

**UNITED STATES DISTRICT COURT**

**DISTRICT OF MARYLAND**



**FISCAL YEAR 2002 ANNUAL REPORT**

Frederic N. Smalkin  
Chief Judge

Catherine C. Blake  
Administrative Judge

## DISTRICT JUDGES

Frederic N. Smalkin, Chief Judge  
Catherine C. Blake, Administrative Judge

### Active Judges

Deborah K. Chasanow  
Andre M. Davis  
Marvin J. Garbis  
Benson E. Legg  
Peter J. Messitte  
J. Frederick Motz  
William M. Nickerson  
Alexander Williams, Jr.

### Senior Judges

Walter E. Black, Jr.  
Alexander Harvey, II  
Herbert N. Maletz  
Edward S. Northrop  
Joseph H. Young

## MAGISTRATE JUDGES

Jillyn K. Schulze, Chief Magistrate Judge

### Full-Time

James K. Breदार  
William Connelly  
Charles B. Day  
Susan K. Gauvey  
Beth P. Gesner  
Paul W. Grimm

### Part-Time

Thomas M. DiGirolamo  
Victor H. Laws, III

### Recalled

Daniel E. Klein, Jr.

## BANKRUPTCY JUDGES

James F. Schneider, Chief Judge

E. Stephen Derby  
Duncan W. Keir  
Paul Mannes

## COURT UNIT EXECUTIVES

Felicia C. Cannon, Clerk, U.S. District Court  
Mark Sammons, Clerk, U.S. Bankruptcy Court  
William Henry, Chief, U.S. Probation and Pretrial Services Office

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## DISTRICT COURT

The District Court can report many accomplishments and developments over the past fiscal year. The continued success of this district is due largely to the cooperative efforts of the judges, chambers staff, and all of the court's constituent agencies.

On October 19, 2001, Frederic N. Smalkin became Chief Judge of the United States District Court for the District of Maryland, succeeding J. Frederick Motz. A United States Magistrate Judge on this bench for ten years, Judge Smalkin was commissioned as a United States District Judge on September 26, 1986.

At the time of his succession and with the consent of his colleagues, Chief Judge Smalkin signed an order delegating the authority of Chief Judge to Judge Catherine C. Blake, the Administrative Judge for the District of Maryland. Also a former Magistrate Judge, Judge Blake was commissioned as a United States District Judge on August 14, 1995. She also served as Administrative Judge for several years while Judge Motz was Chief Judge.

Of significant impact to this bench and their former colleagues and friends during this past year were the deaths of Herbert N. Maletz and Daniel Klein. Judge Maletz passed away on January 6, 2002. Judge Maletz, a jurist on the Court of International Trade, served on the District Court by designation for 15 years. Magistrate Judge Daniel Klein passed away on February 12, 2002. He had been serving the District on recall status during the previous year.

In addition, after 31 years of distinguished service, Judge Joseph H. Young took inactive senior status on July 31, 2002. On June 11, 2002, Judge William M. Nickerson took senior status, but continues to handle a substantial caseload.

## STATISTICAL SUMMARY

The collegiality and resourcefulness of our bench, continue to be the main contributing factors in our ability to effectively manage our trial and motions calendars. Our performance in keeping current on our motions has been exceptional. The reports we have filed under the Civil Justice Reform Act for the last year reflect the following number of total motions pending for six months or more:

<u>Period Ending</u>	<u>Total Number of Reportable Motions</u>
March 31, 2002	14
September 30, 2002	10

We consistently achieve these results through open communication and cooperative efforts among the bench. This also enables us to efficiently manage our trial calendars. The court utilizes an individual case assignment system, with a weighted case assignment of 462 civil cases and 48 criminal cases per judgeship. When relief is needed by a judge who, for example,

becomes involved in a trial that lasts longer than was anticipated, other judges freely volunteer to take over the case that otherwise would have to be rescheduled.

During the twelve month period ending September 30, 2002, the number of civil cases filed in the District increased from 3,735 to 4,556 cases. Social Security filings also increased dramatically from 271 to 365 cases. This increase supports the Fiscal Year 1999 projections from the Social Security Administration that district courts nationwide will experience at least a 15% increase in Social Security appeals over the next fiscal years. The increase also supports this District's request for continued funding of a Social Security law clerk. This position has been a tremendous aid to the bench in expeditiously processing Social Security filings and developing a procedural manual for the consistent handling of future filings. Funding for this position terminates at the end of our current fiscal year.

During the same period, the District of Maryland experienced a slight decrease in criminal filings, from 526 to 479 cases. These filings include 355 felony indictments and 88 felony informations. These 479 cases filed represent 653 defendants. Civil and criminal appeals totaled 694. Lastly, miscellaneous filings decreased slightly from 902 to 774.

## ADMINISTRATION AND MANAGEMENT

### CM/ECF Initiative

On February 14, 2002 we were notified that we had been selected to be part of Wave 9 of implementation of CM/ECF. Although the implementation process was not scheduled to formally begin until May, we immediately began preparations. An implementation team was selected with Judge Motz as project coordinator. Working groups were set up to document and examine court processes, identify training needs, and clean up the existing docketing system's dictionary. Each group includes chambers, clerk's office and IT staff. An executive consulting committee consisting of judges, magistrate judges, members of the bar and the clerk of the court was established to decide policy issues.

Staff members conferred with other courts further along in the implementation process, and Judge Motz has spoken with judges in courts already using CM/ECF. In return, in September we hosted a group of staff and a judge from the District of Puerto Rico where the implementation process will begin next year.

In July and August staff from the Clerk's Office, chambers and IT completed Application and Dictionary training in Texas. In September staff completed a week long Train the Trainer program. The IT Department has developed two training programs for staff on computer terminology, Windows, navigating file structures, and navigating on an Internet site. Members of the IT Department completed training on Crystal Reports, software for generating reports which other courts have found useful in expanding the capabilities of CM/ECF.

The necessary hardware and software was received in July and has been installed. We are currently in the process of modifying the dictionary to suit the needs of the bar and our bench. An additional working group to create public awareness of CM/ECF has been formed. The group consists of court staff, members of the bar, attorneys from the United States Attorney's Office and the Office of the Federal Public Defender. Members are offering to make presentations to various bar association groups throughout the state.

Chambers and Clerk's Office staff are excited and looking forward to going live with CM/ECF in March 2003.

### BENCH/BAR RELATIONSHIPS

The Federal Court Liaison Committee is a joint committee of the Federal Bar Association and the Maryland State Bar Association on which several judges serve. It has devoted much of its time this year to planning the Third Biennial Bench-Bar Conference. The conference was held on Friday, October 18, 2002. There was a two hour presentation on *Daubert* conducted by Magistrate Judge Paul W. Grimm in the morning. The afternoon session focused on recent changes and developments in the law, and a demonstration of CM/ECF. There also were break-out sessions allowing members of the bar to discuss issues of general interest with the bench. The conference concluded with a "State of the Court" address.

The Committee also assisted the court with completion of a video link between the Greenbelt courthouse and the Charles County Detention Center. The link gives attorneys and probation officers access to detainees for meetings and interviews, without the lengthy commute and loss of valuable time.

### CRIMINAL JUSTICE ACT (CJA) SUPERVISING ATTORNEY

The CJA Supervising Attorney continues to assist the court in managing all aspects of CJA representation in the District. In this position she manages the agenda of the CJA Committee, oversees the panel application process by soliciting appropriate applicants and conducting background checks on all applicants, reporting on the budget, and drafting and maintaining the CJA Committee's minutes. All claims for expert and panel compensation are reviewed and processed for payment by her office. The CJA Supervising Attorney reviews and makes recommendations on all requests for expert or investigative services in the District, and assists the court by preparing the confidential memos associated with such requests. She maintains rosters of experts and investigators and often negotiates with the experts on behalf of the panel in an effort to secure a reduction in expert compensation. Acting as a resource to the panel, she provides advice on CJA policies and procedures, referrals to experts or investigators, and serves as a liaison between the bench and the panel.

Capital cases comprise an increasing percentage of the workload for the CJA Supervising Attorney. In FY 2002 the CJA Supervising Attorney was responsible for consulting with the Federal Public Defender and assigning counsel in eleven capital prosecution cases.

Budgeting was undertaken in the capital cases and in all cases her office had primary responsibility for overseeing the budgeting process, assisting the presiding judicial officer with his or her budgetary decision, and preparing the budget orders for submission to the Chief Judge of the Fourth Circuit. The CJA Supervising Attorney monitored all voucher payments in these cases for compliance with the budget. In cases where the Department of Justice determined that the death penalty would not be authorized, the budgets were revamped. All capital habeas cases also are budgeted and monitored by her office. As the chart below shows, this is a significant responsibility.

#### CJA Expenditures

Payments	FY 2000	FY 2001	FY 2002
Attorneys	\$1,509,868.65	\$1,386,290.97	\$1,339,922.00
Experts (felony & capital)	\$ 144,091.07	\$ 115,915.73	\$ 56,895.69
Total Paid *	\$1,789,301.60	\$1,597,145.35	\$1,527,595.36
Total Capital Case Costs	\$ 828,201.48	\$ 374,010.62	\$ 191,524.23
% CJA costs attributed to capital cases	46%	23%	12%

\*includes transcripts and GTA

With the bench's approval, the CJA Supervising Attorney expanded the duty day system to all outlying misdemeanor court locations. We monitor the dockets to insure there are enough cases to warrant the assignment of a duty attorney. Using one attorney for each initial appearance docket reduces case costs by consolidating representation on any given day, thus reducing travel costs and waiting time.

In an effort to better serve the panel, the CJA Supervising Attorney is developing a CJA section for the court's web site. This section will include frequently asked questions, information on CJA rates, CJA forms, panel applications, revised felony and misdemeanor panel manuals, as well as information on fact witness reimbursement. The CJA Supervising Attorney is working with the Chief Deputy Marshal to improve attorney visiting conditions at the local detention facilities. The CJA Supervising Attorney has also assisted the court with implementation of a video conference system linking both court locations with the distant detention facilities under



contract to provide accommodation for federal pretrial detainees.

In FY 2002 the funding for the CJA Supervising Attorney pilot program ended. The bench instructed the Clerk that in the event we did not receive additional funding for this position from the Administrative Office, the Clerk's Office would have to absorb the cost of this position. This has caused a hardship on the Clerk's Office personnel and operating budgets, but the district is convinced that the benefits of continuing the program far outweigh the trade-offs.

### PRO SE STAFF ATTORNEYS

For the first time in six years, the overall percentage of the civil caseload presented by *pro se* litigants fell significantly below one-third of all civil filings. This statistical anomaly was surprising (as the actual number of *pro se* filings was higher than the previous year), and may be the result of the high number of removal cases and MDLs filed in FY 2002.

As predicted, collateral attacks on federal and state convictions account for an ever-increasing percentage of this District's overall prisoner caseload. Prior to enactment of the AEDPA in 1996, such actions rarely exceeded one-third of all prisoner filings. One year later, the percentage rose to nearly one-half of all prisoner cases. Currently, for the second straight year, actions involving attacks on convictions exceeded the number of prisoner civil rights actions.

For the fourth year in a row, total prisoner filings, although constant, did not exceed 1,000. With prisoners universally aware of the statute of limitations imposed on habeas corpus actions, it is safe to predict that prisoner filings will remain fairly constant in the coming year. If this holds true, the current staffing formulas used by the Administrative Office will permit the retention of the five positions shared by the six attorneys currently employed, provided our prisoner filings exceed 925 cases.

Many prisoners are now aware of the "three strikes and you're out" provisions of the PLRA, as well as the filing fee requirements, and as a result, fewer "frivolous" civil rights actions are being filed. When civil rights actions are filed, they tend to be more substantive (and require more staff resources for resolution) than in the past. Similarly, prisoners are aware of the need to seek habeas corpus relief immediately after exhaustion of state court proceedings; as a result, we are having to research substantive habeas corpus issues, rather than relying primarily on procedural default and timeliness doctrines to resolve 2254 and 2255 motions. Thus, while overall filings are consistent with the previous four years, the commitment of time required of staff attorneys working on these cases and other assigned duties has not decreased.

### OFFICE OF THE CLERK

In November 2001 the Clerk's Office welcomed Lisa Rosenthal as Deputy in Charge of the Clerk's Office in the Southern Division. Lisa is the last addition to the Clerk's Office management team, and has proven to be an excellent complement to the skills and abilities of existing managers.

The previous year's hiring of Fran Kessler as the Coordinating Attorney for the Clerk's Office in Baltimore redefined the process by which the Clerk's Office manages the daily operations of the court. Ms. Kessler's unique skills and work ethic have raised the quality of services that the Clerk's Office provides to internal and external customers. Wendy Snowden continues to make significant improvements in the finance, jury and procurement departments as the Director of Administration. Andy Welkie, Director of our Information Technology Department, has assembled a competent team of IT specialists that have met the many challenges and often competing demands of internal customers, the bar and the public.

The current staffing allocation for both divisions of the Clerk's Office totals 82.4 positions. With a fairly low rate of employee turnover, the Clerk's Office enjoys a consistency in the efficiency and effectiveness of services provided. With work performance standards and a comprehensive performance evaluation program in place, staff now has clearly delineated expectations for performance and benchmarks for future advancement. Staff has been informed that future Performance Incentive Awards will be based on individual employee performance.

Staff training and recognition are hallmarks of our goal to provide quality services and products to internal and external users of the office. Staff is well informed and consulted on all anticipated changes in the workplace. The most significant changes are noticeable in both the morale and work performance among staff in the Clerk's Office. In addition, the increased communication and interaction between the bench and the Clerk's Office has given staff the confidence and the resources not only to accomplish their objectives, but also to take pride in those accomplishments.

#### Public Outreach

The Clerk's Office participated with the bench on a number of public outreach projects. Clerk's Office staff have participated in orientations for many visiting judges from a number of foreign countries. The Clerk's Office in the Southern Division also works with local arts councils and a number of Brazilian artists who provide artwork for display in the public areas of the courthouse.

The Clerk's Office in the Southern Division is involved in a partnership with Eleanor Roosevelt High School to provide high school students with opportunities for internships with all court agencies. Lisa Rosenthal also serves on Eleanor Roosevelt High School's Executive Business and Higher Education Advisory Board.

The Clerk's Office and various judicial officers in both Divisions hosted a number of visits from foreign judges, legislators, and lawyers, frequently in connection with the ABA and/or the Department of Justice. The time spent on these visits was well rewarded by promotion of international understanding of America's federal courts.

## Administrative Section

### Finance Department

The Finance Office was busy this year creating a detailed users manual for each financial function in the department. The department also converted to a new version of COLB, implemented quarterly travel reports, and created a program for archiving all of the data in the cash register system. Staff also participated in the FAS4T Forum Conference, training for Crystal Reports and compliance with the new certifying officer legislation.

### Jury Services Department

The focus of the Jury Services Department has been on improving juror services. These improvements include expansion of reading materials and informational brochures that are maintained in the jury assembly rooms, implementation of juror appreciation certificates, and the creation of a juror exit questionnaire and a detailed results report. Jury staff also designed a new summons which has eliminated the mailing of weekly reporting letters.

The number of juror participants was substantial. 3,067 grand jurors reported as often as two to three times a week for various sessions. 5,634 petit jurors reported district wide for jury duty.

The department went "live" with the Voicematrix automated system that links with the existing Jury Management System (JMS) to give jurors current reporting information. Jury staff also participated in Crystal Reports training and attended the First Federal Jury Summit. With active staff participation on the bench's Jury Committee, the jury section continues to timely address juror needs and bench concerns.

Jury services also has worked to improve the services provided to individuals seeking citizenship. Staff goals have been oriented toward making the naturalization ceremony more meaningful and memorable for the participants. During the past year, 1,507 new citizens participated in 27 ceremonies in Baltimore and 557 new citizens in 11 ceremonies in Greenbelt.

### Procurement Department

The Procurement Department successfully converted government postage meters to commercial postage meters. This department has also been very involved in reviewing internal

practices to insure the court is compliant with all new processes and procedures that have been instituted to assist the court achieve sound stewardship, including conducting site visits of vendors prior to purchasing office equipment. The department worked with the Bankruptcy Court to excess the previous district telephone system. Staff participated in the Administrative Office of the Courts Procurement Focus Group.

### Space and Facilities

We received notification that the Baltimore courthouse was listed on the GSA 5-year plan for site and design in 2005, with construction of a new courthouse to begin in 2007, and that the Greenbelt courthouse was on the GSA 5-year plan for site and design in 2006, with construction of an annex to begin in 2008. The bench formed a committee which has been working closely with the Administrative Office and GSA on the Courtroom Utilization study and the AnyCourt report.

In May, construction began on the ADA compliant courtroom and chambers in the M. R. Toulson Federal Building in Salisbury. The new courtroom and chambers will be completed by November 2002, and will include conference meeting rooms and a new audio system.

There has been substantial progress on various construction projects in the Greenbelt courthouse. A grand opening was held in late October of 2001 for the newly renovated Attorney Conference Room and Courtroom 2A. We have just completed our first full year of operation of this high-tech courtroom, which offers a number of advanced technological services such as a digital evidence presentation system, video conferencing capability, and an integrated audio system.

Other projects are in progress. Design intent drawings have been completed for the renovation of the judicial conference room on the fourth floor of the Greenbelt courthouse. A contractor has been selected and work is scheduled to begin before the end of the year. On the first floor of the courthouse, the old press room has been converted into a well-organized and highly functional CM/ECF training room.

The ten year housing plan for the Southern Division is also progressing rapidly. Probation is scheduled to move into leased space in January 2003. Design intent drawings have been completed for the Clerk's Office move to the second floor probation space. Design intent drawings are to begin shortly for the first floor probation space.

In the Baltimore courthouse, the ongoing renovations of courtrooms 7A & 7D are scheduled for completion in December 2002. These renovations include state of the art audio and technology systems. GSA's public restroom renovation project is providing upgraded facilities on every floor of the courthouse, with a completion date of December 2002.

Construction drawings have been completed for the renovation of the Clerk's Office

administrative wing, which includes the finance, jury, procurement & space and facilities sections of the office. The first round of construction drawings have also been completed for GSA's First Impressions project, a multi million dollar project that will reorient the main entrance of the courthouse to Pratt Street and beautify the main entrance and lobby of the courthouse.

### Court Operations Section

#### Case Processing and Records Section

The Case Processing and Records Sections updated the Intake and Case Processing Manual. Staff was cross trained to insure that at least three people were trained in all functions of the department, and new standards and time lines were instituted for all duties assigned. Several staff persons participated in Records Transfer and References Services training offered by National Archives.

#### Docketing Section

With the focus on CM/ECF, docketing staff implemented new quality control review methods for MDL cases and created additional procedures for reviewing and updating all current quality control processes. A constant review of existing procedures led to the revision of court procedures for processing pro hac vice motions and apostiles. Appeals Clerks and other staff participated in an Appellate Deputy Workshop hosted by staff from the Court of Appeals.

#### Courtroom Deputy Section

The Courtroom Deputy Section continues to provide outstanding service and support to the Judges, the jurors, and to all participants in the courtroom. They have met the challenge of keeping current on the new and enhanced courtroom technology that is now available for litigants in trial, including white boards, DOAR presentation systems and video conferencing equipment.

The United States Attorney's Office, the Baltimore City States Attorney's Office, and the Police Commissioner have formed a joint action plan to combat violent crime in Baltimore City. As a result, the U.S. Attorney is prosecuting substantially more violent narcotics and firearms offenders, with an accompanying increase in court hearings and processing to be done by judicial officers and Clerk's Office staff.

The Courtroom Deputies were involved in working with the Magistrate Judges to obtain appropriate medical care for pretrial detainees. In addition to supporting the Judges in both divisions, the Courtroom Deputies also provide support for visiting judges. Operations staff from all sections attended a presentation by Magistrate Judge Connelly on Class A Misdemeanors.

## Information Technology Department

The IT Department has been involved in a number of projects this year. We have begun the process of the technical implementation of CM/ECF, which is one of the largest projects the IT Department and court have ever undertaken. The IT staff has been working closely with operations and chambers to redefine work processes based on the implementation of CM/ECF.

In addition to CM/ECF, IT staff tackled a number of ongoing projects. They include:

- ! Enhancing the court's web site enabling more information to be readily available to the public.
- ! Implementing a public access Kiosk in the court lobby which contains real time information regarding court proceedings.
- ! Implementing security measures to protect court resources, including automated virus definition distribution and vulnerability testing,
- ! Configuring, installing and providing support for our "High-Tech" conference room in Baltimore.
- ! Upgrading chambers printers to faster duplex capable printers.
- ! Implementing an IT Department Training Policy.
- ! Revising the existing Internet policy to include stronger inappropriate use language.
- ! Implementing mandatory password changes and installing software to monitor Internet bandwidth.
- ! Redesigning the DHCP Structure and migrating to NetWare 5.1.
- ! Implementing standard backup procedures for all systems.
- ! Responding to increased requests and support for portable evidence presentation systems.
- ! Implementing "What's Up Gold" connectivity software.
- ! Conducting ELMO 2002 training for existing and new Clerk's Office staff.
- ! Conducting settlement database training for chambers and Clerk's Office staff.
- ! Providing continued support and enhancements to existing systems.

## Personnel and Training Support

In addition to Lisa Rosenthal, the Clerk's Office welcomed Dana Bethea, Cathy Scaffidi, Vanessa Githara, and Reggie Penny to its ranks. In addition to the annual rotation of law clerks, Carol Bittner and Tracy Joselson joined the staff of the Pro Se Staff Attorney's Office. On July 31, 2002, and after many years of dedicated service in Judge Young's chambers, Letty Swinson retired.

CM/ECF has been the key focus of training for Fiscal Year 2002, and will continue to be the focus in Fiscal Year 2003 as court staff, attorneys, paralegals, and legal secretaries prepare for the new case management and electronic case filing system coming in March 2003. Initiatives include training in basic IT skills, staff traveling to San Antonio for applications and dictionary training, viewing various FJTN broadcasts, and completion of computer based training modules. Additionally, chambers and Clerk's Office staff participated in Train The Trainer training in Baltimore so that they may serve as the court's lead trainers for internal and external users of the system. Presentations to the bar and bar input are ongoing in the court's effort to make all

customers aware of the CM/ECF initiative.

The Clerk's Office also presented annual training on Code of Conduct and Customer Service. Judge Grimm conducted his annual Law Clerk Orientation. In addition, sessions were conducted on Disaster Recovery and Managing Staff Conflict. Lastly, in an effort to fully develop their skills, a large number of employees have borrowed videos from the Clerk's Office training library and attended workshops sponsored by the Federal Executive Board, the Administrative Office, the Federal Judicial Center and the Federal Court Clerk's Association. All training is documented for inclusion in an employee's performance appraisal.

### **UNITED STATES MAGISTRATE JUDGES**

The bench is supported by a highly qualified and competent contingency of full-time and part-time Magistrate Judges who have mastered the art of settling civil disputes, in addition to their burgeoning criminal, Social Security, discovery and consent trial dockets.

The Magistrate Judges share the civil and criminal responsibilities in the Northern and Southern Division courthouses. In addition to their duties in these facilities, the Magistrate Judges hold court at a Maryland State District Court facility in Hyattsville, the old post office building in Salisbury, and federal facilities at the Aberdeen Proving Grounds, Andrews Air Force Base, the Annapolis Naval Academy, Fort Detrick, Fort Meade, and Patuxent River Naval Air Station. Based on statistics provided by the Administrative Office of the Courts, these represent the largest miscellaneous and class A misdemeanor dockets in the federal judiciary.

### **BANKRUPTCY COURT**

James F. Schneider succeeded Judge Paul Mannes as Chief Bankruptcy Judge on January 31, 2002. The Bankruptcy Court had a further change in leadership with the appointment of Mark Sammons as the Clerk, replacing Richard M. Donovan. Mr. Sammons had previously served the Bankruptcy Court as Chief Deputy. The court continues to have one of the highest number of bankruptcy filings in the nation.

### **UNITED STATES PROBATION AND PRETRIAL SERVICES OFFICE**

Chief U.S. Probation Officer William Henry leads a recently consolidated Probation and Pretrial Services Office. During the twelve month period ending June 30, 2002, United States Probation Officers had 2732 persons under supervision. During the same time period, the Pretrial Services Officers performed 915 investigations.

### **SUMMARY**

This District continues to provide exemplary service to litigants, the bar, jurors, other

government and court agencies, and the public. Maintaining this standard has been possible because of the dedicated commitment of all members of our court family in the execution of their daily responsibilities. The bench greatly appreciates the cooperation, support and effort of all internal and external agencies who contribute to this court's success. The bench also thanks visiting Judges Joseph R. Goodwin and David A. Faber for their invaluable assistance in meeting the demands of our court calendars.

The comprehensive Strategic Report that was implemented by the bench on March 18, 1999, continues to be a guide for improvement in the overall operations of this court. As noted previously, the purposes behind implementing the plan included (1) requiring the bench to articulate and critique its assumptions, (2) maintaining a consensus regarding operating goals and practices, (3) forcing the bench to consider long-term implications of short-term budget, personnel and construction decisions, (4) identifying future trends that may have an impact upon the court and its constituent agencies, and (5) setting benchmarks by which we can measure performance. The Strategic Report ensures that the court will remain focused on guiding the District toward the achievement of all stated goals and future initiatives.



“STATE OF THE COURT” ADDRESS  
Third Biennial Bench Bar Conference  
Baltimore - October 18, 2002

First, let me say how pleased I am at the very substantial attendance this biennial conference continues to attract. The credit for that goes to the hard work of Jim Nolan and the other lawyers on the Federal Bar Liaison committee who have devoted their time to organizing this event, to our Clerk Felicia Cannon and her dedicated staff, and, I must add, to my own chambers staff. This conference could not take place without many hours of effort, much of it behind the scenes, and all of those who have contributed deserve our thanks and applause.

I also want to thank the judges and staff who participated in the panel discussion of recent cases, the CM/ECF demonstration, the breakout sessions, and of course Judge Grimm’s excellent presentation on Daubert. This is truly a District-wide conference, as illustrated by the extensive involvement of our Southern Division colleagues. We were in Greenbelt two years ago, and I hope we will be there again in 2004. The conference has proven itself as a valuable opportunity for all of us to hear your concerns, and exchange ideas, with a view to improving what is already an excellent relationship between the bench and the bar throughout the District of Maryland.

This part of the program is rather augustly titled the “State of the Court”. I am in no better position to describe that state than any of you - in fact, we should probably be asking the members of the bar to tell us what shape the court is in, because you and your clients are the best judges of our performance. ( I hope the breakout sessions served some of that purpose, and we look forward to hearing what the lawyers report back.) But I will take this opportunity to comment, briefly, on some of the events and accomplishments of the past two years, and what may be the direction of the future.

One of the crucial concerns of the court, or any public institution today, is confronting the

multiple assaults on our security, and on our sense of safety as a country and as individual citizens. We are enduring the aftermath of September 11<sup>th</sup>, the continuing gunfire in our urban areas, the random violence of the sniper, and the increasing threat of war. This diverts resources, affects our criminal caseload, heightens the need for emergency planning, and strains the judiciary's budget. We are currently operating under a continuing resolution that provides only partial funding and only at reduced 2002 levels, presenting a real challenge to our court unit executives as they are called on to do more with fewer dollars.

I mentioned the criminal caseload. One of the changes since our last bench bar conference has been the appointment of a new United States Attorney, Thomas M. DiBiagio, and with him has come a reordering of priorities in that office. Political rhetoric to the contrary, however, there has been no lessening of the emphasis on combating violent crime through cooperative federal, state and local professional law enforcement efforts, indeed there may have been an increase. While the absolute number of indictments has declined, we have seen a substantial number of death penalty and other significant prosecutions of violent offenders, usually involving a combination of guns and drugs or, for variety, drugs and guns. As our Marshal's Office has noted for some time, without ignoring the threat of terrorism, the more present security threat to the proceedings in this courthouse is caused by the high-risk multiple-defendant criminal trials that must be conducted. These trials, particularly where the death penalty is possible, also pose a severe burden on our Public Defender's Office, the CJA Panel attorneys, and our CJA Supervising Attorney, Donna Shearer. The continuing lack of a federal pretrial detention center, and the inadequacies of the present facilities, simply add to that burden.

This is a good opportunity for me to emphasize, as we have before, how much all the judges appreciate the superb work done by public defenders and panel attorneys in this District, and how

critical the exceptional service provided by Ms. Shearer is in enabling us to manage a very demanding criminal caseload. The pilot project funding Ms. Shearer's position came to an end in March of this year, and to our great regret the Judicial Conference has not yet been persuaded to authorize permanent funding, despite the obvious value of her work. We are committed to maintaining her position, which has put another strain on our District-wide budget.

It occurs to me that I am sounding much too serious and even pessimistic, which is not appropriate to this fine occasion, so let me mention some more positive accomplishments and prospects for the future. As you have heard, CM/ECF is coming, for the bankruptcy court as well as the District Court. It is exciting, not only for the improved communication it offers but also because its implementation illustrates the outstanding skill, hard work, and cooperation of our automation and operations staff, our judges' chambers staff, and even the judges themselves. Most important for today's conference, it illustrates the excellent cooperation we receive from members of the bar in designing and planning for change, whether it is CM/ECF, Local Rules, discovery guidelines, or even the campaign for a federal pretrial detention center. We rely on your cooperation and involvement in courthouse activities, and we appreciate your pro bono service of all kinds.

On the civil side of the caseload, our numbers are up, reaching a high of over 4500 cases filed for the twelve-month period ending September 30, 2002. Some of this increase is attributable to the substantial number of removals being filed from the state courts, particularly in the product liability area. We also have seen a dramatic increase in Social Security appeals, for which the Judicial Council gave us funds to support an additional, but unfortunately temporary, law clerk for the magistrate judges. Our District also has been recognized by the assignment of numerous MDL cases to our judges, including Microsoft, cruciferous sprouts, protegen slings, and cell phones. At last count we had a total of 573 MDL cases. We rely on our Clerk's Office to docket and handle the

filings for us, which they do very well.

Another area of accomplishment and change is courthouse construction and renovation. I am delighted to report that the inadequate facilities in the Salisbury post office long used by one of our part-time magistrate judges and our bankruptcy trustee are finally about to be replaced. A modern and fully accessible courtroom on the first floor is nearing completion and should be open for business before the end of the year. Two new high-tech courtrooms on the seventh floor in Baltimore also should be complete this year, helping us catch up with our colleagues in Greenbelt who have had a high-tech courtroom in operation for some time now. (Incidentally, the history of the Southern Division has been chronicled in a new best seller, soon to be a major motion picture, *The Courthouse at Indian Creek*. Seriously, the book offers an interesting and comprehensive picture of a federal courthouse at work.)

Construction on a much larger scale is part of our District's long-term future. Baltimore is on the site and design list for a new courthouse in 2005; Greenbelt is on the list for site and design of a much needed annex in 2006. Actual construction and occupancy, even assuming we are funded in the Congressional budget, is at least ten years away, but the process of identifying our space needs is already underway. We will welcome the bar's input as we (and GSA) look for a suitable location for a new courthouse in Baltimore City. In the meantime, efforts to maintain and improve our present courthouse continue: the Lincoln Pardon has been installed in the second floor conference room, the reproduction of the pardon has been hung in the first floor lobby, and plans are being made for historical displays on several floors of the courthouse. Greenbelt continues its practice of involving the county arts councils in changing displays of artwork on the courthouse walls. Judges and staff in both courthouses also continue the practice of hosting international delegations and, in turn, traveling to other countries to discuss legal and administrative issues of

common concern. Just this week Judge Garbis hosted a group of Russian judges and lawyers, who were able to see an entire criminal jury trial(a bank robbery), from start to finish, even participating in mock deliberations with the alternates. You might be interested to know that the Russians, who put no evidentiary value on in-court eyewitness identification, would have acquitted the defendant, but the American jury convicted. Our Assistant Federal Public Defender who tried the case is thinking of moving to St. Petersburg.

Let me say a few words about transition, and I will bring these remarks to an end. The court was saddened by the loss of two fine colleagues this year: Senior Judge Herbert N. Maletz, who sat with us by designation for some 15 years, died in January 2002, and our former Chief Magistrate Judge Daniel E. Klein, Jr., passed away in February 2002, after a lengthy and courageous fight with cancer. He has been honored by the dedication of one of our magistrate judge's conference rooms to his memory. In addition, Senior Judge Joseph H. Young retired from active judicial work in July 2002, although I know he will do his best to remain active in other pursuits, and we appreciate his many years of service on the bench. Judge William M. Nickerson took senior status in June 2002, creating a vacancy on the district judge bench for the first time since 1995. On the bankruptcy court side, we have a new Chief Judge, Jim Schneider, and a new Clerk of Court, Mark Sammons. The bankruptcy court maintains its historically high level of filings, without receiving from Congress the additional judgeships they should have, but our colleagues and the Clerk continue to handle that caseload efficiently and well. This year also brought the reappointment of Chief Magistrate Judge Jill Schulze to a new eight-year term, with several other colleagues to follow. This District has an outstanding group of magistrate judges, as you know. Particularly in light of the increasingly demanding criminal caseload, I urge you all to encourage your clients to consent to civil jury and bench trials before the magistrate judges, who can handle the trial as well (or better than) a district

judge and will not have to postpone your case to preside over a felony criminal trial.

Turning to the court agencies, we have a new Chief Probation Officer, Bill Henry, who has brought his excellent management skills from Pretrial Services to preside over a recently consolidated Probation and Pretrial Services department. We also welcomed a new Marshal, Johnny Hughes, with years of law enforcement experience. He and his Chief Deputy Don Donovan and their staff, as well as the Court Security Officers, keep us safe every day.

Finally, we have a new Chief Judge, Fred Smalkin, who welcomed you here today. Many of you came to the ceremony last year marking the transition from Chief Judge Fred Motz to Chief Judge Smalkin. We did not know that health problems (fortunately not life-threatening), would require Judge Smalkin to give up that position, as he now plans to do in January 2003. I have enjoyed the opportunity to serve as Administrative Judge with both Judge Smalkin and, before him, Judge Motz. In January another fine colleague, Ben Legg, will take over as Chief Judge, and I will hand over my additional administrative duties to him. He will have my full support, and that of all the judges, in maintaining the standards of excellence set by the long line of distinguished chief judges in this District.

Finally, I have come to an end. Thank you all very much for being here today, and let us enjoy the reception that is waiting for us in the lobby. The conference is adjourned

Catherine C. Blake  
Administrative Judge