

Are These Judges Too Slow? New Data and Nuances

By Charles Toutant

June 5, 2024

Lawyers sometimes complain about waiting an inordinately long time for New Jersey federal judges to issue rulings on motions, but are those reports legitimate?

Litigators sometimes complain about long waits for rulings on motions in federal court, although few are willing to go on the record for fear of angering the judges who hear their cases.

Data collected by the Administrative Office of the U.S. Courts, however, show judges sometimes take longer than six months to rule on motions.

But some federal court observers say grumbling about long waits for motion rulings is off-base.

'The Hardest Part Is Explaining This to Clients'

When Nicholas Duston files dispositive motions in the District of New Jersey, such as motions to dismiss, he said getting a ruling can take seven, eight or nine months, and the wait times seem to be getting longer.

Duston, a litigator at Norris McLaughlin in Bridgewater, New Jersey, said when lawyers are waiting for a ruling on a summary judgment motion, it's typically the last step before



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a trial, and the parties just have to put the case on hold while they wait for the ruling.

It's pointless to prepare for trial if there's a chance that there won't be one, Duston said.

Since a motion to dismiss typically comes at the beginning of a case, waiting for a motion ruling can be more of a problem, since the parties might begin discovery even though the case might be dismissed, he said.

Still, when a case is on hold due to a pending motion, Duston said it doesn't cause him much trouble. Such delays are par for the course, and he just puts that case aside and works on something else.

"The hardest part is explaining this to clients. Clients who have not been involved in litigation before are very frequently just astounded and

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**Nicholas Duston of
Norris McLaughlin.**

frustrated that it could possibly take that long, because to them, especially somebody who's not in court that much, it's very important. It may be routine for me or for the court, but for that type of client, it's not. It might be the worst thing that ever happened to them,"

Duston said.

Better Chances in Federal Court?

Duston says the wait for rulings on motions in federal court isn't about to make him take all his cases to state court, even though that might be faster. Judges in state court are busier than their federal court counterparts, and in federal court the judges have more law clerks, he said.

"If you file in state court and we stay there, you'll get a decision faster but it may not be the right decision. If you file in federal court, you have a better chance that a less-busy judge will spend more time on it, which means it'll take longer but we'll have a better chance of getting the right decision," Duston said.

Judge Wants Fewer Motions

Duston doesn't think the key to giving his clients more prompt rulings has to do with the way judges handle their caseloads, but with the need for more judges, he said.

The U.S. Judicial Conference asked Congress last year to create an additional three federal judgeships for the District of New Jersey, which would bring the court to 20 judges.

Chief U.S. District Judge Renee Marie Bumb for the District of New Jersey, for

her part, said that lawyers in her district file motions needlessly.

Bumb said she requires litigants appearing before her to file pre-motion letters to explain the need for a motion, and she encourages other judges in the district to do the same.

"I continue to call it motion sickness. For whatever reason, we are a motion-heavy district," Bumb said. "Get the attorneys together, talk it through and the issue is resolved without a motion."

By the Numbers

Bumb added that the District of New Jersey has the second-highest weighted filings per judge of any judicial district in the country, which "says a lot."

The District of New Jersey had 1,107 weighted civil filings per authorized judgeship in 2023, higher than any other district except for the Northern District of Florida, according to the federal courts' website.

Under weighted filing, cases are given more points if they are considered complex.

In contrast, the Southern District of New York had 477 weighted civil filings per authorized judgeship in 2023 and the Eastern District of Pennsylvania had 235.

'Important to Step Back'

Thomas Valen, a business litigator at Gibbons in Newark, said he doesn't often see motions pending more than six months in his practice. And those who say they had to wait seven or eight months for a ruling on a motion should put the experience in context, he said.

If anything, the District of New Jersey is getting faster, since it now has its full complement

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Thomas Valen of Gibbons in Newark, New Jersey.

of 17 judges. As recently as 2019, it had only 11 judges, Valen said.

That vacancy crisis resulted when no judicial appointments were made for the District of New Jersey during the Trump administration.

“I do think that judges are making a concerted effort to dig out, but it takes time. But if you’re talking to a lawyer today who’s remembering a year or two ago that he had a motion that took seven or eight months, it very well might be that that story is impacted by the backlog that the vacancy crisis created,” Valen said.

Valen said that “in a perfect world,” each judge would promptly issue opinions that are legally correct, “but it’s not a perfect world.”

“Speed and thoroughness have to be balanced with many other things the judge does in managing their dockets, settlement conferences and the like. So I’m not saying that speed is irrelevant, but I think it’s important to step back and take a broader picture of the quality of judging. And I think in the District of New Jersey, I think we’re really lucky. We’ve got some extraordinary judges and I’m not complaining,” Valen said.

‘Perception Problem’

Kerri Chewning, a litigator at Archer & Greiner in Voorhees and a former president of the Association of the Federal Bar of New Jersey,

said she has not had “a significant number” of motions take longer than six months to be decided.

However, Chewning said she sometimes hears from colleagues about their long-pending motions.

“So you can throw out that sort of anecdote, but when you dig a little bit into what was filed, when it was filed, did the other side take an automatic extension, did they ask for more time, did you need more time on the reply brief, and then you sort of back into it, [it appears that] if you think about it, the judge really hasn’t had a ripe motion for decision. So I think that sometimes it’s a bit of a perception problem,” Chewning said.

It’s also important to note, Chewning said, that federal judges in New Jersey have a complex caseload.

With the state’s concentration of drug companies, the district courts see a large volume of patent cases, and an abundance of multi-district litigation requires the courts to manage thousands of individual cases.

In addition, Chewning said, unlike state court judges, federal judges hear both civil and criminal cases, and criminal cases might get priority on a judge’s docket due to statutory mandates, she said.

“I think the numbers only tell part of the story,” Chewning said. “It’s important to have an appreciation for what else is going on with respect to that particular judge’s docket.”



Kerri E. Chewning of Archer & Greiner.

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