



# Civil Justice Initiative

## EVALUATION OF THE CIVIL JUSTICE INITIATIVE PROJECT (CJIP)



Implemented by the 22nd Judicial Circuit Court, McHenry County, Illinois

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# Civil Justice Initiative

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22nd Judicial District of Illinois

In July 2016 the Conference of Chief Justices and the Conference of State Court Administrators adopted recommendations designed to secure the fair, speedy and inexpensive resolution of civil cases in state courts. The Civil Justice Initiative (CJI) recommendations present a comprehensive framework that features (1) a Pathway Approach based on the concept of proportionality in which civil rules and court resources are matched to the unique needs of each case; (2) a radically different staffing model for civil case processing that delegates substantial responsibility for routine caseload management to specially trained professional staff, supported by effective case automation, permitting judges to focus on tasks that require their unique training and expertise; and (3) a renewed focus on high-volume calendars that comprise the vast majority of contemporary civil caseloads, especially improved access for self-represented litigants, and greater attention to uncontested cases and greater security on claims to ensure procedural fairness for litigants.

With support of a generous grant from the State Justice Institute, the National Center for State Courts and IAALS, the Institute for the Advancement of the American Legal System, have partnered on a three-year project to implement the CJI recommendations. The CJI report, recommendations, and information about the CJI Implementation Plan are available at [www.ncsc.org/civil](http://www.ncsc.org/civil).





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# Executive Summary

Civil litigation in state courts has a long-standing reputation for significant cost and delay, further compounded by increasing case complexity and a growing number of unrepresented litigants.

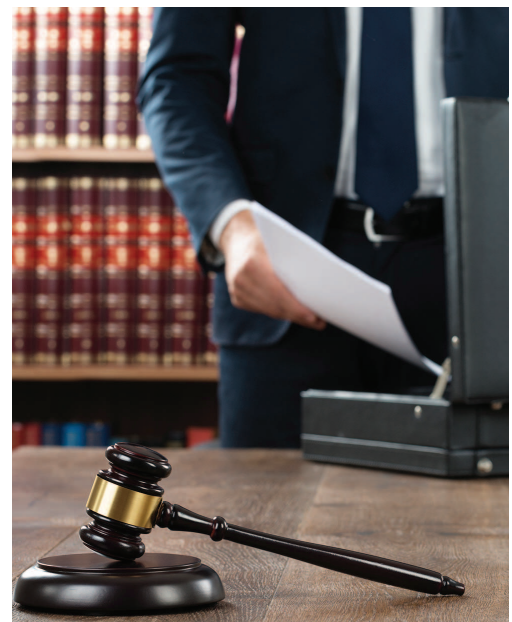
*In May 2017 the 22nd Circuit hired a civil case manager to help facilitate implementation. Implementation highlights include pathway identification, tools to facilitate litigant appearances and preparedness, and other actions designed to facilitate timely case resolution.*

Previous reform efforts have not fully addressed the underlying issues facing civil litigation. In response, the CCJ Civil Justice Improvements (CJI) Committee produced thirteen recommendations to ensure that these issues are addressed. Demonstration pilot projects were funded by the State Justice Institute to empirically test the recommendations' effects on civil case processing and litigation.

The 22nd Judicial Circuit of Illinois (22nd Circuit) sought to implement all thirteen recommendations in its Civil Justice Initiative Project (CJIP). In May 2017, the 22nd Circuit hired a civil case manager to help facilitate implementation. Implementation highlights include pathway identification, tools to facilitate litigant appearances and preparedness, and other actions designed to facilitate timely case resolution. While implementation was spearheaded by court leadership and administration, implementation teams headed by trial court judges led case- and courtroom-specific reforms.

These reforms yielded important outcomes for other jurisdictions interested in civil justice improvements. Significant outcomes showed:

- Increased attorney awareness of case movement and deadlines;
- Judicial and staff attention to administrative orders and case reports;
- Increased dialogue and buy-in around active case management; and
- Significantly reduced time to disposition since project implementation.<sup>1</sup>



<sup>1</sup> The implementation period saw increased attention to languishing cases, though survival analysis of the high-volume dockets revealed little difference in case processing.

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The 22nd Circuit is a unique jurisdiction for CJI implementation as there is not a large backlog in judicial dockets. This allows for a proactive, rather than reactive approach to reform—a novel dynamic for many courts. Important lessons for civil justice reform in jurisdictions with these characteristics include:

- Lasting and effective reform starts with judicial and local bar buy-in, paired with a supportive court stakeholder culture.
- Technology can increase the scale of reform efforts.
- Establishing data capabilities and measures in tandem with implementation efforts enables robust evaluation.

These outcomes and lessons learned reflect the promise of the CJI recommendations, while also highlighting the importance of various considerations around culture and data for implementation. The 22nd Circuit has done a wonderful job building out the infrastructure necessary for implementation. However, the significant amount of work and effort undertaken by the 22nd Circuit will not be fully realized as active implementation hinges on buy-in from stakeholders and meaningful change to case management practices.



# Introduction

In 2016 the Civil Justice Improvements (CJI) Committee released thirteen recommendations designed around reducing cost and delay in state civil justice systems.

The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) endorsed the report and recommendations of the CCJ Civil Justice Improvements (CJI) Committee.<sup>2</sup> The thirteen recommendations presented a comprehensive framework designed to secure the fair, speedy, and inexpensive resolution of civil cases in state courts. The first six recommendations described an improved system of differentiated case management, called the Pathway approach, based on the concept of proportionality in which both civil rules and court resources are matched to the unique needs of each case. Recommendations 7 through 10 described essential components of court infrastructure composed of staffing, training, business practices, and court automation needed to efficiently and effectively support judges in civil case management. Recommendations 11 through 13 offered renewed focus on high-volume calendars that comprise most contemporary civil caseloads, especially improved access for unrepresented litigants, greater attention to uncontested cases, and greater scrutiny of claims to protect procedural due process.

In their resolutions endorsing the recommendations, CCJ and COSCA encouraged their respective members to implement the recommendations to improve the

delivery of civil justice in their own states.<sup>3</sup> With support of a generous grant by the State Justice Institute,<sup>4</sup> the National Center for State Courts (NCSC) and IAALS (Institute for the Advancement of the American Legal System) undertook a three-year project to assist in state implementation efforts, which included oversight and evaluation of a series of state and local demonstration projects.<sup>5</sup>

As a selected implementation pilot site the 22nd Circuit began the ambitious plan to implement all of the CJI recommendations in its Civil Justice Implementation Project (CJIP). To provide a foundation for their work, the 22nd Circuit completed a landscape study of their civil caseload. This landscape revealed details about the caseload, but there were, and continue to be, court improvement efforts in technology and case management that impact the civil caseload as well as criminal, family court, and other caseloads.<sup>6</sup> The 22nd Circuit identified the following implementation goals and objectives that align with the 13 recommendations displayed in Figure 1.

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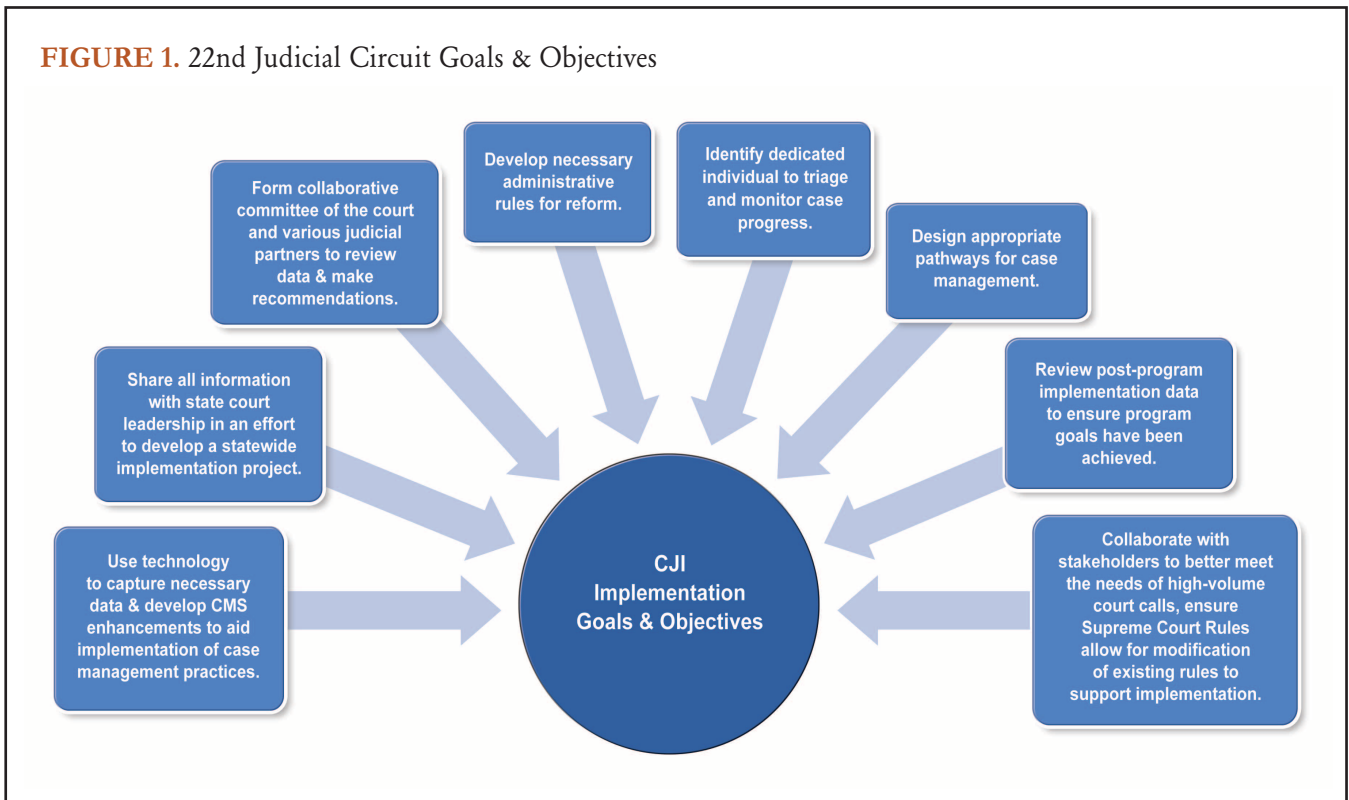
<sup>2</sup> CCJ CIVIL JUSTICE IMPROVEMENTS COMMITTEE, CALL TO ACTION: ACHIEVING CIVIL JUSTICE FOR ALL (2016) (*hereinafter* CALL TO ACTION).

<sup>3</sup> CCJ and COSCA Resolution 8 (July 27, 2016).

<sup>4</sup> SJI-16-P-231.

<sup>5</sup> The Civil Justice Initiative (CJI) Implementation Plan also provided education and strategic planning assistance, as well as tools and resources to support implementation efforts.

<sup>6</sup> Examples of these efforts include a transition to e-filing and implementation of software aimed at facilitating the judicial workload.

**FIGURE 1.** 22nd Judicial Circuit Goals & Objectives

Although not initially referenced in the thirteen recommendations, portions of the 22nd Judicial Circuit's improvement efforts centered on probate caseloads. The probate court was the first to adopt a standing order and leverage the concept of case management

teams, with review and triage of filings by the civil case manager. Undertaking these improvements for probate dockets provides an interesting look at the broad applicability of the CJI recommendations.

# Evaluation Approach

Given the breadth of the 22nd Judicial Circuit's implementation strategy, the NCSC researcher's evaluation used a "lessons learned" process-evaluation approach.

This approach will help inform future efforts in the 22nd Circuit and similar jurisdictions. The NCSC team focused on understanding the process of implementation of this project, the obstacles that project staff faced in implementation, and the way the project has impacted civil case management.

The evaluation uses qualitative (interviews) and quantitative (case data) to answer the following questions:

- How has the implementation of this project affected business practices in the 22nd Judicial District?
- How has the implementation of this project affected case management outcomes in the 22nd Circuit's Civil Division?
- What were the major obstacles to implementing CJI recommendations in the 22nd Judicial District?
- What plans does the 22nd Circuit have for continuing reform to civil case management?

## DATA SOURCES

### *Site Visit*

A site visit was conducted September 17-21, 2018 at which the NCSC team conducted CJIP team interviews, attorney focus groups, observations of civil division dockets, and observation at a project lunch meeting with all participating attorneys, judges, and representatives from the Illinois Supreme Court Commission on Access to Justice.<sup>7</sup> Individual interviews were conducted with

the chief judge, the Civil Division presiding judge, all five CJIP judges, attorneys that judges have included on their CJIP team, the court clerk, a representative from the Information Technology (IT) department, the arbitration administrator, the law librarian, and the jury management director regarding their expanded roles and experience under the Civil Case Management Team (CCMT) model. An interview was conducted with the CJIP case manager and the district court administrator about progress with the project and the CJIP case manager's role, experience, and challenges with integrating the new role into established procedures.

### *Telephone Interviews*

Two judges had not formed CJI teams as of the NCSC site visit, but have since the visit. These judges identified attorneys who regularly appear in their courtrooms, and the NCSC team followed up with eight telephone interviews with these attorneys during the weeks of October 1-14, 2018. These attorneys had a different level of background knowledge of the project than those interviewed on site. The NCSC team used these interviews to gauge basic interest in forming teams, perspectives on the project generally, and major concerns.

### *Document Review*

The NCSC team reviewed implementation documents, all progress reports, documents that provide information to litigants, and reports and presentations made internally to the CJIP team.

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<sup>7</sup> The Commission was represented by Justice Mary K. Rochford, Illinois Appellate Court, and Danielle Hirsch, Commission staff.



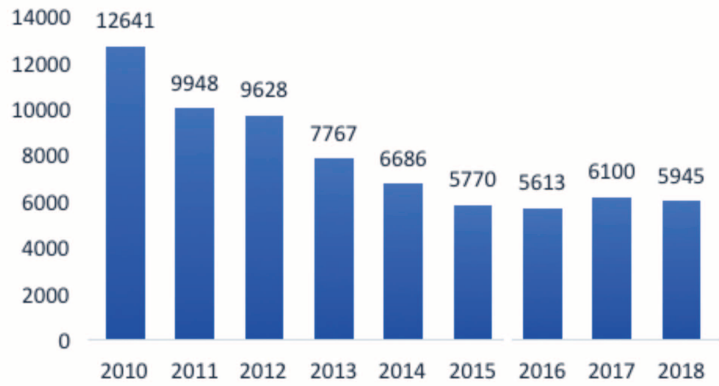
## UNDERSTANDING McHENRY'S CIVIL JUSTICE LANDSCAPE

The Civil Division of the 22nd Circuit Court of Illinois consists of five judges who preside over approximately 6,262 cases per year.<sup>8</sup> The civil docket in Illinois has six district categories of cases: Arbitration, Chancery, Law \$10,000 to \$50,000, Law over \$50,000, Probate, and Small Claims through \$10,000.<sup>9</sup> At the time of proposing this project, the Circuit was not experiencing significant backlogs. Over the last eight years, case filings have dropped quite dramatically, see Figure 2. Court administration and judicial leadership pursued this project specifically because it was a good time for the Circuit to have meaningful conversations about civil case management. While many courts pursue this type of project to increase efficiency when backlogs in the system increase, the 22nd Circuit put into place practices that will help to mitigate a growth of backlogged cases when filings increase.

The numbers of cases, by case type for 2016, 2017, and 2018, are displayed in Table 1. The overall reduction in cases has affected the type of cases on the court's docket differently. Chancery cases, particularly mortgage foreclosures, have decreased dramatically over the last ten years. Since 2016, over 200 fewer Chancery cases were filed.

Despite the reduction in Chancery cases over time, these cases make up the second largest

**FIGURE 2.** Civil Case Filings by Year, 2010-2018



**TABLE 1.** Filings by Case Type, 2016-2018

Case Type	2016	2017	2018
Arbitration	387	425	341
Chancery	1,056	914	840
Law \$10,000 to \$50,000	863	874	837
Law > \$50,000	412	407	435
Probate	402	411	417
Small Claims ≤ \$10,000	2,493	3,069	3,075
<b>Total</b>	<b>5,613</b>	<b>6,100</b>	<b>5,945</b>

proportion of Civil Cases pending between 2016-2018. Figure 3 displays the percentage of filings by case type from 2016-2018. According to interviews with judges, attorneys, and court administration there has been a significant increase in unrepresented litigants in recent years. As part of CJI implementation, the Circuit has sought to increase information available to these

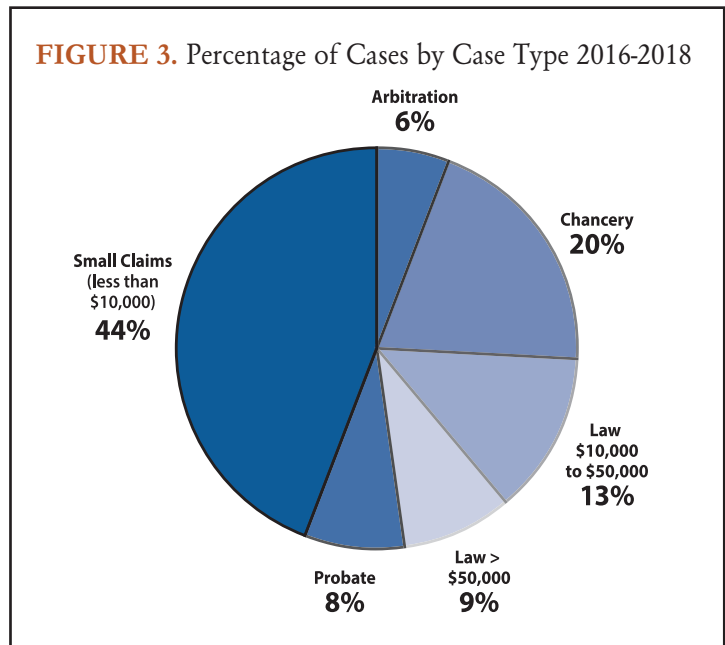
<sup>8</sup> Judicial selection methods vary by judge type in Illinois. Circuit Court judges are selected by partisan election and face retention election thereafter. Associate judges are appointed and then are considered for retention by the Circuit judges. Both Circuit and associate judges hear civil cases in the 22nd Judicial Circuit.

<sup>9</sup> The 22nd Circuit case categories are determined by the Administrative Office of the Illinois Courts Manual on Recordkeeping or court rules. "In money damages in an amount exceeding \$10,000, but not exceeding \$50,000, exclusive of costs and interest [Illinois Supreme Court Rule 86(b)]. Small claims cases in which a jury demand has been made are subject to mandatory arbitration, as well [Circuit Rule 17.01(h)]." McHenry County Arbitration Question & Answer Booklet.

litigants and to attorneys who do not regularly practice in the 22nd Circuit.

Other important aspects of the 22nd Judicial Circuit’s landscape exist beyond the composition of the civil caseload. The 22nd Circuit has an up-to-date website with standing orders for each courtroom that outline the general information about the courtroom and resources available to attorneys and litigants. To assist unrepresented litigants, the 22nd circuit has a self-help office, which is open from 9 am to 1 pm. Litigants are referred to the law library for assistance when the self-help office is closed. The clerk’s office has computer terminals that allow litigants to file legal paperwork.

**FIGURE 3.** Percentage of Cases by Case Type 2016-2018



## How Implementation Affected Court Business Practices

The major changes to court business practices were centered on civil case management teams, tools, technology, and the pathways.

The changes to court business practices were not as extensive as planned primarily because of issues with stakeholder buy-in. Though interviews with CJIP judges and attorneys revealed a culture widely willing to improve, there were concerns and skepticism of sacrificing justice for the sake of speed. Judges and attorneys also rightfully pointed out that there are other jurisdictions with much more significant case delays and backlogs across the state. Because of these dynamics, cultivating buy-in for the recommendations and implementation was difficult and laborious.

### ***CJIP Teams & Civil Case Manager***

Implementation in the 22nd Judicial Circuit began with hiring a civil case manager capable of assisting the court administrator and chief judge with putting the recommendations in action. In addition, the 22nd Judicial Circuit completed some activities that aligned with the principles of the recommendations.

The 22nd Judicial Circuit organized CJIP teams by judge/court.<sup>10</sup> Each team consisted of attorneys that practiced (or previously practiced) in their courts and began their activities by identifying problems in their

<sup>10</sup> Initially, there were two teams (chancery foreclosure and probate). Currently, a third team covers all law cases and includes small claims. The other two judges of the civil division were hesitant to form teams and were not engaged in the project. As of December 2018, the remaining two judges formed teams and began working on implementing the goals of the project in their courtrooms.

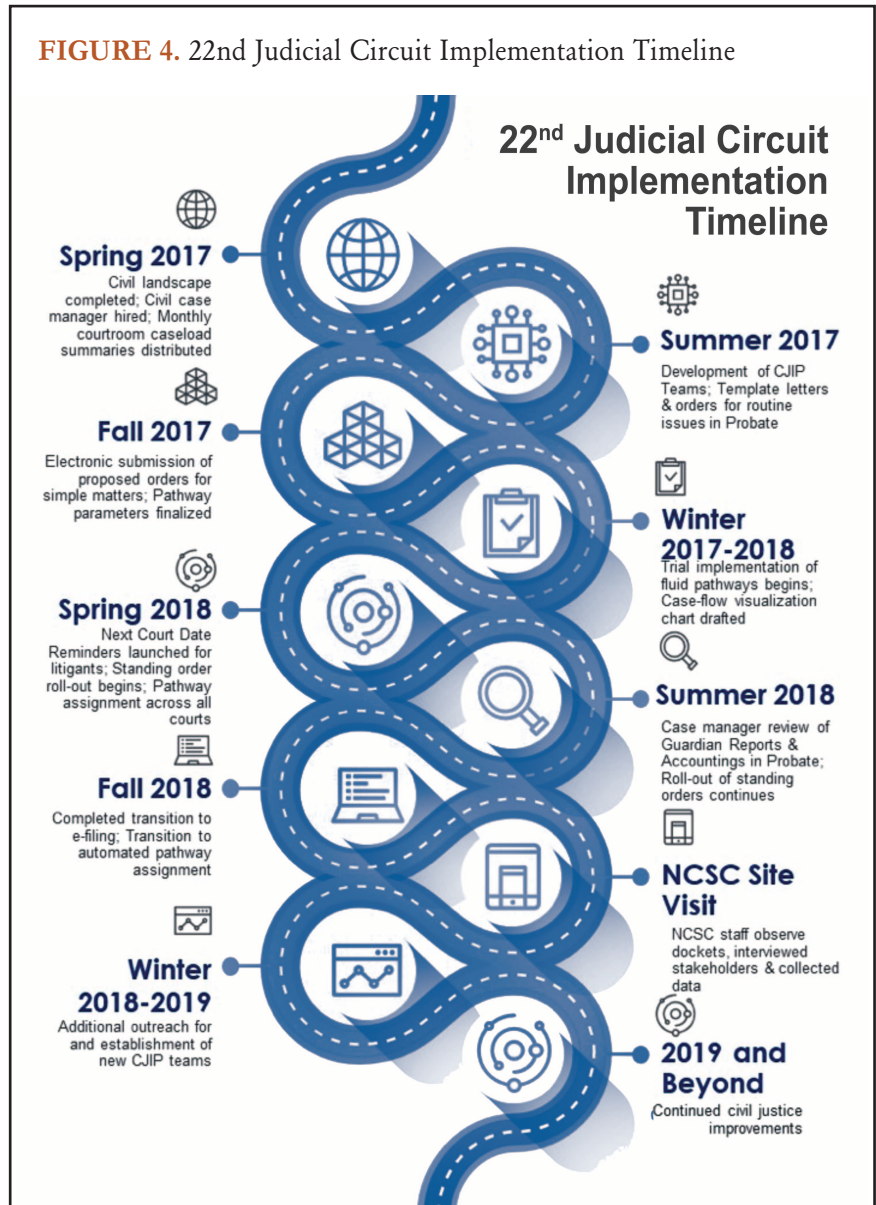
particular dockets. Examples of problems included large numbers of continuations due to the lack of correct filings and preparedness of unrepresented litigants. The 22nd Judicial Circuit held team and stakeholder meetings as needed throughout the grant period to further key implementation milestones highlighted in Figure 4. The civil case manager facilitated much of this activity in support of the trial court administrator. Probate courts used the civil case manager to provide initial guardian report and accounting filing review, as appropriate. The case manager drafts any letters or orders regarding apparent issues with filings for the judge's review.

### Civil Case Management Tools

The milestones noted in Figure 4 provide a snapshot of more than a year of significant and detailed work on behalf of the 22nd Judicial Circuit. For example, courtroom caseload summaries included important indicators regarding case movement, including:

- Time to disposition;
- Number of cases exceeding the disposition guidelines;
- Pending caseload;
- Ratio of cases set for trial and the result (continued/settled-dismissed/tried);
- An “old case” report, which provides a summary of the courtroom's age of open cases; and

**FIGURE 4.** 22nd Judicial Circuit Implementation Timeline



- A list of cases considered backlogged with case's next court date and accompanying brief history of caseload.

Reports after recommendation implementation also included the pathway for pending cases; next events, if completed; type of judgment; and the dollar amount of the judgment.

The 22nd Judicial Circuit approached the CJI recommendation implementation in a multilayered fashion. While some efforts branched across individual judges and courts (e.g., case reports), others were dependent on the each CJIP team and case type. For example, while standing orders were created for every court and published

online, each order was tailored to the needs of that court/CJIP team. Judges also organized small-claims docket schedules to allow more time to appropriately address unrepresented-litigant cases. The Chancery CJIP teams designed and provided education for mortgage-foreclosure litigants to be provided both upon filing of their appearance and in the courtroom. During project implementation, the 22nd Circuit distributed these educational materials to a test group selected randomly. Judges found that this improved preparedness early in the cases, and distribution of materials has expanded beyond the original test group. All litigants now receive materials 60 days after a case is filed.

### The Pathway System

Implementation of the pathway system was a cornerstone, and challenge, of the 22nd Judicial Circuit’s CJI implementation efforts. Pathway implementation was very measured and focused on time to disposition after a period of study and input by stakeholders (see Figure 5). The 22nd Circuit created four separate pathways in the Spring of 2018: Expedited, Standard, Complex, and Custom.<sup>11</sup> The addition of a Custom pathway is designed to capture those cases that stand out, even among traditionally complex cases.

Initially, pathways were solely documented with suggestions of general timelines. No administrative rules or discovery procedures changed due to pathway

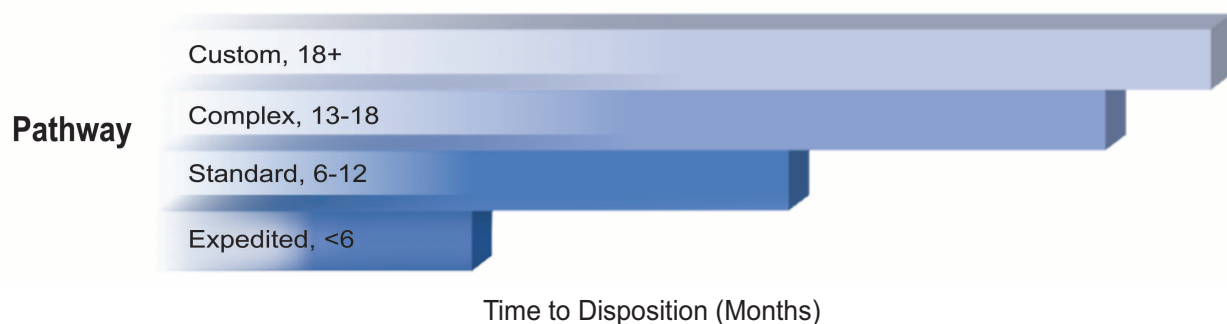
assignment of being labeled in a certain pathway. Instead, the general timelines were used to heighten awareness of ideal case movement. Pathways are currently assigned solely on case type and are automatically assigned at case filing.

The four pathways set expectations for time to disposition, with cases on that pathway to be resolved under, or in the case of the custom pathway over, a specified amount of time. Though assigning cases to tracks began in 2018, we can examine the accuracy of the pathway-system labels based on cases that have already had disposition events. Of the 5,486 cases that have been assigned a pathway, more than two-thirds (3,773) have had disposition events (see Table 3).

The expedited and standard pathways are largely meeting expectations. Of the 3,924 cases with disposition events that were on the expedited pathway, 96% met the expected time to disposition of less than 180 days. For the remaining pathways, it is too early to tell how well they have met expectations, though it is noteworthy that many of the 699 cases that were assigned to the complex pathway (218, or 31%) have had disposition events. This indicates that, perhaps, the 22nd Circuit can make improvements in creating off-ramps between pathways to better target the needs of specific cases.

Because much of the initial resistance to the project was related specifically to the assignment of cases to

**FIGURE 5.** Pathway Determination by Expected Disposition



<sup>11</sup> The pathway parameters are captured in Appendix B.

**TABLE 2.**

Pathway Determination by Case Type

<b>Case Type/ Pathway</b>	<b>Number of Cases</b>
<b>Arbitration</b>	
Standard	248
Complex	4
<b>Chancery</b>	
Standard	9
Complex	597
<b>Law \$10,000-\$50,000</b>	
Expedited	760
Standard	51
<b>Law &gt;\$50,000</b>	
Custom	333
<b>Probate</b>	
Expedited	102
Standard	109
Complex	98
<b>Small Claims</b>	
Expedited	3,173
Standard	2

pathways, the assignment of cases to pathways has primarily been based on case and filing types. The 22nd Circuit has not set goals within the pathways for expected times for case events other than disposition, though many of the CJI teams discussed the causes of major delays in cases. The 22nd Circuit is planning on examining the pathways this spring to ensure appropriate classification and case management for each pathway and can also use this self-evaluation of the pathways to further develop these timelines.

### **Technology Efforts**

The 22nd Judicial Circuit's CJIP efforts did not occur in a vacuum. Existing technology projects, and the creation of new efforts amplified the reach of implementation. In fall 2017 the 22nd Judicial Circuit implemented e-filing in all civil cases (attorney only). E-filing for unrepresented litigants became mandatory in early 2018. The clerk has set up multiple filing stations at the courthouse and has a help desk to assist litigants with filing.

Attorneys may also subscribe to an email notification service that alerts them to case filings made in iJustice.<sup>12</sup> Approved individuals may also subscribe to particular civil cases, leading to increased access to case data for approved individuals (e.g., service for automatic email notification upon filing or hearing date change). Proposed orders in routine matters may also be submitted through email. Next Court Date Reminders also launched across case types, including civil. Reminders through

this program are either provided through text or email. New judicial bench software also allowed for increased use of electronic files and notes by judges.

All the developments discussed above are the embodiment of CJI Recommendation 10, which focuses on leveraging technology to improve civil justice.

**TABLE 3.** Expected/Actual Time to Disposition by Pathway, 2018.

<b>Pathway</b>	<b>Expected Time to Disposition (days)</b>	<b>Actual Time to Disposition</b>	
		<b>&lt;180 Days</b>	<b>180-365 Days</b>
Expedited	<180	3142	152
Standard	<365	191	5
Complex	<540	195	23
Custom	>540	58	7

<sup>12</sup> iJustice is the court case management system for the 22nd Judicial Circuit.

Although the 22nd Judicial Circuit reported activity on both judicial training and assignment criteria, this activity seemed to be focused solely on review of existing

practices and opportunities. A breakdown of the main implementation actions by recommendation follows in Figure 6.

**FIGURE 6.** Action by Recommendation

- |  |  |
|--|--|
| <b>1. Courts must take responsibility</b>                                  | <ul style="list-style-type: none"> <li>• Develop collaborative committee of the court and various judicial partners to review data and make recommendations</li> <li>• Creation of standing orders and development of reports to draw judicial attention to aging cases</li> <li>• Tailored docket schedules to give appropriate time and attention to unrepresented litigants</li> <li>• Completion of a civil landscape for the 22nd Judicial Circuit</li> </ul> |
| <b>2. Right-sized case management</b>                                      | <ul style="list-style-type: none"> <li>• Creation of email system for proposed orders in routine matters (attorney only)</li> <li>• Distribution of "old case" reports to prompt judges when cases need additional attention</li> </ul>  |
| <b>3 - 6. Mandatory pathway system</b><br>(streamlined, complex & general) | <ul style="list-style-type: none"> <li>• Develop and test appropriate pathways for case management</li> <li>• Automate pathway assignment</li> </ul>   |
| <b>7. Civil case management teams</b>                                      | <ul style="list-style-type: none"> <li>• Hired a dedicated individual to triage and monitor case progress, support improvement efforts</li> <li>• Created Civil Justice Improvement Teams for most civil courtrooms</li> <li>• Leveraged civil case manager to review initial Guardian Accounting &amp; Filings</li> </ul>   |
| <b>8. Judicial &amp; staff training</b>                                    | <ul style="list-style-type: none"> <li>• Review of training opportunities</li> </ul>   |
| <b>9. Judicial assignment criteria</b>                                     | <ul style="list-style-type: none"> <li>• Interviewed chief judge on assignment practices</li> </ul>  |
| <b>10. Leverage technology</b>   | <ul style="list-style-type: none"> <li>• Engage technology to ensure that the court is able to capture the necessary data and develop enhancements to aid the implementation of case management practices (e.g., court notification reminders, case triage, electronic notification of parties)</li> </ul>   |
| <b>11. High-volume docket attention</b>                                    | <ul style="list-style-type: none"> <li>• Design and promote educational materials for mortgage foreclosure litigants.</li> </ul>   |
| <b>12. Manage uncontested cases</b>  | <ul style="list-style-type: none"> <li>• Creation of email system for proposed orders in routine matters (attorney only)</li> </ul>  |
| <b>13. Increase convenience to litigants</b>                               | <ul style="list-style-type: none"> <li>• Share all information with the Illinois Supreme Court, Illinois Supreme Court Commission on Access to Justice, and the Administrative Office of the Illinois Courts in an effort to develop a statewide implementation project.</li> </ul>  |

# How Implementation Affected Case Management Outcomes

The main effects of implementing this project have been to draw attention to older cases and to identify major obstacles to timely disposition in each courtroom.

It is likely that until there is stronger buy-in and business practices change more directly that the project will have smaller effects on outcome measures. As the district continues to generate buy-in, the effect of the project will likely increase.

To examine the initial impacts of changes made during 2017, we can compare outcomes in 2016 to 2018. It is difficult to assess the impact of the project on case outcomes for many of the dockets in the 22nd Circuit because not enough time has elapsed since implementation. The effects seen in clearance rate and time to disposition should be considered preliminary since only one year has elapsed since implementation of the project. Preliminarily, however, since implementation of the project clearance rates have increased, mean days to disposition has decreased, and there has been an increase in the cases that are disposed in under 365 days.

## CLEARANCE RATE & MEAN DAYS TO DISPOSITION

While not the main intent of the CJJ project, one noticeable change in the 22nd Circuit was the focus

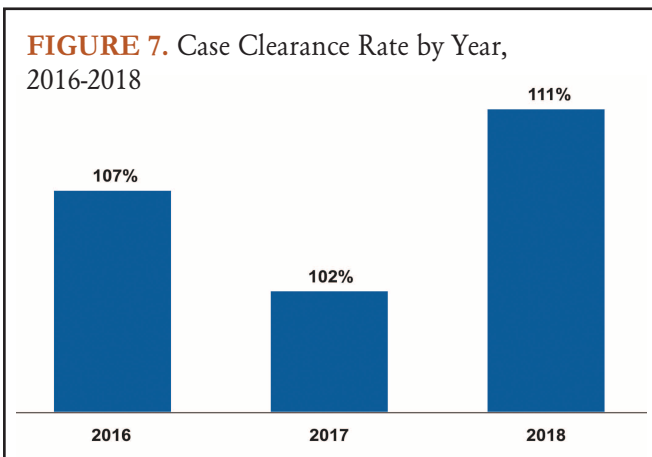
on cleaning up old cases that have been languishing. One noticeable difference between 2016 and 2018 is a 4% increase in clearance rate (see Figure 7). This increase occurs despite a growing number of filings, with 600 more cases disposed of in 2018 than in 2016 with the same number of judges.

**TABLE 4.** Mean Days to Disposition

Year	Cases Disposed	Mean Days to Disposed
2016	5,994	262
2017	6,202	231
2018	6,590	220

The difference in Mean Days to Disposition across the cases closed in 2016, 2017, and 2018 is statistically significant, with an overall reduction in the mean days to disposition across case types over time. Table 4 displays the mean days to disposition for all cases that were closed in each calendar year. Across all case types there is a 42-day reduction in time to disposition from 2016 until 2018. This reduction in mean days to disposition may be

**FIGURE 7.** Case Clearance Rate by Year, 2016-2018



**TABLE 5.** Mean Days to Disposition, by Case Type

Case Type	2016	2017	2018
Arbitration	206	190	194
Chancery	500	455	432
Law \$10,000 To \$50,000	54	54	47
Law > \$50,000	594	570	612
Probate	476	464	495
Small Claims ≤ \$10,000	130	114	115
<b>Grand Total</b>	<b>262</b>	<b>231</b>	<b>220</b>

attributable to project implementation or may result from the closure of older cases in 2016 and 2017.

Additionally, mean days to disposition dropped among four of six case types after implementation of this project. The two case types that did not experience a reduction are those that are expected to take longer to resolve. Chancery cases experienced a large reduction in mean days to disposition over this time period. In all these cases, the effects of project implementation cannot be discerned because too little time has elapsed since implementation. The mean days to disposition, by case type for 2016, 2017, and 2018 can be found in Table 5. Law above \$50,000, probate, and chancery cases take longer to resolve, all three of which have mean days to disposition over 365 days. On the other hand, arbitration, small claims, and law \$10,000 to \$50,000 all average under 365 days to disposition. Additional analysis may provide insight on the effects of the project on time to disposition in these types of cases.

**CASES RESOLVED IN UNDER 365 DAYS**

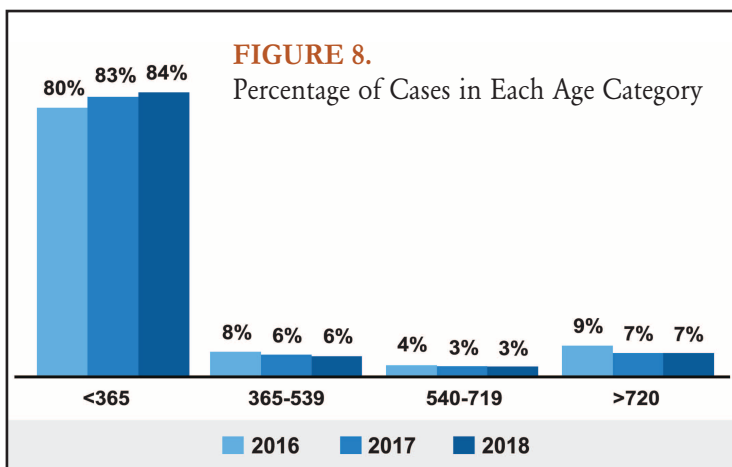
Another way to examine case processing in the 22nd Circuit is to understand the percentage of cases that are being resolved of in each category set out by the 22nd Circuit. The 22nd Circuit’s general case age standards are under 365 days, under 540 days, over 540 days, and over 720 days. A large majority of cases in the 22nd Circuit are being handled in under 365 days. After

implementing this project, there was a 4% increase in cases resolved in under 365 days. Figure 8 shows the percentage of cases in each age category.

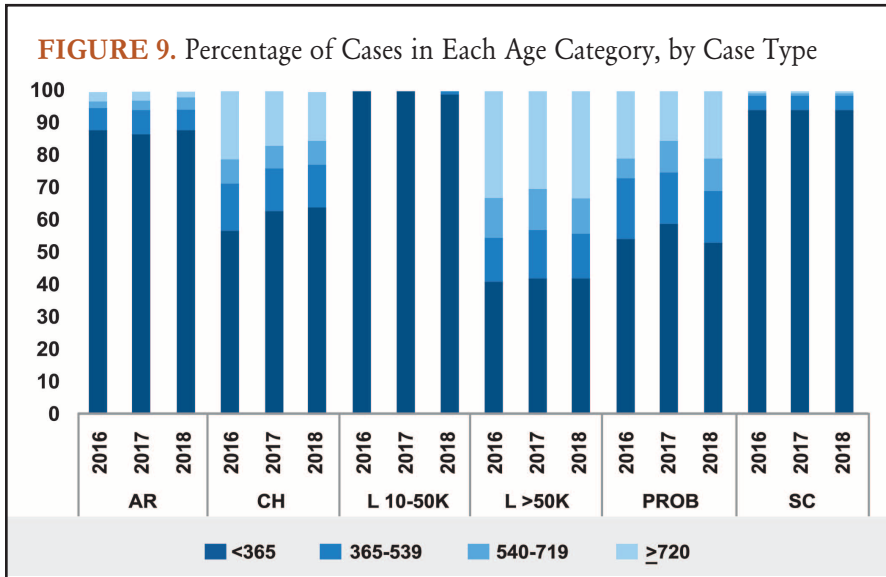
Examining time to disposition across case types reveals major differences in time to disposition between case types. As would be expected, more complex case types take longer. Figure 9 displays the percentage of cases that fall into each category of age defined in the age standards created by the 22nd Circuit. The percentage of arbitration (AR) cases that fall in each age category is stable over this time period, though there is a 1% reduction in AR cases that take over 720 days in 2018. Bigger reductions can be seen in chancery (CH) cases. Between 2016 and 2018, the percentage of cases that take over 720 days drops from 21% to 16%. Almost all law \$10,000 to \$50,000 (L 10-50K) cases fall in the under-365-days age category. Only a fraction of a percent of cases in 2016, 2017, and 2018 take longer than 365 days. Law above \$50,000 (L>50k) cases are often more complex and take longer to resolve. From 2016 to 2018, the percentage of cases in each category remains consistent. There is a 3% drop in cases taking longer than 720 days in 2018, but the data for 2018 is pretty much a mirror image of the data for 2016. A similar pattern exists in the probate (PROB) cases. These cases can be complex and can take longer than other case types to resolve. And like the L>\$50k cases, the percentage of PROB

cases that take longer than 720 days decreases in 2017 but bounces back to the 2016 levels in 2018. Small-claims cases remain steady throughout this period, with approximately 95% of cases being resolved in under 365 days.

An important step for the 22nd Circuit is to consider whether cases are meeting the age standards. The age standards that have been set are under 365 days, under 540 days, over 540 days, and over 720 days. These standards should be revisited because they are not mutually exclusive categories. For the most part, cases are meeting the age standards as articulated. One area of concern,







examines the time to disposition among cases within a specified time period and demonstrates the percentage of cases that are resolved by time to disposition. To further understand differences in case processing since implementation of the project, we conducted survival analysis for the high-volume dockets. In particular, we examined the time to disposition filed in 2016 (pre-project implementation) and those filed in 2018 (post-implementation) for 365 days for law \$10,000-\$50,000 cases, small-claims cases, and arbitration

however, is in cases set for over 540 days. Of the cases that took over 720 days between case filing and disposition, 83% fell under the age standard of over 540 days. Technically, these cases meet the age standard of over 540 days despite having disposition times of over 720 days because of how the age standard is articulated.

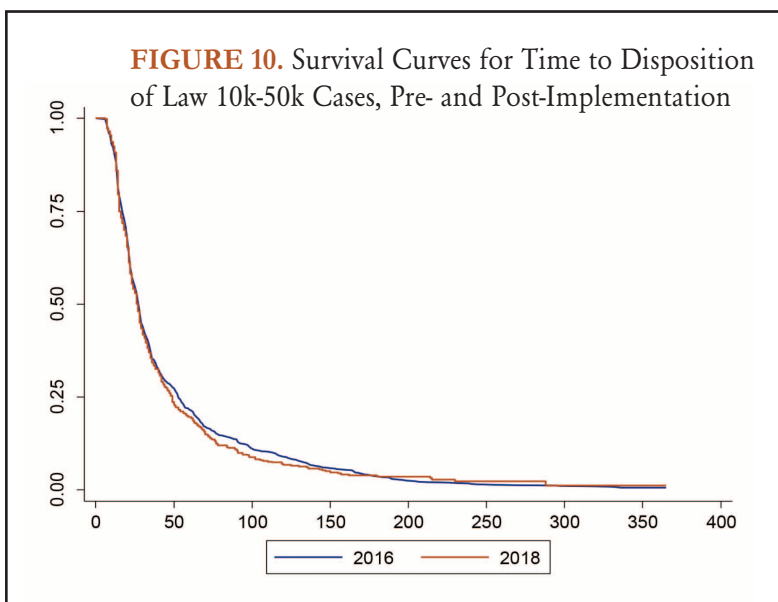
**Survival Analysis**

Survival analysis provides an additional tool to understand case processing in the 22nd Circuit. This approach

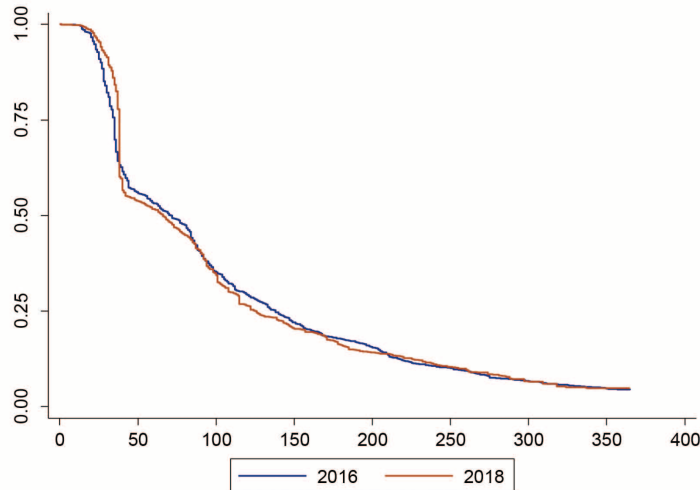
examines the time to disposition among cases within a specified time period and demonstrates the percentage of cases that are resolved by time to disposition. Figure 10 shows the survival curves for time to disposition for law \$10,000-\$50,000 cases filed in 2016 and 2018 and followed for 365 days. On the filing date (day 0 on the x axis), 100% of the cases are pending. For law \$10,000-\$50,000 cases, cases are resolved quickly, with 75% resolved in approximately 50 days. The survival curves for law \$10,000-\$50,000 cases are almost identical in the pre- and post-implementation time period.

Figure 11 displays survival curves for small-claims cases filed in 2016 and 2018. A large portion of small-claims cases are resolved quickly, with 50% of all cases filed in approximately 70 days. The differences in the survival curves are minimal and indicating little differences in case processing after project implementation.

The survival curves for time to disposition for arbitration cases display minor differences between 2016 and 2018. The survival curves begin to differ at around the 50-day mark when about 25% of the cases for both years have been resolved. The difference between the survival curves is small, primarily because the 22nd Circuit was turning cases around



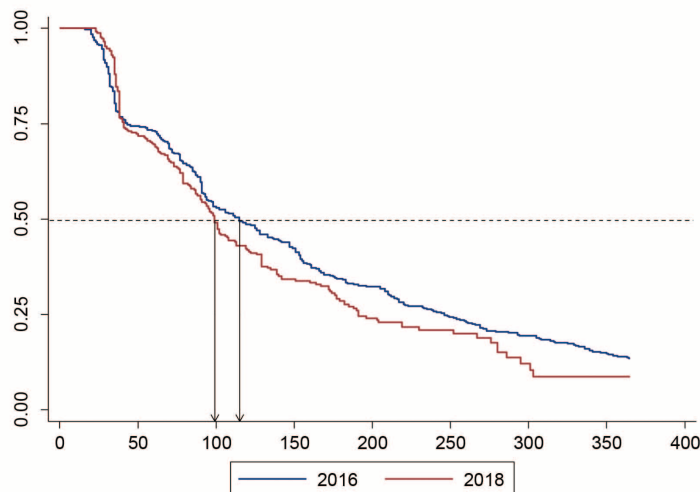
**FIGURE 11.** Survival Curves for Time to Disposition of Small- Claims Cases, Pre- and Post-Implementation



quickly before project implementation. Based on this analysis, it takes about 99 days for 50% of the cases on the arbitration docket to be resolved, while in 2016 it took 114 days (or 15 days longer). This could be attributed to case processing after project implementation.

While this analysis shows little differences between case management in 2016 and 2018, it is perhaps because the Circuit does not have significant backlogs to begin with and has struggled with judicial buy-in. Ultimately, the Circuit has completed many of the necessary background steps to having an impactful project, but without active implementation in the courtrooms, the full effects of this project are not realized. Additionally, it is important to note that the Circuit implemented pathways in 2018, and it is possible that not enough time has passed since implementation to see effects reflected in the analysis. As the Circuit moves forward and revisits the pathways this spring, it may perhaps see stronger effects.

**FIGURE 12.** Survival Curves for Time to Disposition in Arbitration Cases, Pre- and Post-Implementation



# Major Obstacles to Implementation

The main obstacles faced by the 22nd Circuit's Civil Division were judicial and attorney buy-in and understanding of the project.

The project was initially met with substantial resistance. There was widespread agreement among those interviewed that this was “a project in search of a problem.” Additionally, many judges and attorneys voiced concerns about how the data collected from this project would be used. In particular, attorneys and judges were concerned about the use of this data in judicial elections. Further, some of these individuals felt that without a backlog, the potential “misuse” of data outweighed the benefit of streamlining case processing. This sentiment caused some difficulties and delays for the implementation of this project.

## BUY-IN

Of the judges interviewed, two main themes emerged. First, a couple of judges focused on their satisfaction with the status quo. Second, several judges indicated that, at least initially, they were opposed to the project because of fear of how the data collected would be used. In the 22nd Circuit, some judges are appointed while others are elected. The judges who faced election and attorneys who appeared before elected judges voiced concern about the use of data in judicial campaigns. The primary concern was that time-to-disposition data and the pathway assignment for cases could be taken out of context and used to target judges at reelection.

## Satisfaction with the Status Quo

A striking feature of the 22nd Circuit is the amount of respect that judges and attorneys have for each other. All of those interviewed voiced deep respect for the judges and attorneys in the 22nd Circuit. Those interviewed frequently said, “we are so lucky for the attorneys and judges we have here” and “the judges and attorneys have a great working relationship and actively work together” to bring cases to resolution. While this is a positive

attribute for the 22nd Circuit, it can make change more difficult. Because those impacted by the project saw this as a “solution in search of a problem,” it was difficult to generate buy-in from stakeholders. Any problems with case management were blamed on the occasional “bad attorneys.”

Among those who were satisfied with the status quo at the outset, some articulated a change in mindset once the project was underway. Some attorneys indicated that they believed this has helped to clarify the process for those who do not regularly practice in the 22nd Circuit. Additionally, they found it helpful to have conversations with the judges in the courtroom they regularly practice in regarding some of the main obstacles that delay their cases.

## Concerns about How the Data Would Be Used

There were substantial delays in implementing changes in a couple of courtrooms in the 22nd Circuit. Specifically, judges articulated concern that the data collected for the project could be misused to target judges during elections. Particularly, these judges voiced concerns about data being taken out of context. A couple of attorneys also mentioned these concerns, indicating that they had seen this happen during judicial elections in other jurisdictions. Since there is not a backlog of cases in the 22nd Circuit, judges and attorneys who viewed the project from this perspective were not swayed that the benefits of the project outweighed the potential costs. During the evaluation, however, some of these concerns were mitigated by outreach to the local bar association and court administration's efforts to better explain the project. For jurisdictions with elected judges, the experience of the 22nd Circuit highlights a major

concern to generating buy-in. Elected judges must navigate reelection campaigns to retain their positions.

### ***Understanding of the Project***

Attorneys in the 22nd Circuit had varying levels of knowledge as to the existence and purpose of the project. Attorneys who were actively on CJI teams and those who were identified by judges as “regulars” were interviewed about the project. Among those attorneys who were active participants on CJIP teams, some indicated confusion about the purpose and activities of the project itself.

One attorney on the project said, “We haven’t actually agreed on anything or done anything yet, so I am not entirely sure about what the goal of the project is.” This attorney went on to say that “70% of the Bar has no idea this is even happening,” and the ones that do only know what other attorneys have told them. Attorneys who were not actively on teams but who regularly appeared before the civil division indicated that they found out about the project when the NCSC team visited and that they still were unclear on what the project was about.

## **Plans to Continue Reform**

There has been a recent transition change in judicial leadership in the 22nd Circuit.

This new leadership has continued support for judges and court administration to continue implementing the project and to follow through on goals that were delayed due to the initial lack of buy-in. The judges who initially resisted the project have formed teams and are beginning to examine the causes of delays in their courtrooms, as well as evaluate potential rule changes that could help mitigate delays.

Court administration worked to secure funding to continue the civil case manager position. This will

allow continued implementation of the project as buy-in for the project itself grows, albeit slowly. The civil case manager will continue to work to implement changes proposed in this project.

The 22nd Circuit also plans to examine their pathways and consider how to move them forward in April 2019. The court anticipates the most change around managing and setting expectations for the discovery process and is working with established committees to implement changes.

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*There has been a recent transition change in judicial leadership in the 22nd Circuit. This new leadership has continued support for judges and court administration to continue implementing the project and to follow through on goals that were delayed due to the initial lack of buy-in.*

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# Lessons Learned

A review of qualitative and quantitative information from the 22nd Judicial Circuit reveals a broad effort to improve civil justice.

Like any broad effort, every intervention was not equal in effect or welcome. The following findings emerged from the implementation effort.

- Judicial leadership is critical to implementation efforts.
- Judicial awareness of case timeliness promotes action on languishing cases.
- There will be inconsistency in how recommendations are implemented even within a jurisdiction. Some judges will implement recommendations differently than others depending on how the project is designed.

## **Judicial Leadership**

The site visit to the 22nd Judicial Circuit revealed a judiciary and bar committed to a fair civil justice system. The two largest concerns about the civil justice improvement effort centered on 1) unfairly “tipping” the justice process in favor of speed rather than a justice-based resolution, and 2) creating a system overly fixated on data, including the potential dangers of data misuse. While judges led each CJIP team, it was apparent these concerns permeated at the team level.

This dynamic shows the importance of judicial leadership to openly communicate and engage with judges and all stakeholders about the purpose of the effort. A lack of case backlogs and delayed justice are not mutually exclusive. Similarly, an understanding and appreciation of the state judicial selection methods, and their impact on judicial perceptions around performance, are critical for judicial leadership to successfully navigate and lead a successful change effort. This is generally the case for any reform effort.

## **Attention Is Everything**

In addition to the pathway system, the 22nd Judicial Circuit also implemented standing orders in all its CJIP

courts. CJIP teams reported these orders were useful, as they made the teams aware of places in the case process that provided issues for attorneys and unrepresented litigants. These standing orders, which provided direction specific to court and case types, were implemented on a rolling basis. While there are no data-based outcomes available due to the staged roll-out, both attorneys and judges reported seeing fewer questions about court processes after implementation of the orders. Even if there were questions, judges now had a resource they could point out to litigants and attorneys. The monthly case reports also focused judicial attention on cases that needed it.

One judge noted, “I don’t think it has really changed anything specifically that we were doing. We were already doing case management well. It has brought certain issues to the forefront of our minds. I am more likely to ask an attorney what they are going to do with a case.” Similarly, attorneys interviewed in the 22nd Circuit indicated that this project has resulted in the “judge setting discovery deadlines and pre-trial and trial dates earlier in some cases” and “providing standing orders that help a lot of people understand expectations.” Additionally, some attorneys felt that the judges in their courtrooms were “pushing old cases more than before” but they were making the project more about “making sure the cases are being properly looked at rather than just pushed through.”

## **Tailored Implementation**

The reality of a jurisdiction’s civil justice landscape and politics will impact civil justice reform implementation. Although the end goal in each jurisdiction remains reduced cost and delay (and increased access to justice), the road there may vary. For example, the “soft” roll-out of the pathways in the 22nd Judicial Circuit was critical to ensuring acceptance for the effort.

# Recommendations

The 22nd Judicial Circuit made great strides in civil justice reform during the grant period.

NCSC makes the following recommendations to further their efforts.

**Revise practice of attorneys appearing every 30 days to request continuances.** Currently, the 22nd Circuit requires a next court date to be set in every case. While this is a case management best practice, these dates must be meaningful, both to the court and to the litigants. The court has been routinely setting cases for status hearings every 30 days, and there should be a hard look at tailoring the subsequent court dates that are truly tailored to the needs of each respective case.

**Increase training opportunities.** While the 22nd Judicial Circuit conducted a review of training opportunities for various stakeholders, holding trainings on a variety of issues (e.g., civil case management teams, caseflow processing, e-filing) can help bolster improvement efforts. National court management and improvement organizations host webinar and online trainings on applicable topics.

**Leverage litigant input.** Improving access to justice is at the heart of the Civil Justice Improvement recommendations. The 22nd Judicial Circuit made concerted efforts around engaging internal stakeholders with their improvement efforts, and NCSC recommends expanding that engagement to litigants. This could be done by securing litigant feedback through the CourTools Access and Fairness survey<sup>13</sup> and undertaking more concerted interactions with the Supreme Court Commission on Access to Justice to ensure diverse stakeholder perspectives.

**Communicate, communicate, communicate.** It is always difficult for people to support what they do not understand. Continued communication around improvement efforts can help navigate the politics of implementation and build support. Increasing outreach to the local and state bar associations should facilitate a greater understanding of the improvement efforts and purpose. Ongoing dialogue with CJIP judges can increase judicial buy-in and ownership of their respective team efforts.

**Build-out pathways.** The pathway system aims to match case management practices to the needs of the case. Further building out the pathways with suggested timelines and practices for major case events, like discovery, pretrial conferences, and trials brings the case management practices into stronger focus. Similarly, clarifying how to allow judges to move cases between pathways, and articulating some of the main factors that might trigger a judge to move a case from one pathway to another, provides for the flexibility and judicial discretion necessary within the pathway system.

**Establish measures for success and necessary data elements before implementation.** A broad implementation effort like that of the 22nd Judicial Circuit requires careful planning around measures of success and required data elements. This is especially the case if there is rolling implementation across courts and multiple interventions that increase the difficulty of determining causality.

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<sup>13</sup> CourTools Measure 1: Access and Fairness Survey, available at [http://www.courttools.org/~media/Microsites/Files/CourTools/courttools\\_Trial\\_measure1\\_access\\_and\\_fairness.ashx](http://www.courttools.org/~media/Microsites/Files/CourTools/courttools_Trial_measure1_access_and_fairness.ashx).

# Appendix A: Requested Data Elements from Case Management System



**Case-Level Data**

Case Type  
Filing Type  
Judge  
File Date  
Case Number  
CJI Track  
Date of Disposition  
Close Date

**Event-Level Data**

Date Motion Filed  
Type of Motion  
Date Order Entered  
Type of Order  
Grant/Deny

# Appendix B: Pathway Placement Parameters

<b>CIVIL DIVISION/ PATHWAY</b>	<b>1. EXPEDITED</b>	<b>2. STANDARD</b>	<b>3. COMPLEX</b>	<b>4. CUSTOM</b>
<b>Disposition Goal</b> <i>[unless otherwise noted]</i>	<b>0 - 6 months</b>	<b>7 - 12 months</b>	<b>13 - 18 months</b>	<b>18+ months</b>
<b>Chancery [ICH]</b> (mortgage foreclosure) <b>CR358</b>			Mortgage Foreclosures	Mortgage Fore-closures involving bankruptcy or loss mitigation
<b>Chancery [CH]</b> (excl. mtg. foreclosure) <b>CR202</b>			Injunctions CH matters [excluding foreclosures]	
<b>Eminent Domain [ED]</b> <b>CR204</b> <b>CR201</b>				Eminent Domain
<b>Law [LM]</b> (under \$50,000) <b>CR201</b>	Mechanics liens FE&D TROs Structured settlements Contempt	Generally, LM matters Jury demands cases Contract cases Dec jdgmt cases Workers comp appeals Judicial sales	Out-of-jurisdiction parties or witnesses	Personal Injury Medical mal-practice Professional mal Products liability Class actions Numerous depts/ expert witness(es) expected
<b>Law [LM]</b> (under \$50,000, Bench) <b>CR103</b>	LMmatters			
<b>Law [LA]</b> (over \$50,000) <b>CR204</b> <b>CR201</b>	FE&D			All LA matters [excluding FE&D]



**APPENDIX B. PATHWAY PLACEMENT PARAMETERS**

<b>CIVIL DIVISION/ PATHWAY</b>	<b>1. EXPEDITED</b>	<b>2. STANDARD</b>	<b>3. COMPLEX</b>	<b>4. CUSTOM</b>
<p><b>Mandatory Arbitration [AR]</b>                      (all pre-arb hearing proceedings for all AR cases and SC cases with a jury demand and all post-arb award rejection proceedings for all AR cases and SC cases with a jury demand)  <b>CR202</b></p>		<p>AR hearing w/in 1 year</p>	<p>AR trial w/in 6 mo. of hearing if rejection filed</p>	
<p><b>Miscellaneous Remedy[MR]</b>  <b>CR204</b>  <b>CR201</b></p>		<p>Generally, MR matters</p>		
<p><b>Municipal Corporation [MC]</b>  <b>CR204</b>  <b>CR201</b></p>		<p>Generally, MR matters</p>		



# Acknowledgments

This evaluation was a cooperative endeavor between the National Center for State Courts (NCSC) and the 22nd Judicial Circuit of Illinois. The 22nd Circuit sought to implement recommendations articulated by the Civil Justice Initiative, with the primary goal of increasing the quality of civil case processing. The NCSC and the State Justice Institute, which provided funding for this project, wanted to provide information about the implementation process for other jurisdictions who might similarly seek to implement recommendations in their jurisdiction. It is only appropriate to recognize the individuals who were especially helpful in seeing the project through to its completion including the judges, attorneys, clerk's office, and court staff in the 22nd Circuit. We are especially indebted to the following individuals: Chief Judge James S. Cowlin; Former Chief Judge Michael J. Sullivan; James D. ("Dan") Wallis, Court Administrator; and Kathryn Birchfield, Case Manager.

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# Civil Justice Initiative

EVALUATION OF THE  
CIVIL JUSTICE INITIATIVE PROJECT (CJIP)



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