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The Fastest Rocket Docket For The 8th Straight Year

by Robert M. Tata

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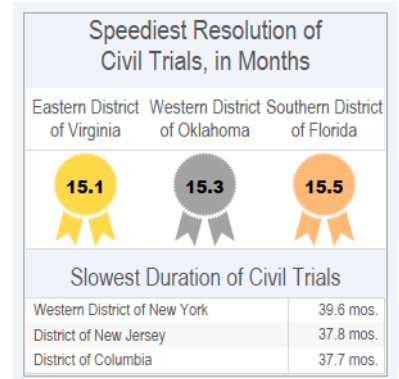
The 2015 results are in, and the Eastern District of Virginia’s “Rocket Docket” had the fastest trial docket in the nation for the eighth straight year! While slowing just a bit to a median time of 15.1 months from filing-to-trial, the EDVA still led the nation in speed and efficiency according to the recently released “United States Courts Judicial Business 2015” report that tracked civil cases for the twelve-month period ending September 30, 2015. This number is all the more impressive considering the fact that these statistics include class actions and patent cases. The EDVA divisions include Alexandria, Richmond and Norfolk, Virginia.

This year the gold, silver and bronze “medals” for speedy and efficient resolution of civil cases go to Eastern District of Virginia (15.1 months), Western District of Oklahoma (15.3), and the Southern District of Florida (15.5). Just off the medal stand are the Western District of Virginia and Eastern District of Arkansas at 16.3 months from filing through trial. On the other hand, bringing up the rear are the Western District of New York (39.6 months), District of New Jersey (37.8 months) and District of Columbia. (37.7 months). All of these courts took over three years to get to trial.

From time to time, at least five other federal district courts besides the EDVA have been referred to as or embraced the “Rocket Docket” moniker. How are they doing? Last year the Western District of Wisconsin had a median time to trial of 18.2 months. Other “Rockets” clocked-in as follows: Eastern District of Texas (25 months), Northern District of Georgia (27.3), Southern District of California (31.2), and the Northern District of California (31.8). In short, the past or other “Rockets” are from 21 percent to 110 percent slower than the EDVA.

What Did Some of the EDVA Judges Have to Say?

This year, as we have on occasion in the past, we conducted in-person or phone interviews with several EDVA judges. When asked “why is the EDVA the fastest,” several points were repeatedly made. Judges noted “we promptly set scheduling conferences,” “we set the trial about six months from the conference,” “we stick to the trial date,” and “the judges manage the dockets in the EDVA for the convenience of the parties, not the lawyers.”¹ The “trial date” point was repeatedly emphasized and one judge noted “the parties can’t simply agree on a continuance, there must be a strong reason for a continuance — like a death.” One judge summed it up noting that he or she was “proud to serve in a District that has such a fierce commitment to providing justice swiftly.” While judges attempt to protect the trial date at all costs,



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they have flexibility with other dates such as allowing depositions to be taken out-of-time as long as there is a good reason and the trial date is not affected.

But it can't be overlooked that the "Rocket Docket" slowed down a bit this year. While averaging 15.1 months to trial this year, for the same time period last year the court averaged 12.5 months to trial last year. When asked about possible reasons for a slow-down, some judges provided responses such as "we're seeing more and more complicated matters such as patent cases" and "we want to be fast, but careful too."

Patent and Class Action Cases

Special cases, however, are often afforded accommodations. While there are not district-wide local rules specifically applicable to patent cases, some of the judges "flex" the local rules regarding patent cases. Some judges insert an extra month or so into the trial schedule. Meanwhile, some judges incorporate dates into their initial pretrial order regarding claims identification or construction. One judge pointed out that the EDVA "is the only district court in the country that often tries patent cases in less than a year." This judge pointed to the PWC "2015 Patent Litigation Study," which he had a copy of on hand, to support the point.

The PWC Patent Study confirms that the median time-to-trial for a patent case in the EDVA is 1.0 year (over a 20-year period).² Other popular patent destinations such as the District of Delaware (2.0 years) and Eastern District of Texas (2.3 years) are not nearly as fast according to this study. See PWC Patent Study at 15. The study also lists the "overall success rate" and "median damages award" for various districts. The EDVA ranked eighth in overall success rate during this period with plaintiffs prevailing 30 percent of the time. The EDVA ranked even higher regarding "median damages award" at about \$33 million over this period. So, at least according to this study, the EDVA is the fastest patent trial district with the second highest median damages award.

We also interviewed several judges regarding class action practice. Generally, the same or very similar initial pretrial orders are used for class action cases. When appropriate, discovery on certification may be allowed. Some judges had different opinions regarding whether the EDVA's speed encourages or discourages the filing of class actions in Virginia. One felt class action counsel may want to avoid the EDVA due to its speed and perceived conservative nature of the judges. Another thought that the speed would be quite attractive to plaintiff's class action counsel.

Conclusion

The EDVA Rocket Docket continues to roar for the eighth year in a row. Even complex cases such as patent and class action cases have not knocked it off the medal stand. But with more and more complex cases being filed in the EDVA it is yet to be seen if it will keep the streak running for nine straight years.

Notes

¹ The Richmond and Norfolk Divisions set the trial date at the initial pretrial conference so some of the comments are more applicable to these divisions. The Alexandria Division sets the trial date at the close of discovery. Despite some differences in execution, all of the divisions employ a variety of tools in order to administer speedy and efficient civil trials.

² The district court rankings included in the PWC Patent Study use data compiled from 1995-2014.

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Bob Tata is a partner in Hunton & Williams' Washington office and managing partner of the firm's Norfolk, Virginia, office. He has handled many cases in the Eastern District of Virginia, including in all of its divisions. He represents plaintiffs and defendants in commercial, intellectual property, and other cases as both lead or local counsel. For example, in 2001, as lead counsel, Tata won what was then the largest jury verdict in EDVA and Virginia history (\$116 million), representing two Harvard MBAs in a patent trade secret, false advertising, trade dress and copyright case regarding a fire escape ladder they invented as a business school project. That case has been made into a Harvard Business School case study. He may be reached at (757) 640-5328 or btata@hunton.com.