF JUNE 30, 2002	CASES PENDING 06/30/02
Boone	0	6	3	0	3	50%	2%	0
Cook	N/A	11,182	3,064	4,725	5,336	48%	32%	N/A
DuPage	N/A	612	127	191	341	56%	9%	N/A
Ford	0	6	4	1	0	0%	0%	1
Henry	0	9	2	1	5	56%	4%	1
Kane	36	225	56	31	124	55%	7%	52
Lake	61	459	103	117	234	51%	7%	66
McHenry	12	114	37	26	57	50%	5%	6
McLean	47	108	47	11	21	19%	1%	76
Mercer	0	2	1	1	0	0%	0%	0
Rock Island	11	91	30	20	43	47%	5%	9
St. Clair	17	183	99	29	61	33%	3%	11
Whiteside	5	20	7	9	6	30%	2%	3
Will	35	222	50	54	117	53%	5%	36
Winnebago	8	106	33	19	58	55%	4%	4

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook, Ford, Kane, McLean, and Will Counties is \$30,000.

The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Henry, Lake, McHenry, Mercer, Rock Island, Whiteside, and Winnebago Counties is \$50,000.

The monetary jurisdictional limit for arbitration cases filed in St. Clair County is \$20,000.

FISCAL YEAR 2002
POST-REJECTION CALENDAR

ARBITRATION CENTER	CASES PENDING ON POST-REJECTION CALENDAR 07/01/01 AS REPORTED	CASES ADDED	PRE-TRIAL POST-REJECTION DISPOSITIONS DISMISSALS	TRIALS	PERCENT OF TOTAL CASES ON PRE-HEARING CALENDAR PROGRESSING TO TRIAL THROUGH 6/30/02	CASES PENDING 06/30/02
Boone	5	4	5	0	0%	4
Cook	N/A	5,336	2523	569	3%	2244
DuPage	N/A	612	267	79	2%	266
Ford	0	0	0	0	0%	0
Henry	1	5	2	0	0%	4
Kane	148	124	88	33	2%	151
Lake	97	239	181	57	2%	98
McHenry	27	58	31	25	2%	29
McLean	14	21	16	6	0%	13
Mercer	0	0	0	0	0%	0
Rock Island	19	43	21	12	1%	29
St. Clair	49	61	50	13	1%	47
Whiteside	0	6	2	1	0%	3
Will	68	120	101	26	1%	61
Winnebago	26	64	30	22	2%	38

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook, Ford, Kane, McLean, and Will Counties is \$30,000.

The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Henry, Lake, McHenry, Mercer, Rock Island, Whiteside, and Winnebago Counties is \$50,000.

The monetary jurisdictional limit for arbitration cases filed in St. Clair County is \$20,000.

APPENDIX 2

**2002 REPORT
APPENDIX 2**

**Court-Sponsored Major Civil Case
Mediation Statistics
Fiscal Year 2002**

Judicial Circuit	Full Agreement		Partial Agreement		No Agreement		Total Cases Mediated
	#	%	#	%	#	%	
*Eleventh (Ford & McLean)	7	54%	0	0%	6	46%	13
Twelfth (Will)	0	0%	0	0%	0	0%	0
**Fourteenth (Henry, Mercer, Rock Island & Whiteside)	0	0%	0	0%	0	0%	0
Sixteenth (Kane)	60	46.5%	9	7%	60	46.5%	129
Seventeenth (Winnebago & Boone)	60	72%	2	3%	21	25%	83
***Eighteenth (DuPage)	5	36%	1	7%	8	57%	14
****Nineteenth (Lake & McHenry)	52	55%	4	4%	39	41%	95
Total/Overall %	184	55%	16	5%	134	40%	334

* A total of (22) cases were referred to mediation. In addition to the statistics above: (1) case settled prior to mediation and (8) cases are pending mediation.

** The Fourteenth Judicial Circuit was approved by the Supreme Court to start a mediation program in February 2002. Subsequently, they did not have cases assigned to mediation until June 2002.

*** A total of (31) cases were referred to mediation. In addition to the statistics above: (5) cases are pending with orders of referral to mediation, (2) cases have been placed on the bankruptcy stay calendar, and (10) cases were either dismissed or settled. These cases only reflect the cases referred by court order and may not reflect the total number of cases being mediated in the 18th Judicial Circuit.

**** A total of (120) cases were referred to mediation. In addition to the statistics above: (13) cases are pending trial, (5) cases were removed from mediation, (5) cases were dismissed, and (2) cases are scheduled for a second mediation.