Meeting the Challenges of High-Volume Civil Dockets

2017 NACM MIDYEAR MEETING
PORTLAND, OREGON
FEBRUARY 7, 2017
Civil Caseload Composition

- Debt Collection: 24%
- Landlord/Tenant: 19%
- Mortgage Foreclosure: 16%
- Other Contract: 19%
- Other/Unknown: 11%
- Small Claims: 11%
- Real Property: 11%
- Tort: 11%

- Other/Unknown: 7%
Caseload Composition by Tier, Landscape of Civil Litigation in State Courts (2015)

- Single tier
  - Debt Collection
  - Landlord / Tenant
  - Small Claims
  - All Other Civil

- General
  - Debt Collection
  - Landlord / Tenant

- Limited
  - Debt Collection
  - Landlord / Tenant
  - Small Claims
  - All Other Civil
Attorney Representation

- Debt Collection: 98% Plaintiffs, 16% Defendant, 16% Both
- Landlord/Tenant: 80% Plaintiffs, 16% Defendant, 13% Both
- Small Claims: 80% Plaintiffs, 13% Defendant, 13% Both
- Other Contract: 98% Plaintiffs, 28% Defendant, 28% Both
Debt Collection Dispositions

- Dismissed: 32%
- Default judgment: 24%
- Judgment (unspecified): 22%
- Adjudicated Disposition: 5%
- Settlement: 11%
- Other/Unknown: 7%

Mean judgment award: $12,767

4% bench trials
1% summary judgment
## Landlord/Tenant Dispositions

<table>
<thead>
<tr>
<th>Disposition</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judgment (unspecified)</td>
<td>42%</td>
</tr>
<tr>
<td>Default judgment</td>
<td>18%</td>
</tr>
<tr>
<td>Bench trial</td>
<td>4%</td>
</tr>
<tr>
<td>Dismissed</td>
<td>23%</td>
</tr>
<tr>
<td>Settlement</td>
<td>9%</td>
</tr>
<tr>
<td>Other/Unknown</td>
<td>5%</td>
</tr>
</tbody>
</table>

Mean judgment award: $4,551
Small Claims Dispositions

<table>
<thead>
<tr>
<th>Disposition</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dismissed</td>
<td>38%</td>
</tr>
<tr>
<td>Default judgment</td>
<td>29%</td>
</tr>
<tr>
<td>Judgment (unspecified)</td>
<td>16%</td>
</tr>
<tr>
<td>Bench trial</td>
<td>3%</td>
</tr>
<tr>
<td>Other/Unknown</td>
<td>11%</td>
</tr>
<tr>
<td>Settlement</td>
<td>2%</td>
</tr>
</tbody>
</table>

Mean judgment award: $4,500
Judgment Amounts for Debt Collection and Small Claims
Distinctive Challenges for High-Volume Dockets

- Inadequate service
- Inadequate pleading
- Insufficient litigation information
- Confusing, chaotic courtrooms
- Hallway settlements
- Litigation pitfalls
Recommendation 11

Courts must devote special attention to high-volume civil dockets that are typically composed of cases involving consumer debt, landlord-tenant, and other contract claims.

◦ 11.1 – Ensure compliance with procedural due process

◦ 11.2 – Ensure litigant access to accurate, understandable information

◦ 11.3 – Minimize courtroom distractions, confusion

◦ 11.4 – Clarify roles of court and opposing counsel
Improve service of process and other notifications

- GPS technologies
- Additional notification requirements
- Penalties for improper service or failure to adhere to bonding or licensing requirements
- Electronic notification
Adequate pleading

Standardized complaint/answer forms

Required initial disclosures
Legal information is not enough:

SRLs must have access to meaningful legal assistance
Remote access

Online filing

Information and assistance

Online hearings
Oversight and regulation of attorney conduct

Clear distinction between court staff and attorneys

Prevent unduly coercive settlements

Provide standardized settlement agreement forms

Ensure that litigants understand settlement terms
Language access
Judicial training on fact-finding with SRLs

- Explanations of trial process
- Elements and defenses
- Burdens of proof
- Assessment of evidentiary weight rather than admissibility
- Narrative testimony
- Eliciting germane information
Protection against improper default judgments

Supporting documentation reflects adherence to procedural and substantive standards

Amount sought is documented and appears accurate