

BEST PRACTICES INSTITUTE: SUCCESSFUL CASEFLOW MANAGEMENT TECHNIQUES

Introduction and Overview

“Caseflow management” can be defined as the entire set of actions that a court takes to monitor and control the progress of cases, from initiation through trial or other initial disposition to the completion of all postdisposition court work, in order to make sure that justice is done promptly.¹ According to the National Association for Court Management (NACM) in its Core Competency Curriculum Guidelines, “Properly understood, caseflow management is the absolute heart of court management.”²

Years of research and experience in courts across the country confirm that for caseflow management to work effectively in a court, it is essential that there be a solid management foundation: there must be (a) leadership; (b) commitment among judges and court staff members to managing the pace of litigation; (c) communications within the court and with lawyers and other institutional participants in the case process; and (d) a learning environment enabling a court to be flexible in the face of changing events. Moreover, there must be active attention to features that caseflow management shares with day-to-day management of any activity: (1) establishing appropriate expectations; (2) monitoring actual performance; and (3) holding participants accountable and taking responsibility to bring actual performance more in line with expectations.³

General and Specific Caseflow Management Techniques

With a strong foundation and active attention to day-to-day management, a court is in a position to make effective use of standard caseflow management techniques. The following general techniques have consistently been found to yield positive results for trial courts seeking to improve their management of the pace of litigation:⁴

- Early court intervention and continuous court control of case progress
- Differentiated case management (DCM)
- Meaningful pretrial court events and realistic pretrial schedules
- Firm and credible trial dates
- Trial management
- Management of court events after initial disposition

Within this general framework, there are more specific techniques that have been identified for successful caseflow management for particular kinds of cases. These include the following:⁵

1. Proven Techniques in Civil Cases:

- Early court involvement
- Case screening and DCM track assignment
- Coordination and management of alternative dispute resolution (ADR)
- Effective trial scheduling
- Managing complex litigation

2. *Proven Techniques in Criminal Cases:*

- Early assembly of key case participants and critical case information
- Early and continuing court attention to the management of case progress
- DCM case screening by court with prosecution and defense counsel
- Management of plea negotiations
- Early decisions on motions and realistic trial scheduling
- Postdisposition management of probation violations that involve new offenses
- Effective use of drug court programs

3. *Techniques for Management of Routine Traffic Cases:*

- Make it easy for motorists to dispose of uncontested cases
- To achieve economies of scale, consider centralized traffic ticket processing at statewide or regional level
- Work closely with law enforcement officials to coordinate officer appearances and maintain manageable court calendars
- To remove incentives for motorists to delay contested cases, promote early opportunities for plea discussions with prosecutor
- Actively manage postdisposition fine and fee collection
- Make payment of traffic fines and fees a condition of license renewal for scofflaws and those who fail to appear

4. *Techniques for Effective Management of Juvenile Delinquency Cases:*

- Increase commitment to achieving timely case processing
- Take early control of case progress
- Improve the quality and timeliness of case investigations
- Designate specific court staff members who have the primary responsibility of monitoring caseflow
- Develop guidelines to limit continuances and apply them consistently
- Manage postdisposition probation violations that are new offenses

5. *Caseflow Management Techniques for Child Protection Cases:*

- Establish comprehensive time standards linking abuse and neglect case progress to that in postdisposition proceedings to terminate parental rights
- Exercise early and continuous court control over case progress
- Implement a “family file” and consider a one judge/one family policy
- Routinely make full “reasonable efforts” determinations
- Consider assigning cases to DCM tracks (as when the court makes a “no reasonable efforts required” finding)
- Provide early and firm dates for adjudication hearings and hearings on petitions to terminate parental rights
- Hold timely permanency hearings
- Exercise active control over termination proceedings to assure prompt dispositions

6. *Caseflow Management Techniques for Divorce Cases:*

- Recognize emotional issues
- Adopt and follow time standards
- Adopt appropriate measures for *pro se* litigants
- Exercise control over the scheduling of case events
- Develop simplified procedures to expedite uncontested cases
- Screen cases early for assignment to DCM tracks
- Give careful attention in divorce decree to property, custody, visitation and support questions
- Allocate sufficient judge resources to hearings on contested postdisposition matters

7. *Techniques for Management of Probate Cases:*

- Establish overall timetables for contested cases to govern time from initiation to trial or nontrial disposition
- Monitor and control contested case progress from initiation
- Establish time expectations for completion of discovery in contested cases and progress toward initial disposition
- Make an early appointment of counsel for a respondent when appropriate
- use pretrial conferences and ADR in contested cases to promote early nontrial resolution; and set an early date for trial or hearing
- Manage trials effectively, avoiding discontinuous-day trials
- Actively monitor compliance with requirements that guardians or conservators give periodic accountings to the court and the filing of reports on the performance by fiduciaries of their responsibilities to those for whom they are responsible⁶
- Use court monitoring of fiduciary filings to remind executors, guardians and conservators that the court is overseeing their performance and to ascertain whether there have been abuses by fiduciaries.⁷
- Be prepared to enforce court orders by means including sanctions, and take immediate action to ensure the safety and welfare of a respondent if the court learns of abuse or neglect.⁸

Finally, it is also important that *appellate cases* be actively managed from notice of appeal through final appellate disposition. Techniques for effective management of cases on appeal include the following:⁹

- Active coordination between appellate court and trial court to assure timely assembly of the trial court record, including completion of the trial transcript
- Use of settlement conferences to resolve civil appeals
- Placing limitations on oral argument in civil and criminal appeals
- Requiring a reasoned opinion in every case decided on the merits
- Assuring timely completion by the court of its activities after submission of cases, including case conferencing, completion of opinions, and posting of decision to court below

¹ David C. Steelman, John Goerd, and James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (2000), xi.

² NACM, Professional Development Advisory Committee, "Core Competency Curriculum Guidelines: History, Overview and Future Uses," *Court Manager* (Vol. 13, No. 1, Winter 1998) 6.

³ The central tenets of caseflow management have been developed, tested and confirmed over a period of over 25 years since the early 1970's. For a general overview, see David Steelman, "What Have We Learned About Court Delay, 'Local Legal Culture,' and Caseflow Management Since the Late 1970s?" *Justice System Journal* (Vol. 19, No. 2, 1997) 145. For more details, see Maureen Solomon, *Caseflow Management in the Trial Court* (1973); Steven Flanders, *Case Management and Court Management in United States District Courts* (1977); Thomas Church, et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts* (1978); Ernest Friesen, et al., *Justice in Felony Courts: A Prescription to Control Delay* (1979); Larry Sipes, et al., *Managing to Reduce Delay* (1980); Maureen Solomon and Douglas Somerlot, *Caseflow Management in the Trial Court: Now and For the Future* (1987); Barry Mahoney, et al., *Changing Times in Trial Courts: Caseflow Management and Delay Reduction in Urban Trial Courts* (1988); John Goerd, Chris Lomvardias, Geoff Gallas and Barry Mahoney, *Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts* (1989); William Hewitt, Geoff Gallas and Barry Mahoney, *Courts That Succeed: Six Profiles of Successful Courts* (1990); Goerd, Lomvardias, and Gallas, *Reexamining the Pace of Litigation in 39 Urban Trial Courts* (1991); American Bar Association, *Standards Relating to Trial Courts, 1992 Edition* (1992); Roger Hanson, *Time on Appeal* (1996); Brian Ostrom and Roger Hanson, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts* (1999); and Ann Keith and Carol Flango, *Expediting Dependency Appeals: Strategies to Reduce Delay* (2002).

⁴ See Steelman, Goerd, and McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium*, Chapter I.

⁵ *Ibid.*, see Chapters II and III.

⁶ See *National Probate Court Standards* (1993), Standards 3.3.15 (guardians), 3.4.15 and 3.4.16 (conservators).

⁷ See David Steelman, *Service to Citizens by the Probate/Mental Health Department of the Superior Court of Arizona in Maricopa County: A Technical Assistance Report* (1997), p. 8.

⁸ See *National Probate Court Standards* (1993), Standards 3.3.17 (guardians) and 3.4.18 (conservators).

⁹ See, for example, Roger Hanson, *Time on Appeal*, p. 32, as well as Ann Keith and Carol Flango, *Expediting Dependency Appeals: Strategies to Reduce Delay*, pp. 10-17.