

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

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I. STATEMENT OF COMMITTEE CONTINUATION

Since the 2003 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. These programs have become an essential part of the court system in the circuits where adopted.

Early in the year, the Committee finalized and sent for consideration an amendment proposal to the Supreme Court Rules Committee concerning Supreme Court Rule 90(c). The Rules Committee forwarded the amended rule to the Court for consideration. Upon the Court’s review, the amended rule was approved. Supreme Court Rule 90(c) requires bills to be specified as paid or unpaid so the arbitration panel can have that information available during the decision making process so that there is a closer correlation between awards and verdicts. The Committee also considered several other proposed Rule amendments.

The Committee met with arbitration administrators and 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 ten circuits. During State Fiscal Year 2004, 576 court-ordered mediation cases were referred to mediation programs statewide.

During the 2005 Conference year, the Committee will continue to monitor court-annexed mandatory arbitration programs, oversee and facilitate the improvement and expansion of major civil case mediation programs, consider proposed amendments to Supreme Court Rules for mandatory arbitration and continue to study and evaluate other alternative dispute resolution options. Specifically, the Committee plans to explore the feasibility of implementing the dispute resolution practice of summary jury trials.

Because the Committee continues to provide service to arbitration practitioners, recommendations on mediation and arbitration program improvements, information to Illinois judges and lawyers and promote the expansion of court-annexed alternative dispute resolution programs in the State of Illinois, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. *Court-Annexed Mandatory Arbitration*

As 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 seventeen 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 2004 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 2004 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 2003 Annual Meeting of the Illinois Judicial Conference concerning court-annexed mandatory arbitration.

1. Consideration of Proposed Amendments to Supreme Court Rules

a. The Committee considered a proposal to amend Supreme Court Rule 94. The amended language would establish check boxes on the Award of Arbitrators form which would identify if litigants in the arbitration process participated in good faith. This proposal addresses a letter submitted to the Committee by former Chief Justice Harrison which he received from a local arbitration program practitioner. The letter cited concerns about certain litigants rejecting awards as a matter of course and not participating throughout the arbitration process in good faith.

The amended Award of Arbitrators form was sent to the Supreme Court Rules Committee and, thereafter, was approved by the Supreme Court.

b. The Committee drafted a proposed amendment to Supreme Court Rule 90 by adding a new subsection that would eliminate discussion by arbitrators after an arbitration hearing, and throughout the entire process. Specifically, the amended language would provide that an arbitrator may not be contacted, nor may an arbitrator publicly comment, nor respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of the case and until a final order is entered and the time for appeal has expired notwithstanding discussion or comments between an arbitrator and judge regarding an infraction or impropriety during the arbitration process.

The Committee believes that litigants using feedback from arbitrators to make decisions

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The AOIC's Court-Annexed Mandatory Arbitration Fiscal Year 2004 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.caadsr.org).

whether to reject or accept an award poses a practical problem. The Committee drafted language to amend Supreme Court Rule 90 with comments and submitted the proposal to the Supreme Court Rules Committee for consideration.

c. The Committee considered a proposal to amend Supreme Court Rule 91(a) by adding language that would require parties in subrogation cases to be present in person at the arbitration hearing. The additional language would substantially be the following: “for purposes of arbitration hearings in causes of action concerning subrogation, the insured and/or the driver of the vehicle shall be considered parties under Supreme Court Rule 90(g) even when this cause of action is filed in the name of the insurance company.” Also, this proposed amendment would simultaneously remove the existing language allowing parties to be present at an arbitration hearing “either in person or by counsel” and add language requiring parties to be present unless waived by leave of court.

The Committee finalized a proposal to amend Supreme Court Rule 91(a) and, pending drafting of Committee comments, plans to submit the proposal to the Supreme Court -Rules Committee for consideration.

d. The Committee drafted language to amend Supreme Court Rule 222 to defer discovery time lines to local rule. In accordance with Supreme Court Rule 89, many circuits that have mandatory arbitration programs have adopted local rules shortening the time for compliance with Supreme Court Rule 222. According to program participants and the observations of program administrators and supervising judges, attorneys are confused as to whether the benchmark of 120 days for discovery applies or if local rule preempts with a shortened time frame.

Supreme Court Rule 89 provides that “discovery may be conducted in accordance with established rules and shall be completed prior to the arbitration hearing. However, such discovery shall be conducted in accordance with Rule 222, except that the time lines may be shortened by local rule.”

The proposal would strike the existing language regarding 120 days and defer to local rule. It is hoped that this proposal will eliminate confusion among counsel as to whether the benchmark of 120 days still applies thereby requiring counsel to understand dictates of local rules and eliminate the ability of non-complying counsel to state that they agreed to extend the time for disclosure without court approval.

The Committee finalized the proposal to amend Supreme Court Rule 222 with comments and sent it to the Supreme Court Rules Committee for consideration.

2. Meeting with Supervising Judges and Arbitration Administrators

Stemming from a meeting with mandatory arbitration supervising judges and arbitration administrators in June 1998, a request was made for the Committee to schedule future meetings with arbitration administrators and the A.O.I.C.'s Committee liaison to discuss program activities

and prepare an agenda for an annual meeting with the Committee each year. The Committee thereby arranged for such a meeting to take place in Kane County for that year and each subsequent year.

In preparation for this year's meeting with the Committee, the arbitration administrators and A.O.I.C. liaison met at the Kane County Courthouse in April 2004. At that meeting, the arbitration administrators identified and discussed areas concerning 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, compensation of arbitrators for matters in excess of allotted hearing times and proposed amendments to Supreme Court Rules. The arbitration administrators assisted in the development of an agenda for the June 2004 annual meeting with the Committee.

On June 4, 2004, 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. A major topic of discussion was whether to permit a discretionary increase in arbitrator compensation for hearings exceeding the allotted two hour limit. Said compensation would not exceed the amount permitted for two hearings or the sum of \$150.00. The program practitioners also made several suggestions regarding amendments to Supreme Court Rules, provided specific feedback particular to Committee inquiries and provided valuable statistical information used in measuring the efficacy of the program. The Committee plans to follow through on several issues and meet periodically with the users of the program throughout the next Conference year.

3. Summary Jury Trials

The concept of summary jury trials was introduced to the Committee in Conference Year 2003. Summary jury trials are a specialized process designed to address cases in which significant damages are sought and/or are more complex and will consume disproportionate amounts of court time and resources.

The Committee plans to continue to explore options in attempting to develop and implement this type of alternative dispute resolution practice. Considerations will include possible Supreme Court Rule proposals, drafting of enabling legislation and implementation. The Committee will continue to identify and examine other jurisdictions that successfully utilize the summary jury trial process and determine which practices might best accommodate a program in the State of Illinois.

B. Mediation

Presently, court-sponsored mediation programs operate in the First, Eleventh, Twelfth, Fourteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth and Twentieth Circuits, as well as the

Circuit of Cook County. Supreme Court Rule 99 governs the manner in which mediation programs are conducted. Actions eligible for mediation are prescribed by local circuit rule in accordance with Supreme Court Rule 99. During Conference Year 2004, the First, Twentieth and the Circuit Court of Cook County requested, and were approved, to operate mediation programs.

During State Fiscal Year 2004, 576 cases were referred to mediation in the ten programs from July 1, 2003 through June 30, 2004. These programs are designed to provide quicker and less expensive resolution of major civil cases.

A total of 405 cases were mediated during Fiscal Year 2004. Of these cases, 231 resulted in a full settlement of the matter; 22 reached a partial settlement of the issues; and 152 of the cases that progressed through the mediation process did not reach an agreement at mediation. (See Appendix 2 for statistics on these programs.)

Court-sponsored mediation programs have been successful and well received, and have resulted in 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. They are responsive to a demonstrated need to provide alternatives to trial and have been well received by the participants.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2005 Conference Year, the Committee will continue to monitor and assess court-annexed mandatory arbitration programs, suggest broad-based policy recommendations, explore and examine innovative dispute resolution techniques and continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft and propose rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators.

The Committee 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, specifically summary jury trials.

IV. RECOMMENDATIONS

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

APPENDIX 1

FISCAL YEAR 2004 ANNUAL REPORT TO THE ILLINOIS GENERAL ASSEMBLY ON COURT-ANNEXED MANDATORY ARBITRATION

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INTRODUCTION

The Fiscal Year 2004 Annual Report of 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
- ▶ McHenry County in November 1990
- ▶ St. Clair County in May 1993
- ▶ Boone and Kane Counties in November 1994
- ▶ Will County in March 1995
- ▶ Ford and McLean Counties in March 1996
- ▶ Henry, Mercer, Rock Island and Whiteside Counties 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 2004 Annual Report summarizes the accomplishments of the arbitration program from July 1, 2003 through June 30, 2004. The report begins with a general description

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

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 operations 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 pre-hearing 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 authorized 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

²See Illinois Supreme Court Rule 86(d). The monetary limit for arbitration cases filed in Cook and Will Counties is \$30,000. The monetary limit for arbitration cases filed in Boone, Du Page, Ford, Henry, Kane, Lake, Mc Henry, McLean, Mercer, Rock Island, St. Clair, Whiteside and Winnebago Counties is \$50,000.

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.

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, 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, quicker 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. Awards are filed on the same day as the hearing. To find in favor of one party, the concurrence of at least two arbitrators must be present.

Following the arbitration hearing, the clerk of the court records the arbitration award and forwards notice of the award to the parties. As a courtesy to the litigants, many of the arbitration centers post the arbitration award immediately following submission by the arbitrators thereby notifying the parties of 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 seeking to reject an award. First, the party who wants to reject the award must have been present, personally or via counsel, at the arbitration hearing 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. Finally, except for indigent parties, the party who initiates the rejection must pay a rejection fee of \$200 to the clerk of the court for awards of \$30,000 or less or \$500 for awards greater than

⁴See Illinois Supreme Court Rule 91(a).

⁵See Illinois Supreme Court Rule 91(b).

\$30,000.⁶ 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 works on drafting rule amendments in light of suggestions and information received from program participants, supervising judges and arbitration administrators.

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 2004 STATISTICS

Court-annexed mandatory arbitration has now been operating in Illinois for a little more than seventeen 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

⁶See Illinois Supreme Court Rule 93(a).

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.

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 2004 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 2004, 20,680 cases on the pre-hearing arbitration calendar were disposed through default judgment, dismissal or some other form of pre-hearing termination.⁷ Therefore, a statewide average of 65% of the cases referred to arbitration were disposed prior to the arbitration hearing.⁸ 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 greater number of cases in less time. In some instances, individual county numbers are even more impressive.

Boone County

Boone County reported that 110 cases were referred to arbitration during Fiscal Year 2004. At the end of Fiscal Year 2003, 20 cases were pending on the pre-hearing arbitration calendar. In Fiscal Year 2004, prior to the arbitration hearing, 80 cases were disposed. Therefore, as of June 30, 2004, 62% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

Boone County held 11 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 8% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Cook County

The Cook County statistics differ significantly. During Fiscal Year 2004, 14,896 cases were transferred into the Cook County arbitration program. At the end of Fiscal Year 2003, 1,228 cases were pending on the pre-hearing arbitration calendar. As of June 30, 2004, 3,633 cases were

⁷Cases disposed during Fiscal Year 2004 will include those cases pending at the end of Fiscal Year 2003. Additionally, not all cases referred to arbitration during Fiscal Year 2004 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, 2004.

⁸This number is derived by dividing the number of cases disposed via some form of prehearing termination during Fiscal Year 2004, (20,680) by the inventory of arbitration cases at the prehearing stage during Fiscal Year 2004. 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 2003, (5,473) and the number of cases transferred or filed in arbitration during Fiscal Year 2004 (33,398). However, DuPage County had incomplete data for cases pending from Fiscal Year 2003. Therefore, the statewide percentage of cases disposed prior to hearing was calculated by averaging individual county statistics.

disposed prior to the arbitration hearing. Therefore, as of June 30, 2004, 23% of the cases in the arbitration program in Cook County were disposed prior to the arbitration hearing.

The Cook County program conducted 9,151 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, 57% 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 \$50,000 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 being transferred 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.

DuPage County

DuPage County reported that 3,817 cases were filed in or transferred to the arbitration calendar during Fiscal Year 2004. During Fiscal Year 2004, 4,029 cases were disposed prior to their progression to an arbitration hearing. The percentage of cases disposed prior to hearing on the pre-hearing arbitration calendar were unable to be determined due to incomplete data.

DuPage County reported conducting 552 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 14% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Ford County

In Fiscal Year 2004, Ford County reported 38 cases were filed or transferred into arbitration. At the end of Fiscal Year 2003, 10 cases were pending on the pre-hearing arbitration calendar. Ford County reported that 32 cases were disposed pre-hearing. Therefore, 67% of the cases in the arbitration program were disposed prior to hearing.

Ford County reported that it conducted 6 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 13% of the arbitration-eligible cases progressed to hearing in Ford County.

Henry County

In Fiscal Year 2004, Henry County reported 113 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 49 cases were pending on the pre-hearing calendar. Henry County reported that 129 cases were disposed pre-hearing. Therefore, 80% of the cases filed or transferred into arbitration were disposed pre-hearing.

Henry County reported that it held 8 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 5% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Kane County

Kane County reported that 2,142 cases were referred to arbitration during Fiscal Year 2004. At the end of Fiscal Year 2003, 246 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2004, 1,656 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2004, 69% of the cases on the pre-hearing arbitration calendar were disposed prior to an arbitration hearing.

During Fiscal Year 2004, Kane County conducted 167 arbitration hearings. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Lake County

Lake County reported that 3,249 cases were filed in, or transferred to, the arbitration calendar during Fiscal Year 2004. There were 974 cases pending on the pre-hearing calendar at the end of Fiscal Year 2003. During Fiscal Year 2004, 2,725 cases were disposed prior to their progression to an arbitration hearing. Therefore, as of June 30, 2004, 65% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

Lake County reported conducting 461 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 11% of the cases on the pre-hearing arbitration calendar progressed to hearing.

McHenry County

McHenry County reported that 1,308 cases were transferred or filed as arbitration-eligible during Fiscal Year 2004. At the end of Fiscal Year 2003, 426 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2004, 1,172 cases were disposed in some way prior to the arbitration hearing. Therefore, 68% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

During Fiscal Year 2004, McHenry County held 124 arbitration hearings. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to hearing.

2004 REPORT***McLean County***

McLean County reported that in Fiscal Year 2004, 823 cases were filed or transferred into arbitration. At the end of Fiscal Year 2003, 696 cases were pending on the pre-hearing arbitration calendar. McLean County reported that 776 cases were disposed pre-hearing. Therefore, 51% of the cases filed or transferred into arbitration were disposed pre-hearing.

McLean County reported that it held 96 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 6% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Mercer County

In Fiscal Year 2004, Mercer County reported 25 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 21 cases were pending on the pre-hearing calendar. Mercer County reported that 30 cases were disposed pre-hearing. Therefore, 65% of the cases filed or transferred into arbitration were disposed pre-hearing.

Mercer County reported that it held 1 arbitration hearing during Fiscal Year 2004. Therefore, as of June 30, 2004, only 2% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Rock Island County

In Fiscal Year 2004, Rock Island County reported 741 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 310 cases were pending on the pre-hearing calendar. Rock Island County reported that 636 cases were disposed pre-hearing. Therefore, 61% of the cases filed or transferred into arbitration were disposed pre-hearing.

Rock Island County reported that it held 89 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 8% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

St. Clair County

St. Clair County reported that 2,328 cases were referred to court-annexed mandatory arbitration during Fiscal Year 2004 and 355 cases were pending on the pre-hearing arbitration calendar at the end of Fiscal Year 2003. During Fiscal Year 2004, 2,410 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2004, 90% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2004, 132 arbitration hearings were held in St. Clair County. Therefore, as of June 30, 2004, 5% of the cases on the arbitration pre-hearing calendar progressed to the arbitration hearing.

Whiteside County

In Fiscal Year 2004, Whiteside County reported 253 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 110 cases were pending on the pre-hearing calendar.

Whiteside County reported that 234 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 9 arbitration hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 2% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Will County

In Fiscal Year 2004, Will County reported that 2,077 cases were filed or transferred to arbitration. At the end of Fiscal Year 2003, 833 cases were pending on the pre-hearing calendar. During Fiscal Year 2004, 1,830 pre-hearing dispositions were reported. Therefore, as of June 30, 2004, 63% of all cases filed or transferred into arbitration were disposed prior to the arbitration hearing.

Will County reported that it held 201 hearings during Fiscal Year 2004. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Winnebago County

During Fiscal Year 2004, Winnebago County reported that 1,478 cases were funneled into the arbitration program. At the end of Fiscal Year 2003, 195 cases were pending on the pre-hearing arbitration calendar.

Prior to the arbitration hearing, 1,308 cases were terminated. Therefore, as of June 30, 2004, 78% of cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2004, Winnebago County reported that 124 cases progressed to hearing. Therefore, as of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar went to 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 65-75% 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 rather than 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 40% 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 award⁹, settlements reached after the arbitration award and prior to the expiration for the filing of a rejection, are detailed herein.

- **Boone County** reported the entry of 6 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Boone County, 5% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. Two cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Boone 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.

⁹Judgment 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 FY2004 to the number of cases pending on the post-hearing calendar as of 07/01/03.

- **Cook County** reported the entry of 2,395 judgments on arbitration awards during Fiscal Year 2004. An additional 3,966 cases were either settled or dismissed prior to the expiration for the filing of a rejection. The statistics for cases pending on the post-hearing calendar as of July 1, 2003, were not available at the time this report was compiled. Therefore, no percentages are available.
- **DuPage County** reported the entry of 112 judgments on arbitration awards during Fiscal Year 2004. An additional 222 cases were either settled or dismissed prior to the expiration for the filing of a rejection. The statistics for cases pending on the post-hearing calendar as of July 1, 2003, were not available at the time this report was compiled. Therefore, no percentages are available.
- **Ford County** reported that 2 cases were added to the post-hearing calendar and all of them received a judgment on the arbitration award entered during Fiscal Year 2004. Therefore, in Ford County, 3% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. Two cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Ford County, during Fiscal Year 2004, 6% 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 3 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Henry County, 3% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 3 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Henry 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.
- **Kane County** reported the entry of 37 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Kane County, 17% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 35 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Kane County, 33% 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 114 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Lake County, 22% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 114 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Lake County, 43% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **McHenry County** reported the entry of 42 judgments on arbitration awards during Fiscal Year 2004. Therefore, in McHenry County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 28 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in McHenry 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.

- **McLean County** reported the entry of 31 judgments on arbitration awards during Fiscal Year 2004. Therefore, in McLean County, 16% of the cases in which a hearing was held on or before June 30, 2004, 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 2004 in McLean County, 22% 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 no judgments on an arbitration award during Fiscal Year 2004. Therefore, in Mercer County, none of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. No cases were either settled or dismissed prior to the expiration for the filing of a rejection.
- **Rock Island County** reported the entry of 28 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Rock Island County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 34 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Rock Island County, 65% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **St. Clair County** reported the entry of 67 judgments on arbitration awards during Fiscal Year 2004. Therefore, in St. Clair County, 46% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 27 cases were settled prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in St. Clair County, 64% 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 2 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Whiteside County, 2% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 4 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Whiteside County, 6% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- **Will County** reported the entry of 70 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Will County 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 52 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Will County, 51% 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 2004. Therefore, in Winnebago County, 25% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 36 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Winnebago County, 52% 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 2004.

During Fiscal Year 2004, the mandatory arbitration programs reported the following rejection rates: Boone County, 9%; Cook County, 47%; Du Page County, 55%; Ford County, 0%; Henry County, 25%; Kane County, 57%; Lake County, 51%; McHenry County, 48%; McLean County, 26%; Mercer County, 100%; Rock Island County, 22%; St. Clair County, 28%; Whiteside County, 44%; Will County, 41%; Winnebago County, 40%.

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 **Boone County** (Fiscal Year 2004), 1 case was 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 less than 1% of the cases funneled into the arbitration program in Boone County during Fiscal Year 2004 resulted in trial.
- In **Cook County** (Fiscal Year 2004), 4,256 cases were placed on the post-rejection calendar, 401 cases were disposed via trial and 2,018 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 Cook County during Fiscal Year 2004 resulted in trial.
- In **DuPage County** (Fiscal Year 2004), 552 cases were placed on the post-rejection calendar, 83 cases were disposed via trial and 282 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 2004 resulted in trial.

- In **Ford County** (Fiscal Year 2004), no cases were placed on the post-rejection calendar, settled, dismissed or otherwise disposed and removed from the post-rejection calendar. Therefore, none of the cases funneled into the arbitration program in Ford County during Fiscal Year 2004 resulted in trial.
- In **Henry County** (Fiscal Year 2004), 2 cases were placed on the post-rejection calendar, no cases were disposed of via trial and 3 cases were either settled or dismissed and removed from the post-rejection calendar. This means less than 1% of the cases funneled into the arbitration program in Henry County during Fiscal Year 2004 resulted in trial.
- In **Kane County** (Fiscal Year 2004), 95 cases were placed on the post-rejection calendar, 37 cases were disposed via trial and 69 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 2004 resulted in trial.
- In **Lake County** (Fiscal Year 2004), 241 cases were placed on the post-rejection calendar, 60 cases were disposed via trial and 196 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 Lake County during Fiscal Year 2004 resulted in trial.
- In **McHenry County** (Fiscal Year 2004), 63 cases were placed on the post-rejection calendar, 24 cases were disposed via trial and 53 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 McHenry County during Fiscal Year 2004 resulted in trial.
- In **McLean County** (Fiscal Year 2004), 26 cases were placed on the post-rejection calendar, 7 cases were disposed via trial and 23 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 2004 resulted in trial.
- In **Mercer County** (Fiscal Year 2004), there was no activity on the post-rejection calendar.
- In **Rock Island County** (Fiscal Year 2004), 20 cases were placed on the post-rejection calendar, 8 cases were disposed of via trial and 26 cases were either settled or dismissed and removed from the post-rejection calendar. This means that 1% of the cases funneled into the arbitration program in Rock Island County during Fiscal Year 2004 resulted in trial.
- In **St. Clair County** (Fiscal Year 2004), 37 cases were placed on the post-rejection calendar, 8 cases were disposed via trial and 38 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 St. Clair County during Fiscal Year 2004 resulted in trial.
- In **Whiteside County** (Fiscal Year 2004), 5 cases were placed on the post-rejection calendar, 1 case was disposed of via trial and 7 cases were either settled or dismissed and removed from the post-rejection calendar. This means less than 1% of the cases funneled into the arbitration program in Whiteside County during Fiscal Year 2004 resulted in trial.

- In **Will County** (Fiscal Year 2004), 84 cases were placed on the post-rejection calendar, 17 cases were disposed of via trial and 49 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 2004 resulted in trial.
- In **Winnebago County** (Fiscal Year 2004), 49 cases were placed on the post-rejection calendar, 11 cases were disposed via trial and 48 were settled or 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 Winnebago County during Fiscal Year 2004 resulted in trial.

These percentages were generated with figures submitted through June 30, 2004. 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 less than 2% of the cases processed through an arbitration program proceeded to trial in Fiscal Year 2004.

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 Robert L. Freitag. The

supervising judge for arbitration in Ford County is Judge Stephen R. Pacey. The supervising judges are assisted by an 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 Richard J. Siegel is the supervising judge for arbitration in the Twelfth Judicial Circuit. He is assisted by a trial court administrator and an administrative assistant.

Fourteenth Judicial Circuit

The Fourteenth Judicial Circuit is comprised of Henry, Mercer, Rock Island 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 arbitration hearings began in October 2000. Hearings are conducted in the 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 Judith M. Brawka is the supervising judge for arbitration in Kane County. She is assisted by an administrative assistant for arbitration.

Seventeenth Judicial Circuit

The Seventeenth Judicial Circuit is located in the northern part of Illinois consisting of Winnebago and Boone Counties. The arbitration center is located near the courthouse in Rockford, Illinois. 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 DuPage County. Located west of Chicago, DuPage 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. 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 2004, 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 Annette A. Eckert is the supervising judge. She 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 E. Kenneth Wright, Jr. 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. 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 liaisons to Illinois Judicial Conference committees, bar associations and the public.

FISCAL YEAR 2004 PRE-HEARING CALENDAR

ARBITRATION PROGRAM	CASES PENDING HEARING 07/01/03 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 HEARING	PERCENTAGE REFERRED TO HEARING	CASES PENDING HEARING 06/30/04
Boone	20	110	130	80	62%	11	8%	39
Cook	1,228	14,896	16,124	3,633	23%	9,151	57%	3,340
DuPage	1,764	4,146	5,910	4,029	68%	552	9%	N/A
Ford	10	38	48	32	67%	6	13%	10
Henry	49	113	162	129	80%	8	5%	25
Kane	246	2,142	2,388	1,656	69%	167	7%	565
Lake	974	3,249	4,223	2,725	65%	461	11%	1,037
McHenry	426	1,308	1,734	1,172	68%	124	7%	438
McLean	696	823	1,519	776	51%	96	6%	647
Mercer	21	25	46	30	65%	1	2%	15
Rock Island	310	741	1,051	636	61%	89	8%	326
St. Clair	355	2,328	2,683	2,410	90%	132	5%	141
Whiteside	110	253	363	234	64%	9	2%	120
Will	833	2,077	2,910	1,830	63%	201	7%	879
Winnebago	195	1,478	1,673	1,308	78%	124	7%	241

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is \$30,000.
 The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, St. Clair, Whiteside, and Winnebago Counties is \$50,000.

FISCAL YEAR 2004 POST-HEARING CALENDAR

ARBITRATION PROGRAM	CASES PENDING ON POST-HEARING CALENDAR 07/01/03 AS REPORTED	CASES ADDED	JUDGMENT ON AWARD	POST-HEARING PRE-REJECTION DISPOSITION	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, 2004	CASES PENDING 06/30/04
Boone	1	11	6	2	1	9%	1%	3
Cook	N/A	9,151	2,395	3,966	4,256	47%	26%	N/A
DuPage	N/A	552	112	222	304	55%	5%	N/A
Ford	1	6	2	2	0	0%	0%	3
Henry	1	8	3	3	2	25%	1%	1
Kane	52	167	37	35	95	57%	4%	52
Lake	57	472	114	114	240	51%	6%	61
McHenry	14	127	42	28	61	48%	4%	10
McLean	91	99	31	11	26	26%	2%	122
Mercer	0	1	0	0	1	100%	2%	0
Rock Island	7	89	28	34	20	22%	2%	14
St. Clair	15	132	67	27	37	28%	1%	16
Whiteside	1	9	2	4	4	44%	1%	0
Will	33	204	70	52	83	41%	3%	32
Winnebago	9	124	33	36	49	40%	3%	15

Jurisdictional Limits:

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

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

FISCAL YEAR 2004 POST-REJECTION CALENDAR

ARBITRATION PROGRAM	CASES PENDING ON POST-REJECTION CALENDAR 07/01/03 AS REPORTED	CASES ADDED	PRE-TRIAL POST-REJECTION DISPOSITIONS DISMISSALS	TRIALS	PERCENT OF TOTAL CASES ON PRE-HEARING CALENDAR PROGRESSING TO TRIAL THROUGH 06/30/04	CASES PENDING 06/30/04
Boone	2	1	2	0	0%	1
Cook	N/A	4,256	2018	401	2%	1837
DuPage	N/A	552	282	83	1%	N/A
Ford	0	0	0	0	0%	0
Henry	2	2	3	0	0%	1
Kane	157	95	69	37	2%	146
Lake	111	241	196	60	1%	96
McHenry	41	63	53	24	1%	27
McLean	25	26	23	7	0%	21
Mercer	0	1	0	0	0%	1
Rock Island	25	20	26	8	1%	11
St. Clair	37	37	38	8	0%	28
Whiteside	6	5	7	1	0%	3
Will	36	84	49	17	1%	54
Winnebago	30	49	48	11	1%	20

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is \$30,000.
 The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, St. Clair, Whiteside, and Winnebago Counties is \$50,000.

2004 REPORT

APPENDIX 2

APPENDIX 2

Court-Sponsored Major Civil Case Mediation Statistics

Fiscal Year 2004

Judicial Circuit	Full Agreement		Partial Agreement		No Agreement		Total Cases Mediated
	#	%	#	%	#	%	
First⁽¹⁾	11	65%	2	12%	4	23%	17
Eleventh⁽²⁾	4	50%	0	0%	4	50%	8
Twelfth⁽³⁾	0	0%	0	0%	0	0%	0
Fourteenth⁽⁴⁾	19	83%	1	4%	3	13%	23
Sixteenth	72	48%	11	8%	66	44%	149
Seventeenth	48	51%	2	1%	45	48%	95
Eighteenth⁽⁵⁾	6	75%	1	12.5%	1	12.5%	8
Nineteenth⁽⁶⁾	60	68%	3	1%	26	31%	89
Twentieth⁽⁷⁾	0	0%	0	0%	0	0%	0
Circuit Court of Cook County⁽⁸⁾	11	69%	2	12%	3	19%	16
Total/Overall %	231	57%	22	5%	152	38%	405

⁽¹⁾ The First Judicial Circuit was approved by the Supreme Court to begin a mediation program in November 2003 and began conducting mediations in April 2004.

⁽²⁾ A total of (18) cases were referred to mediation. In addition to the statistics above: (8) cases are pending mediation and (2) were sent to mandatory arbitration.

⁽³⁾ No civil case mediations were reported in Fiscal Year 2004.

⁽⁴⁾ A total of (25) cases were referred to mediation. In addition to the statistics above, (2) cases settled prior to mediation.

⁽⁵⁾ The statistics provided only reflect the number of cases referred by court order and may not reflect the total number of cases mediated in the Eighteenth Judicial Circuit.

⁽⁶⁾ A total of (134) cases were referred to mediation. In addition to the statistics above: (37) cases are pending mediation, (1) case was removed from mediation and (7) cases were dismissed pre-mediation.

⁽⁷⁾ The Twentieth Judicial Circuit was approved to begin conducting mediations in June 2004. A training for mediators will take place in October 2004 and mediations will begin shortly thereafter. Statistics will be available in State Fiscal Year 2005.

⁽⁸⁾ Cook County started referring cases to civil mediation in April 2004 resulting in a total of (130) cases referred in State Fiscal Year 2004. In addition to the statistics above, (114) cases are currently pending mediation.