

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

Bankruptcy Judicial Resources Survey

MARCH 2018

NORTHERN DISTRICT OF ILLINOIS

I) BACKGROUND

a. Bankruptcy Committee Standing Survey Process

In December 2014, the Committee on the Administration of the Bankruptcy System (Committee) voted to enhance its then-current judgeship survey processes by undertaking to survey all 90 bankruptcy courts every five years, if feasible, and asked the Administrative Office (AO) to assess the proposal. In June 2015, AO staff reported to the Committee that performing 90 on-site surveys within a five-year cycle would require an average of 18 surveys per year. This schedule, while feasible, would have significantly strained budget and staffing resources without necessarily yielding relevant and timely information for districts likely to submit judgeship requests.

Given the challenges of completing on-site surveys in all 90 bankruptcy courts, the Committee approved a revised process during its December 2015 meeting that would efficiently use staffing and budget resources while ensuring that relevant, reliable, and timely information be provided to the Committee. This process contemplates that, at each Committee meeting, the judgeships subcommittee determine which districts, if any, should receive on-site surveys, based at least in part on an anticipation of a change in the need for judicial resources, and submit its recommendations to the full Committee for approval.

At the Committee's meeting in June 2017, AO staff provided information regarding which bankruptcy courts were most likely to request additional judgeships or conversion of temporary judgeships in the 2019 or 2021 additional needs survey processes based on trends in weighted filings and other factors. Staff also provided information on districts that may be candidates for multidistrict designation of judges pursuant to 28 U.S.C. § 152(b) to provide more efficient use of available judicial resources. Based on these criteria, the Committee determined to perform a survey of the U.S. Bankruptcy Court for the Northern District of Illinois.

b. Additional Judgeship Needs Process

The Judicial Conference is tasked with assessing the need for additional bankruptcy judgeships. This requirement is contained in 28 U.S.C. § 152(b)(2), which provides:

The Judicial Conference shall, from time to time, submit recommendations to the Congress regarding the number of bankruptcy judges needed and the districts in which such judges are needed.

In 1991, the Conference determined that additional judgeship surveys would be conducted biennially. JCUS-MAR 91, pp. 12–13. At its September 1996 meeting, the Conference approved a change in the schedule for completing the biennial surveys so that recommendations for additional bankruptcy judgeships and related requests would be considered by the Conference in March of odd-numbered years. JCUS-SEP

96, p. 50. This schedule permits the judiciary to advocate, when appropriate, for additional bankruptcy judgeships and related requests throughout the full two-year congressional term.

The Conference has delegated to the Committee the responsibility of ascertaining the districts seeking additional bankruptcy judicial resources and making recommendations to the Conference regarding requesting additional bankruptcy judgeships and related requests.

In assessing a district's need for additional bankruptcy judgeships, the Committee reviews several workload factors. The first factor considered is the district's annual weighted caseload, as derived using case weights from the Federal Judicial Center's 2008-2009 Bankruptcy Case Weighting Study (JCUS-SEP 10, p. 9), as amended to include an adjustment for mega chapter 11 cases (JCUS-SEP 14, p. 6). Also considered are the nature and mix of the district's caseload; historical caseload data and filing trends; geographic, economic, and demographic factors in the district; the effectiveness of case management efforts by the court; the availability of alternative solutions and resources for handling the district's workload; the impact that approval of requested additional resources would have on the court's per judgeship caseload; and any other pertinent factors.

Generally, it is expected that, in addition to other factors, the court should have an annual weighted caseload of at least 1,500 per authorized judgeship to justify additional judgeship resources. This threshold standard also applies when considering a request for conversion of a temporary judgeship to a permanent judgeship. For the purposes of calculating the weighted caseload per judgeship for a conversion request, the denominator is reduced by one judgeship, or, for multiple conversions, by the number of temporary judgeships in the court.

II) APPROACH AND METHODOLOGY

The Northern District of Illinois was selected by the Bankruptcy Committee at its June 2017 meeting for a judicial resource survey based upon the existing data regarding the weighted caseload in the district, the previous recommendations of the Judicial Conference, and the current economic situation. This survey and resulting report is intended to inform future biennial surveys and to ensure the Committee has current information regarding the local factors impacting the bankruptcy court in the Northern District of Illinois for any other business before the Committee.

A survey team comprised of Judge Brendan Shannon (Bankr. D. Del.) and a senior economist and senior attorney from the Judicial Services Office of the AO visited the district on March 20-22, 2018. The last on-site survey visit was on December 6-8, 2010.

The team interviewed bankruptcy judges in the district, a retired judge recalled to serve in the district, the clerk of the bankruptcy court, senior managers in the clerk's office, the deputy in charge of the divisional office in Rockford, law clerks, courtroom deputies, and judicial assistants. The team also interviewed the United States trustee in Chicago, chapter 13 standing trustees, chapter 7 trustees, and members of the bar

who maintain personal and business bankruptcy practices in the bankruptcy court. During the interviews, the team discussed the court's caseload, factors contributing to high filings, scheduling procedures, time-consuming cases, the court's case management and rule-related initiatives, and how the court is operating with existing judicial resources.

In addition to interviewing individuals familiar with the court's operations, members of the team reviewed empirical data maintained by the AO and data provided by the court to assess the court's workload, filing trends, and other related matters. Prior to and during the survey visit, team members reviewed the following court-provided materials: the court's case assignment system; hearing calendars; calendaring practices; lists of most time-consuming cases; reports of matters under advisement over 60 days; and monthly reports of trials and other activities (Form B-102). Members of the team also reviewed the court's local rules, general orders, and other similar publicly available resources.

III) OVERVIEW OF THE DISTRICT

a. Current Judicial Resources

The Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, § 104(a), 98 Stat. 333, 338, authorized eight bankruptcy judgeships for the Northern District of Illinois. Subsequent legislation in 1986 added two bankruptcy judgeships. Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99-554, § 101, 100 Stat. 3088, 3089. There are no current vacancies and no announced impending vacancies among the 10 authorized judgeships. The Eastern Division is located in Chicago and there are official duty stations for nine of the judges in this office (Chief Judge Pamela S. Hollis, Judge Janet S. Baer, Judge Timothy A. Barnes, Judge Donald R. Cassling, Judge Jacqueline Patricia Cox, Judge Carol A. Doyle, Judge A. Benjamin Goldgar, Judge LaShonda A. Hunt, and Judge Deborah Lee Thorne). The Western Division is located in Rockford and is the official duty station for the tenth judge (Judge Thomas M. Lynch). The court has one retired judge serving on recall and carrying a full caseload in Chicago (Judge Jack B. Schmetterer, retired December 31, 2011). The court also has the services of an additional recall judge (Judge William V. Altenberger, retired June 19, 2000) that are shared with three other bankruptcy courts in the Seventh Circuit (Bankr. S.D. Ill., Bankr. C.D. Ill., and Bankr. W.D. Wis.).

There are three additional places of holding court in the district: Joliet (Will County), Round Lake Beach (Lake County), and Geneva (Kane County). The district is also authorized to hold court at a location in DuPage County, but does not currently do so. Chief Judge Hollis holds court at Joliet; Judge Goldgar holds court at Round Lake Beach; and Judge Baer holds court at Geneva. The judges reported that the dockets usually require a full day of hearings at the outlying locations and include hundreds of matters. They stated that teleconferencing is impractical for these dockets due to the large number of matters scheduled and because the facilities are in state court buildings.

Until recently, the district had a demonstrated need for an eleventh bankruptcy judgeship; the Judicial Conference recommended an additional permanent judgeship in 2011 and 2013.

b. Geography

The Eastern Division, which is dominated by the Chicago metropolitan area, includes Cook, DuPage, Grundy, Kane, Kendall, Lake, LaSalle, and Will counties. The Western Division comprises the counties of Boone, Carroll, DeKalb, Jo Daviess, Lee, McHenry, Ogle, Stephenson, Whiteside, and Winnebago. A map of Illinois is included as Appendix A.

c. Demographic and Economic Information

i. Population

Since 2010, the state's population has been slowly declining, overall less than one percent. The population in the counties included in the Northern District of Illinois has risen 0.5%. The population of the Chicago area has also grown, especially in the suburban counties between Chicago and Rockford. The lower cost of housing and availability of jobs in the outer suburbs were identified as factors spurring growth in that area. According to the U.S. Census Bureau, as of July 1, 2017, Chicago is the third most populous city in the United States.

The population of Cook County—which includes Chicago—has been stable in recent years, rising 0.3% since 2010. Cook County's population of 5.2 million is the second highest in the country, behind only Los Angeles County in California. The intellectual and cultural life in Chicago and an influx of immigrants have been credited with stabilizing the city's population. The interviews indicated that many workers have stayed in the Chicago area because of dismal job prospects elsewhere and difficulties in selling their homes. What is concerning is that while the population in the Chicago area remains stable, the state overall is losing population. In the last year, the population contraction was estimated at 0.3%, which is a net out-migration of 87,837. This is the fourth consecutive year that population has decreased in the state.

	2017 Estimate (as of July 1)	2010	2000	1990
Illinois	12,802,023	12,830,632	12,419,293	11,430,602
Illinois Northern	9,334,009	9,283,766	8,940,170	8,028,703
Boone County	53,513	54,165	41,786	30,806
Carroll County	14,518	15,387	16,674	16,805
Cook County	5,211,263	5,194,675	5,376,741	5,105,067
DeKalb County	104,733	105,160	88,969	77,932
DuPage County	930,128	916,924	904,161	781,666
Grundey County	50,586	50,063	37,535	32,337
Jo Daviess County	21,594	22,678	22,289	21,821
Kane County	534,667	515,269	404,119	317,471
Kendall County	126,218	114,736	54,544	39,413
Lake County	703,520	703,462	644,356	516,418
LaSalle County	110,067	113,924	111,509	106,913
Lee County	34,406	36,031	36,062	34,392
McHenry County	309,122	308,760	260,077	183,241
Ogle County	51,063	53,497	51,032	45,957
Stephenson County	45,054	47,711	48,979	48,052
Whiteside County	56,118	58,498	60,653	60,186
Will County	692,661	677,560	502,266	357,313
Winnebago County	284,778	295,266	278,418	252,913

ii. Median household income

As of 2016, median household income (in 2016 dollars) for the country, the state, and the counties comprising the Northern District of Illinois were as follows:

Northern District of Illinois 2016 Median Household Income by County

Name	Median Household Income
United States	\$57,617
Illinois	\$60,977
Kendall County	\$91,952
DuPage County	\$84,999
Lake County	\$83,344
Will County	\$81,640
McHenry County	\$81,570
Kane County	\$73,684
Grundy County	\$71,969
Boone County	\$62,081
Cook County	\$60,025
DeKalb County	\$59,586
Ogle County	\$58,812
La Salle County	\$56,543
Lee County	\$55,563
Jo Daviess County	\$54,169
Whiteside County	\$51,567
Carroll County	\$50,330
Winnebago County	\$50,296
Stephenson County	\$45,863

The median income for roughly half of the counties in the district is near or above the state median of \$60,977. The state is ranked 17th in the nation for median household income. Despite the comparatively high level of median income, the high cost of living in and around Chicago makes for tight household budgets, particularly in Cook, Lake, DuPage, and Kendall counties. In addition, according to Moody's Analytics February 2018 State of Illinois Economic Forecast, while the balance of the country has recouped the loss in housing value experienced in the recent recession, Illinois has only recovered about half of the amount lost.

iii. Poverty rates

Poverty rates for 2016, for the country, the state, and the counties comprising the Northern District of Illinois were as follows:

Northern District of Illinois 2016 Poverty Rates by County

Name	Poverty Rate
United States	14.0
Illinois	13.0
DeKalb County	15.8
Winnebago County	15.6
Stephenson County	15.4
Cook County	15.0
La Salle County	13.3
Lee County	13.3
Carroll County	12.6
Whiteside County	11.9
Kane County	10.5
Ogle County	10.2
Jo Daviess County	9.9
Boone County	9.6
Lake County	8.7
Grundy County	7.9
McHenry County	7.3
Will County	7.2
DuPage County	7.0
Kendall County	4.6

These figures generally align with the median household income figures presented in subsection (ii) above (i.e., the highest income counties generally have the lowest poverty rates). However, while the state is comparable to the national poverty rate, the spread on either side of the state average is rather broad. The most impoverished county has a 15.8% poverty rate, and the least impoverished is at 4.6%.

iv. Economic information and Employment/Unemployment rate statistics

The economy of the state of Illinois has seen a drastic downturn. The recent decline in the state's economy is worse than the nation experienced during the worst years of the Great Depression of the 1930's, relatively speaking. The measure of the state's total economic activity, the gross state product, has increased by barely more than four percent in the last decade. In comparison, the U.S. gross domestic product increased nearly 10% over the decade of the Great Depression. In response to the lack of growth, in 2011,

state lawmakers enacted a 67% increase in state taxes on personal income. This tax increase has since sunset, and local property and sales taxes are now seen as a mechanism to raise funds for the state.

According to a study conducted by the Pew Charitable Trust, the state's 0.8% growth in personal income from 2007–2016 was tied with Nevada for the lowest in the country. Once a manufacturing, commercial, and financial center for the country, the Chicago area has lost jobs in all three sectors. Commercial and residential construction and sales of existing homes have recovered somewhat but have yet to reach pre-recession levels. As a result, construction employment has stalled for the past two years, thus slowing the state's economic recovery. A decline in the formation of households in the area has been linked with softer housing starts than in comparison to other parts of the country. The rental market is a bright spot and is driving many of the construction projects in the area as multi-family dwellings are being built at a steady pace.

According to the U.S. Bureau of Labor Statistics, the employment declines in the Chicago area in the last year have been in information technology and leisure and hospitality. The Chicago area lost six percent of its information technology jobs during the year, compared to a 2.4% decline nationally. Leisure and hospitality jobs dropped 0.4% in the Chicago area in the year while they rose 2.1% nationally. With the passage of the first state budget in more than two years, government jobs saw an increase of 10,100 jobs, or 1.9%, the largest of the local employment increases in numbers of jobs, and well in excess of the 0.2% national increase. The other area that saw an increase in jobs is the financial activities sector. With the presence of commodities futures trading and other derivatives markets, the Chicago area added 7,000 jobs to the sector, a growth rate of 2.3%, above the national average of 1.9%.

While the area in and around Chicago consists of primarily on white-collar employment, employment in the Western Division (Rockford) focuses primarily on manufacturing. Major industries in the Chicago area include trade, transportation, and utilities; professional and business services; education and health services; and government. Major industries in the Rockford area include manufacturing; trade, transportation and utilities; and education and health services.¹

Some major employers² in Chicago—and, by extension, drivers of the area's economy—include the following:

- Advocate Health Care, a health system and healthcare provider in Illinois and the Midwest, employs over 19,000 people in Chicago.
- Northwestern Memorial Healthcare, an academic medical center hospital, employs over 16,000 people in Chicago.

¹ Industry data was found through the U.S. Department of Labor, Bureau of Labor Statistics website, available at https://www.bls.gov/regions/midwest/summary/blssummary_chicago.pdf and https://www.bls.gov/regions/midwest/summary/blssummary_rockford.pdf.

² This list excludes state and local government. Employer data was found through Crain's List of Chicago's Largest Employers, as of December 31, 2017, available at <http://www.employco.com/blog/2018/01/17/crains-list-chicagos-largest-employers/>.

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- University of Chicago, a private, non-profit research university, employs over 16,000 people in Chicago.
 - JPMorgan Chase & Co., an American multinational investment bank and financial services company headquartered in New York City, employs over 15,000 people in Chicago.
 - Amazon.com Inc., an American electronic commerce and cloud computing company based in Seattle, Washington and the largest Internet retailer in the world, employs over 13,000 people in Chicago.
 - United Continental Holdings Inc., a publicly traded airline holding company headquartered in Chicago, employs over 12,000 people in Chicago.
 - Walgreens Boots Alliance Inc., a global pharmacy-led, health and wellbeing enterprise, employs over 12,000 people in Chicago.
 - Northwestern University, a private research university based in Evanston, Illinois, with a campus in Chicago, employs over 10,000 people in Chicago.
 - Presence Health, a Catholic healthcare organization that operates hospitals and other healthcare facilities in the Chicago metropolitan area, employs over 10,000 people in Chicago.
 - Walmart Stores Inc., an American multinational retail corporation that operates a chain of hypermarkets, discount department stores, and grocery stores headquartered in Bentonville, Arkansas, employs over 10,000 people in Chicago.

Chicago boasts the nation's largest inland seaport and, coupled with high-speed rail and infrastructure improvements, transportation and warehousing employment has benefitted from the rise in e-commerce nationally. This is expected to be a continued growth industry for northern Illinois. There are also some manufacturing developments in neighboring Wisconsin that will look to the transportation industry in the Chicago area to ensure the product gets to market.

In the past, many homeowners had weathered personal financial crises, such as losing a job or suffering a major illness, by refinancing their mortgage or getting a home equity loan. That became difficult in the recession because of the decline in home prices. The loss of a second job or overtime pay coupled with the high cost of living in the Chicago area (including heating bills) made it difficult for many homeowners to make their mortgage and equity line payments. Households in the Northern District of Illinois have tightened their spending patterns after the recession, attempting to shed debt and put more money into savings. As a result, the spending on consumer goods has been tight in the area. While the decline in housing values was expected to have a bigger effect on the households in the district, the results have been different. Delinquencies on first mortgages are similar to the national average; however, delinquencies on home equity loans have reached three percent, exceeding the national average of 2.3%.

Judges and attorneys alike cited an interesting phenomenon—the City of Chicago's effort to collect on parking violations. An inordinate number of filings in both chapter 13 and chapter 7 were linked to these collection efforts. A robust mechanism of enforcing possessory liens on vehicles for failure to pay parking tickets, coupled with an inordinate escalation of principal costs once a car was impounded, has resulted in many debtors citing these factors as the reasons for filing.

Business closures have left retail locations vacant throughout the area. In and around the courthouse these vacant storefronts are very apparent. While the retail sector has experienced the same difficulty as elsewhere in the country, the increase in the relocation of corporate headquarters to the Chicago area has led to the belief that the downtown area will remain a strong driver of the economy in the state. The hope is that this trend will also resurrect the retail storefronts.

The chart below shows the seasonally adjusted unemployment rates since 2000. The decreases in unemployment over this time are roughly correlated to the district's filing levels. Interviews and anecdotal data indicate that the local economy is nearing or at the end of a business cycle. As the chart below and its relationship with filing levels suggest, such a change would be followed by a recession and an increase in unemployment, followed by an increase in filings.



IV) CASELOAD STATISTICS

The following chart illustrates the district's recent historical caseload distribution, demonstrated in raw and weighted filings. The court's overall caseload has fallen 27% since 2013 due to steady declines in both business and non-business filings, but remains the highest among the 90 bankruptcy courts. A seven percent increase in chapter 13 filings has been more than offset by a 48% decline in chapter 7 filings and chapter 11 filings that have decreased by more than half. As a result of the change in case mix, chapter 7 filings now account for just 54% of total filings, down from 69% in 2013. In turn, the percentage of chapter 13 filings have increased from 31% to 45%. The number of chapter 13 and 7 filings are the highest and second highest in the nation, respectively. Adversary proceedings have declined from more than 2,000 to slightly over 600, but also remain among the highest in the nation. Following the nationwide downward trend, the court's weighted filings have declined 31% since 2013.

United States Bankruptcy Court for the Northern District of Illinois
Caseload and Weighted Caseload 2013 - 2018
Years Ended March 31

	3/31/2013	3/31/2014	3/31/2015	3/31/2016	3/31/2017	3/31/2018
Total	56,788	53,679	50,884	47,535	43,987	41,488
Business	1,556	1,321	1,158	855	718	754
Non-Business	55,232	52,358	49,726	46,659	43,269	40,734
Chapter 7	38,908	34,749	30,565	27,092	23,852	22,573
Chapter 11	328	257	378	146	132	135
Chapter 13	17,552	18,672	19,940	20,290	20,001	18,778
Adversary Proceedings	2,045	1,539	955	1,015	779	610
Weighted Caseload	17,726	16,747	15,698	14,681	13,094	12,246

The following chart presents per judgeship comparative statistics. On a per judgeship basis, the court's raw caseload is above the national average in nearly all categories. Despite a decline in weighted filings since 2013, weighted filings stand at 1,225 per authorized judgeship, well above the national average and 8th highest nationwide. Over the last two decades the court has exceeded the 1,500 mark 55% of the time and only once have the filing levels dropped to a level below the 1,000 per judgeship mark. The drop was in 2006 just after the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 that saw an adjustment period for all courts with the implementation of significant amendments to the Bankruptcy Code.

United States Bankruptcy Court for the Northern District of Illinois
Per Judgeship Comparative Statistics
Year Ended March 31, 2018

Category	Filings	National Average	
		Filings per Authorized Judgeship	Filings per Authorized Judgeship
Total	41,488	4,149	2,222
Business	754	75	66
Non-Business	40,734	4,073	2,156
Chapter 7	22,573	2,257	1,370
Chapter 11	135	14	22
Chapter 13	18,778	1,878	828
Adversary Proceedings	610	61	75
Weighted Caseload	12,246	1,225	898

The following chart shows the district's rankings among the 90 bankruptcy districts in the country, by total and chapter. These figures rank the district 7th overall in pro se filings per judgeship, 10th in pro se chapter 7 filings per judgeship, and 7th in pro se chapter 13 filings per judgeship. The overall ranking of pro se filings is an increase over the rank of 8th in the nation at the end of calendar year 2017.

United States Bankruptcy Court for the Northern District of Illinois
Ranking Among 90 Bankruptcy Courts Nationally
Year Ended March 31, 2018

Category	Total Filings	Chapter 7	Chapter 11	Chapter 13	Adversary Proceedings
Raw Filings	1	2	14	1	8
Filings per Judgeship	2	4	40	6	40
Filings per Capita	8	6	39	10	42
Pro Se Filings per Judgeship	7	10	N/A	7	N/A

V) ON-SITE IMPRESSIONS OF THE DISTRICT AND OTHER FACTORS

a. Local Rules, Procedures, and Case Management Techniques

The interviews and the reviews of local rules, procedural directives, and other document reviews revealed that the judges are working diligently and efficiently to keep their cases moving. The attorneys and court staff indicated that the parties are receiving hearings in a timely manner. With the help of an efficient clerk's office and a cooperative bar, the court has coped with its current workload despite not receiving a

new judgeship for 32 years.

Each of the judges has calendars of non-evidentiary matters (usually including several hundred matters) two or three days a week. Setting aside blocks of time for particular types of matters, such as chapter 13 confirmations, new motions by chapter, trustee motions, reaffirmations, and status conferences, has made it possible for the attorneys to schedule routine matters based on available dates posted on the court's website. The judges reserve afternoons and the rest of the week for longer hearings and trials scheduled by the court, and for chambers work. Because of the crowded dockets, multi-day trials and hearings are often scheduled and heard in segments over several days.

The bankruptcy court follows the district court's practice of "presentment," in which most matters are scheduled for hearing and called in court, even if there is no objection. This creates lengthy dockets, but the judges said that routine, unopposed matters are called and disposed of quickly. If an attorney or pro se party appears in court and objects, the matter is continued. Although the judges and many of the attorneys supported the current system, several business attorneys expressed concern about competing for the judges' time and attention.

At times, some of the judges grant unopposed motions before scheduled hearing and remove the matters from the calendar. Several attorneys suggested going further. The attorneys said that routine matters such as lift-stay motions in consumer chapter 7 cases could be resolved by negative notice, as is done in many other bankruptcy courts, without scheduling them for hearings. This also could reduce the time chambers staff spends preparing for hearings. The law clerks and courtroom deputies said that they spend hours reviewing matters set for hearing, including service, the terms of chapter 13 plans, lien stripping in chapter 13 plans, and time entries submitted with fee applications filed by professionals. Chambers staff also review proposed orders. Although the United States trustee said that his office does not routinely review the time entries, the chapter 13 trustees said the law clerks do not need to analyze the plans because they do so and object when warranted.

The court schedules all chapter 13 confirmations for hearing, although the debtor's attorney is not required to appear for uncontested confirmations. In some bankruptcy courts, uncontested plans are confirmed without a hearing or are called as a group. It appears that hearings on contested confirmations are conducted in a timely manner with few multiple continuations. The judges, trustees, and attorneys indicated that the court's model chapter 13 plan has made it easier to identify issues with the plans.

The interviews indicated that the judges have managed to stay current with their heavy workload by working late and working at home on evenings and weekends, but the long hours have contributed to stress for the judges and staff. Although hearings rarely continue into the evening, law clerks, courtroom deputies, and judicial assistants also take work at home on evenings and weekends, reviewing papers and preparing for hearings.

The information technology staff in the clerk's office has made it easier for the judges and staff to

work at home with several innovations, including the Chicago Chambers Interface (CCI), which groups all filings related at a matter scheduled for hearing. Most of the judges utilize CCI and the electronic documents in the court's Case Management/Electronic Case Filing system, but at least one judge uses paper documents.

The bankruptcy judges said that their heavy workload has forced them to limit their written opinions and to rule from the bench more often, stating the findings and conclusions on the record. The attorneys said that they appreciated that judges resolve disputes promptly by using oral opinions, but several attorneys expressed a desire for more written opinions, as did some of the judges. Several judges said that they wished they had more time to explore issues not raised by the attorneys. The consensus appeared to be that the current number of written opinions (including published opinions) is generally sufficient to provide guidance for the bar and to facilitate settlements based on the district's caselaw, but is not optimal.

The judges do not utilize video conference links for hearings at the outlying locations because the lengthy dockets there make that impractical. The court has neither permanent, dedicated space to set up and store the video conference equipment nor the staff to operate the equipment from the remote sites. In addition, if a matter in the outlying areas needs to be scheduled for a multiday hearing then the matter is usually transferred for hearing to Chicago.

b. Judicial Workload

Interviewees described the current bankruptcy judge workload in the district as reasonable. A few members of the bench stated that they were comfortably busy. Many interviewees suggested that the judges regularly work outside of normal business hours, but only when necessary and appropriate. Having experienced the high filings around the time of the recession, some of the judges have a good gauge for workload. Two significant caveats to the current workload were raised during the interviews: that the workload is manageable in large part due to the contributions of Judges Schmetterer and Altenberger on recall, and that low filing levels allow the workload to remain under control. Many interviewees indicated that if Judge Schmetterer stops providing recall assistance or filing levels increase, and especially if both of those events happen at or around the same time, the bankruptcy judge workload would likely not remain manageable.

The judges, clerk's office staff, and trustees all reported that the increase in filings due to the City of Chicago impounding cars for parking tickets increases the judges' time in court. The City of Chicago's attorney has been standing aggressively against debtors who attempt to get their vehicles back. The City of Chicago claims a possessory lien in the car that would limit the recovery if the car were returned to the debtor. The case law on this issue is still evolving in the district and any ultimate appellate precedent could determine future workload for the judges in this area of the law.

The Northern District of Illinois has seen some change in the bench over the last few years. Anytime there are new judges in a district, there is an adjustment as the bar "takes the temperature" of the new judges. As a result, a number of issues that allow for judicial discretion are put before the judges to gain that

perspective. At times, this means more trials and litigation than there had been in the past.

The judges and attorneys stated that the number of debtors filing without an attorney has continued to rise, and now is about 8% of the court's filings. The judges stated that although cases filed by debtors not represented by counsel require extra time and attention, a help desk staffed by volunteers from the bankruptcy bar has helped by answering pro se debtors' questions about preparing schedules and simple motions. The clerk's office participates in the help desk by answering simple, nonlegal questions. Some of those interviewed did indicate that the need for the help desk exceeds its current resources and that the overflow must be handled in the course of hearings in open court. In addition, a number of bankruptcy attorneys have agreed to take adversary proceedings that have merit for parties who cannot afford an attorney.

The interviews indicated that many knowledgeable, experienced, and efficient attorneys practice before the court, in both consumer and business cases, and that the quality, relative stability, and cooperation of the bar has helped the court continue to function well.

The chapter 7 and 13 trustees appeared to be efficient, hardworking, and experienced. No problems were noted in the administration of chapter 7 cases and the trustees stated that they were able to obtain court hearings as needed. The Northern District of Illinois has four experienced chapter 13 trustees. Although the standing trustees do not use uniform procedures, the attorneys indicated that this has not caused major problems.

The interviewees said that more chapter 11 cases, including additional filings by retail businesses, would be filed if debtor-in-possession and exit financing were available. In addition, a number of large cases, which could have been filed in the Northern District of Illinois, have been filed in the District of Delaware and the Southern District of New York. Finally, since the last survey, a few larger cases have been filed in this district, but the sense was that if either the availability of financing or the choice of venue changes, a number of larger cases could be filed in the district.

The judges in the Northern District of Illinois are intent on giving appropriate personal attention to each case that comes before them. The court manages its calendar aggressively and creatively. However, the judges take work home routinely and rely on experienced staff to work overtime to stay abreast of the regular caseload. Despite a strong work ethic, the judges and their staff are dissatisfied because they lack the time to extensively contemplate decisions. Both court and non-court personnel fear judicial burnout. All parties also praised the involvement of the recall judge who often seeks out the work-intensive cases and enjoys handling more involved trials. All parties interviewed stated that without his assistance, the court would be in a difficult position to handle the work before it.

The court's local rules, administrative orders, and guidelines cover significant ground and provide clear guidance to attorneys, while helping the court operate as efficiently as possible with a high level of service to the public. The practice of calling all hearings, whether contested or not, does result in long court

calendars. However, it appears that the efficiency of the bench, bar, and clerk's office facilitates these long days. The local rules were updated in April 2018 and, with the adoption of the national chapter 13 plan form, are straightforward and enhance the court's efficiencies.

Interviewees reported that hearing dates are usually scheduled within 60-90 days of contacting the courtroom deputy for shorter evidentiary matters. Only in more complicated or longer trials does the court schedule matters farther out. There was a general concern, however, that the availability of hearing dates and timely scheduling could become more difficult upon an increase in filings or if the court's more complex cases increased in number.

Each of the courtrooms in the district has been equipped with state-of-the-art technology and hardware that allows for telephonic conferencing and video-conferencing. This technology also allows for the assistance of virtual translation. It was reported that the minimal cost for the translation is funded out of the bar admissions funds in the district. This additional technology saves judicial time and costs.

c. Potential Need for Additional Bankruptcy Judgeship(s)

At this time, the following factors favor maintaining the judicial resources in the Northern District of Illinois:

- Weighted caseload: The weighted filings per authorized judgeship in the district was 1,225 for the year ended March 31, 2018. Over the last six years, the weighted caseload has seen a steady decline but in three of those years the court has exceeded the 1,500 weighted caseload threshold.
- Caseload trends/district economic and demographic factors: Total filings in the district have shown progressive decreases in the last five years. However, recently the filings are leveling off. The economic situation in the district may have benefitted from a turnaround after the recession of a decade ago. However, the economic situation is heavily influenced by the fiscal and political difficulties for the state of Illinois as well as the City of Chicago. A number of publications have recently suggested the possibility of a potential municipal restructuring akin to Detroit. Further case law developments in the Seventh Circuit, as some of the decisions of the bankruptcy court in regard to chapter 13 and the City of Chicago's claims regarding the parking tickets make their way through the appellate process, will also impact the caseload in the district.
- Nature of the court's caseload: Historically, the district has experienced a consistent filing level of chapter 11 cases. The consistent nature of these cases, the impact of a high pro se filing level in the consumer sector, and the complexity of some of the consumer issues before the court indicate that an experienced bench can address the current caseload.
- Case management factors: The court's ability to schedule and hear cases efficiently could be seriously hindered if filings continue to increase (as expected), and there is a reduction in temporary

law clerks or the services of Judges Schmetterer and Altenberger (in recall status) are no longer available. Although differences exist in some of the judges' case management procedures, all the judges are working hard to coordinate their procedures and find ways to move cases along. The judges, attorneys, and trustees interviewed agreed the court needs "as many judges as they can get."

- Inadequacy of alternative solutions: Visiting judges have been used for settlement purposes and have not been able to assume a large or continuous case load because they are only in Chicago for one-week time periods. The high-volume and long-term nature of the district's consumer case load will require the continuous presence of 10 bankruptcy judges, rather than relying solely on the ad hoc assistance from visiting judges. It is also unreasonable to rely on the assistance of the recall judge on a long-term basis.

While current filing levels and workload may not support a request for an additional judgeship, many interviewees indicated that Judge Schmetterer discontinuing his recall service or any change in the filing levels would impact the consideration of an additional resource.

VI) CONCLUSION

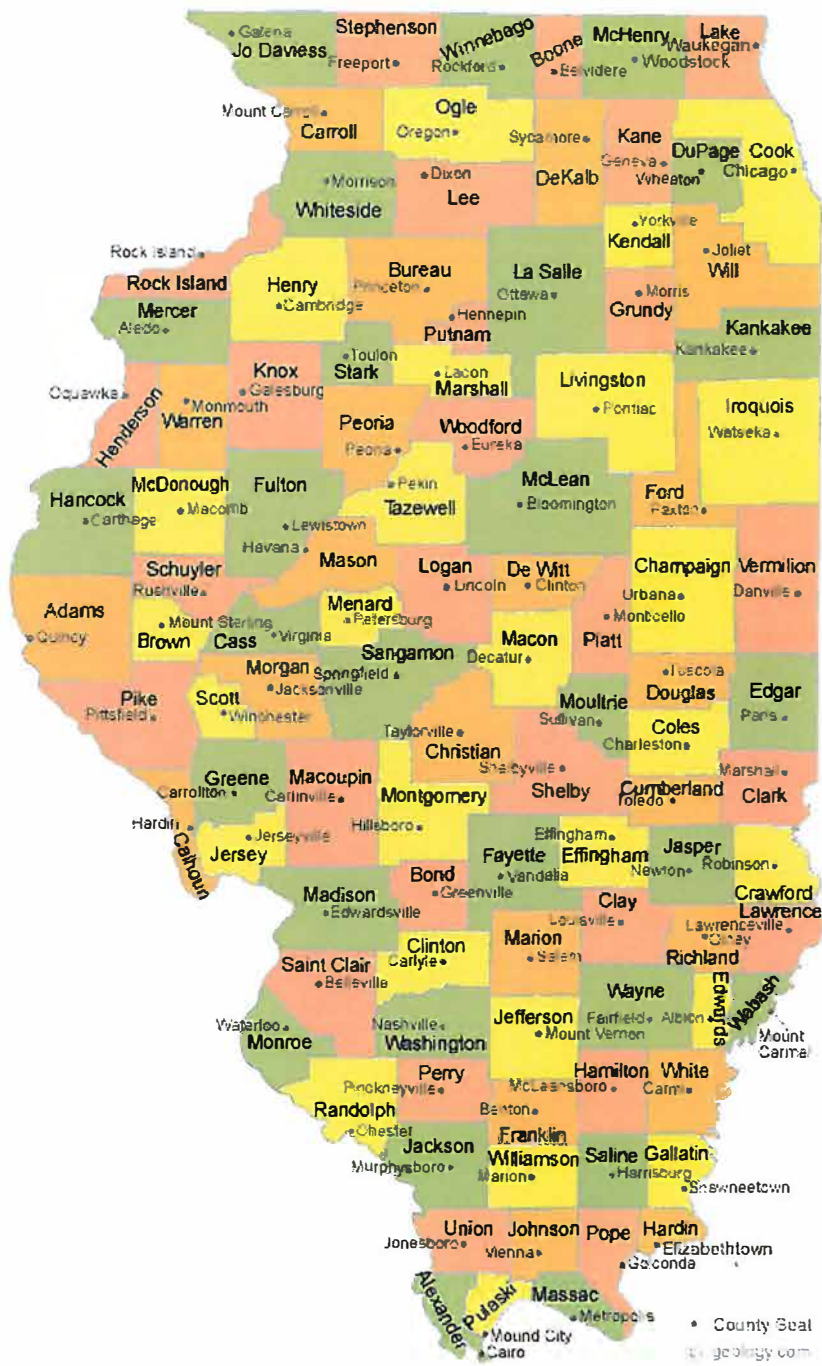
In assessing a court's need for additional bankruptcy judgeships, the Judicial Conference reviews a number of work load factors, the most important of which is the weighted caseload of the bankruptcy court. Generally, it is expected that, in addition to other judicial duties, a bankruptcy court must have 1,500 annual case-related filings per judgeship to justify adding additional judicial resources. Consideration is also given to the nature and mix of the court's caseload; historical caseload data and filing trends; geographic, economic, and demographic factors in the district; the effectiveness of case management efforts by the court; the availability of alternative solutions and resources for handling the court's work load; the impact that approval of requested additional resources would have on the court's per judgeship caseload; and any other pertinent factors.

Given these factors, and absent any drastic increase in filings for the court, the Committee should recommend the judgeship resources for the Northern District of Illinois be maintained. If there is a rise in the level of weighted filings per judgeship it would likely merit a recommendation for additional judicial resources during the 2019 or 2021 survey process.

VII) APPENDICES

- A. Map of Illinois**
- B. Correspondence - Letter Initiating Survey**
- C. Prior Survey Reports**
 - i. 2012 Survey Report (Update)**
 - ii. 2010 Survey Report (On-site)**

Map of Illinois



Appendix B

Correspondence – Letter Initiating Survey



JAMES C. DUFF
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

LEE ANN BENNETT
Deputy Director

WASHINGTON, D.C. 20544

LAURA C. MINOR
Associate Director
Department of Program Services

MICHELE E. REED
Chief
Judicial Services Office

September 22, 2017

Honorable Diane P. Wood
Chief Judge
United States Court of Appeals
Everett McKinley Dirksen
United States Courthouse
219 South Dearborn Street, Room 2688
Chicago, IL 60604

Honorable Pamela Hollis
Chief Judge
United States Bankruptcy Court
Everett McKinley Dirksen
United States Courthouse
219 South Dearborn Street, Room 648
Chicago, IL 60604

Dear Chief Judge Wood and Chief Judge Hollis:

As you may be aware, the Committee on the Administration of the Bankruptcy System (Committee) reviews and makes recommendations to the Judicial Conference regarding the number and locations of bankruptcy judgeships. At its June 2017 meeting, the Committee selected the U.S. Bankruptcy Court for the Northern District of Illinois to be surveyed to assist with its review of bankruptcy judicial resources. A survey team comprised of staff from the Judicial Services Office (JSO) and at least one bankruptcy judge from outside your circuit will conduct the survey. JSO Senior Attorney Vanessa Lantin will serve as the team lead and will coordinate with Mr. Allsteadt to schedule an on-site visit in early 2018.

We want to make the survey as thorough as possible. Your assistance, as well as that of the bankruptcy judges, chambers staff, and court staff, will be essential to realizing that goal. The on-site visit will include interviewing the bankruptcy judges individually for approximately 30 minutes each, with 45 minutes for the chief bankruptcy judge interview. The clerk of the bankruptcy court will be interviewed individually but

the interviews with the chambers and court staff may be done in individual or group sessions, as preferred by the bankruptcy judges and clerk.

In addition to court personnel, we would like the survey to include interviews with the U.S. Trustee for the district, chapter 13 trustees who serve the district, and several representative chapter 7 panel trustees. The team also benefits from speaking with attorneys who practice regularly in the court, including those representing creditors or debtors in both individual and business cases, and an academic or other specialist who is knowledgeable about the economy of the district.

Following the on-site visit, the survey team will prepare a report that discusses the district's bankruptcy judicial resources. The report will be forwarded to both of you, with copies to the chief district judge, the clerk of the bankruptcy court, and the circuit executive, for review and comment. The report, together with any comments, will be presented to the Committee at its June 2018 meeting.

Thank you again for your support of this process. If you have any questions or matters you wish to discuss, feel free to call team lead Vanessa Lantin or me at (202) 502-1800.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele E. Reed", followed by a long horizontal line extending to the right.

Michele E. Reed
Chief

cc: Mr. Collins Fitzpatrick
Mr. Jeffrey Patrick Allsteadt
Ms. Vanessa A. Lantin
Dr. William T. Rule

Appendix C
Prior Survey Reports

COMMITTEE ON THE ADMINISTRATION OF THE BANKRUPTCY SYSTEM

Bankruptcy Judgeship Survey
December 2010

NORTHERN DISTRICT OF ILLINOIS

REQUEST:

The Judicial Council of the Seventh Circuit has requested that the Northern District of Illinois be authorized one additional bankruptcy judgeship. The request is Attachment 1.

CURRENT RESOURCES:

10 authorized judgeships

OFFICIAL DUTY STATIONS AND PLACES OF HOLDING COURT:

<u>Duty Stations</u>	<u>Number of Judges</u>
Chicago	9
Rockford	1

Additional Places of Holding Court
Geneva, Joliet, Waukegan, and Wheaton

RECOMMENDATION

One additional judgeship

METHODOLOGY:

A survey team composed of Bankruptcy Judge Niles Jackson, a member of the Committee, a staff attorney and an economist from the Bankruptcy Judges Division, and a career law clerk who worked in the Bankruptcy Judges Division on a one-year assignment visited the court on December 6 - 8, 2010.

The survey team interviewed the bankruptcy judges, the clerk of the bankruptcy court, senior managers in the clerk's office, the deputy in charge of the divisional office in Rockford, law clerks, courtroom deputies, and judicial assistants. The team also interviewed the United States trustee in Chicago, four chapter 13 standing trustees, three chapter 7 trustees, and 11 other members of the bar who practice regularly in the bankruptcy court, including attorneys who focus on business cases and ones who focus on consumer cases. During these interviews, the team discussed the court's caseload, factors contributing to higher filings, scheduling procedures,

time-consuming cases, the court's initiatives, and how the court was operating with existing resources. Because of the limited amount of time for the survey, all the interviews were conducted in Chicago or by teleconference.

In addition to interviewing individuals familiar with the court's operations, the team reviewed empirical data from the Administrative Office and from the court reflecting the court's workload, filing trends, and the local economy. (Because the most recent information available on filings was for the 12-month period ended September 30, 2010, references in this report to filings or to annual filings are to filings in 12-month periods ended September 30 of each year, unless stated otherwise.)

The team discussed special workload factors with the judges and the other persons interviewed. In addition, the team reviewed the court's local rules, general orders, scheduling procedures, and materials prepared by the court on the local economy, time-consuming cases, and other matters. The team also reviewed data on the state's economy, population trends, and foreclosures from the state's website, <http://www2.illinois.gov/Pages/default.aspx>, and other Internet sources.

I. CASELOAD OF THE COURT

Over the last 10 years, the court's filings have grown 52 percent while national filings have grown 26 percent. The court's filings grew from 43,068 in the 12 months ended September 30, 2000, to a record-setting 65,443 in the 12 months ended September 30, 2010. The court ranked third among the 90 bankruptcy courts in total filings in 2010. The consensus of the judges and attorneys interviewed was that both consumer filings and business filings are likely to continue rising, at least for the next few years.

Since the Northern District's last two new judgeships were authorized by statute in 1986, the court's filings have almost tripled. In addition, the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act, Pub. L. 109-8, (BAPCPA) in 2005 has prompted additional litigation and additional work by the court staff reviewing reaffirmation agreements, in forma pauperis applications, missing documents such as pay statements, and other matters.

Because consumer cases constitute much of the court's workload, changes in chapter 7 and chapter 13 filings have had a major impact. The court's chapter 7 filings and total filings peaked in 2005 with the enactment of BAPCPA and then dropped dramatically, but they are now back above the 2005 level. The surge of filings just before the effective date of BAPCPA and the subsequent decline, however, was more moderate in the Northern District than in most other bankruptcy courts. Although chapter 13 filings have risen each year for the last four years, the current total of 14,793 is lower than the record-setting 16,520 chapter 13 filings in 2003.

The interviews indicated that the current recession has generated more bankruptcy filings by professionals, small business owners, and other middle class debtors with higher incomes and higher debts. Although some of these debtors are excluded from chapter 13 by the debt limits for relief in that chapter, the standing trustees said that many middle class debtors' cases present more complex, hotly litigated issues than routine consumer cases.

Like national chapter 11 filings, the Northern District's chapter 11 filings have been up and down over the years. The court's chapter 11 filings peaked at 517 in 1992. The 317 chapter 11 filings in the 12-months ended September 30, 2010, is almost double the annual filings in 2006, 2007, and 2008. The 317 chapter 11 filings were the 13th highest number for any of the 90 bankruptcy courts in 2010, but on a per judgeship basis of 32 cases was 20 percent below the national average of 40. The interviewees indicated that the court's chapter 11 caseload includes many real estate cases (including ones filed by developers and home-builders in the outer suburbs), small to medium-sized businesses, health care facilities, and individual debtors who are excluded from chapter 13 by the debt limits for that chapter. The judges, court staff, and attorneys indicated that the real estate cases and others are hotly contested and require a large amount of courtroom time, especially in the initial stages of the cases. A common source of litigation is when a company subject to a state receivership files under chapter 11 and the receiver asks to avoid turning over property to the debtor in possession.

The court's business filings also have been up and down over the years. Record-setting numbers of business cases were filed in the 12 months ended September 30, 2009, and September 30, 2010. The 1,821 and 1,966 business filings in 2009 and 2010 respectively broke the record of 1,601, which was set 18 years ago in 1992. The court's 197 business filings per judgeship in 2010 was 19 percent above the national average of 166.

Northern District of Illinois
Bankruptcy Filings by Chapter*

<u>Year</u>	<u>Total Filings</u>	<u>Business Filings</u>	<u>Non-business Filings</u>	<u>Chapter 7</u>	<u>Chapter 11</u>	<u>Chapter 13</u>
1990	25,773	1,125	24,648	18,305	345	7,119
1991	29,871	1,384	28,487	21,493	501	7,871
1992	31,979	1,601	30,378	23,267	517	8,190
1993	29,989	1,432	28,557	21,752	440	7,785
1994	28,764	1,104	27,660	21,200	351	7,207
1995	29,474	872	28,602	22,442	289	6,740
1996	36,625	898	35,727	27,682	321	8,622
1997	43,237	832	42,405	32,020	274	10,942
1998	45,170	730	44,440	32,886	225	12,056
1999	46,038	551	45,487	31,591	186	14,255
2000	43,068	531	42,537	28,907	157	14,003

2001	48,435	725	47,710	33,622	243	14,569
2002	55,985	831	55,154	39,360	385	16,237
2003	60,370	723	59,647	43,532	315	16,520
2004	55,100	599	54,501	40,295	196	14,608
2005	61,548	677	60,871	48,334	205	13,006
2006	39,011	633	38,378	30,830	152	8,023
2007	26,807	650	26,157	16,997	160	9,650
2008	38,133	1,040	37,093	25,818	179	12,133
2009	52,663	1,821	50,842	39,563	351	12,746
2010	65,443	1,966	63,477	50,327	317	14,793

* Filings are for the 12 months ended September 30 of each year.

CASE FILINGS/FILINGS PER JUDGESHIP: The Northern District of Illinois had 6,544 total case filings per authorized judgeship in the 12 months ended September 30, 2010 -- 44 percent higher than the national average of 4,535. Filings per judgeship by chapter are set out in the chart below.

Northern District of Illinois
2010 Filings Per Authorized Judgeship*

	<u>District</u>	<u>National Average</u>	<u>% of National Average</u>
TOTAL FILINGS	6,544	4,548	144%
Chapter 7	5,033	3,266	154%
Chapter 11	32	40	78%
Chapter 13	1,479	1,239	119%
Business Cases	197	166	119%
Adv. Proceedings	253	199	127%

* Filings are for the 12 months ended September 30, 2010.

WEIGHTED CASELOAD: Over the last 10 years, the Northern District of Illinois' weighted filings per judgeship have risen from 1,246 to 2,162. Although the weighted filings were 4 percent below the national average in 2000, they are now 22 percent above the national average. The weighted filings per judgeship, moreover, have been above the national average for the last seven years.

Northern District of Illinois
Weighted Filings Per Judgeship*

<u>Year</u>	<u>District</u>	<u>National Average</u>	<u>% of U.S. Average</u>
1996	1,178	1,309	90%
1997	1,291	1,436	90%
1998	1,380	1,400	99%
1999	1,393	1,311	106%
2000	1,246	1,303	96%
2001	1,411	1,516	93%
2002	1,821	1,692	108%
2003	2,614	1,859	141%
2004	2,098	1,818	115%
2005	1,841	1,607	115%
2006	1,231	1,081	114%
2007	1,021	996	102%
2008	1,279	1,171	109%
2009	1,732	1,587	109%
2010**	2,162	1,772	122%

* Filings are for the 12 months ended September 30 of each year.

** Based on the 2010 weights approved by the Judicial Conference

NATURE AND MIX OF THE COURT'S CASELOAD: As in most bankruptcy courts, most of the judicial workload in the District of Illinois comes from consumer cases.

The court's 50,327 chapter 7 filings in 2010 (97 percent of which were consumer cases) constituted 46 percent of the district's weighted filings. Another 25 percent of the weighted filings came from the court's 14,793 chapter 13 filings (more than 99 percent of them consumer cases). The court's 317 chapter 11 filings constituted only 12 percent of its weighted filings.

The district's 6.9 bankruptcy filings per 1,000 population in the 12 months ended September 30, 2010, was the 15th highest rate in the 90 bankruptcy courts, and its 5.3 chapter 7 filings per 1,000 population was the 10th highest. The national rates were 5.1 total filings and 3.7 chapter 7 filings per 1,000 population. The district's 1.6 chapter 13 filings per 1,000 population was slightly above the national rate of 1.4.

The court had 253 adversary proceedings filed per judgeship in 2010, 127 percent of the national average of 199 adversary filings per judgeship.

IMPACT OF AN ADDITIONAL JUDGESHIP: If the court's 2010 case filings were re-computed with an additional judgeship, the weighted filings would be 1,966 per judgeship.

II. OTHER FACTORS:

GEOGRAPHIC FACTORS: Nine of the 10 judges are stationed in Chicago. One judge is stationed in Rockford.

The judges also conduct hearings on a regular basis at four locations in the fast-growing suburban counties between Chicago and Rockford. Judge Manuel Barbosa holds court at Geneva; Judge John H. Squires holds court at Wheaton; Judge A. Benjamin Goldgar holds court at Park City; and Judge Bruce Black holds court at Joliet. The judges said that the dockets usually require a full day of hearings at the outlying locations and include hundreds of matters. They said that teleconferencing is impractical for these dockets due to the large number of matters scheduled and because the facilities used are in state court buildings.

ECONOMIC FACTORS: Once a manufacturing, commercial, and financial center for the country, the Chicago area has lost jobs in all three sectors. Commercial and residential construction and sales of existing homes have declined dramatically. Vacancies have increased in many shopping centers because developers are unable to replace the "big box" stores and other businesses that have closed. The interviews and government economic data indicated that most of the manufacturing and information technology jobs are unlikely to return, but that employment in financial services has stabilized in the Chicago area and employment is rising in the health and education sector.

According to the U.S. Bureau of Labor Statistics, the largest employment declines in the Chicago area in the last year have been in construction and professional and business services. The Chicago area lost 15 percent of its construction jobs during the year, compared to a 4.4 percent decline nationally. Locally, construction has been losing jobs since 2007. Professional and business services jobs dropped 2.5 percent in the Chicago area in the year while they rose 2.1 percent nationally. The Chicago area has lost at least 15,000 professional and business services jobs each month for the last 24 months. Education and health services was the only employment sector to add more than 1,000 jobs in the Chicago area over the year. The increase of 7,400 jobs in the sector was a gain of 1.2 percent but less than the 2.1 percent increase nationally.

The unemployment rate in the Chicago-Joliet-Naperville Metropolitan Area was 8.9 percent in November 2010, down from 10.3 percent in November 2009, according to the Illinois

Department of Employment Security. (The Chicago area's highest unemployment rate during the current recession peaked at 11.5 percent in January 2010, the highest rate in 27 years.) The unemployment rate in the Illinois portion of the suburban Lake County, Illinois - Kenosha County, Wisconsin, Metropolitan Area was 9.7 percent in November 2010, down from 10.4 percent in November 2009. In contrast, the unemployment rate in the Rockford Metropolitan Area was 13.7 percent in November 2010, down from 15.5 percent in November 2009. According to the state agency, November unemployment rates fell in every metropolitan area in the state for the third consecutive month, the first time that has happened since December 2006. By comparison, the national unemployment rate was 9.8 percent in November 2010 and 10.0 percent in November 2009.

Illinois was one of five states that accounted for 51 percent of the nation's 2.9 million foreclosure filings in 2010, according to RealtyTrac, an on-line foreclosure database. Illinois' 151,304 foreclosure filings was the fourth highest, but well below the 546,669 foreclosure filings in California and 485,286 in Florida. Foreclosure filings in Illinois in 2010 were 15.38 percent higher than in 2009 and 52.08 percent higher than in 2008, according to RealtyTrac, which reported that 1 in every 376 housing units in the state received a foreclosure filing in December 2010. Kendall County had the highest rate in the district, one foreclosure filing for every 161 housing units. In Cook County, it was one filing for 269 housing units.

The judges and attorneys indicated that in the past many homeowners had weathered personal financial crises – such as losing a job or a major illness – by refinancing their home mortgage or getting a home equity loan. That is no longer possible because of the drop in home prices. The loss of a second job or overtime pay coupled with the high cost of living in the Chicago area (including heating bills) has made it difficult for many homeowners to make their mortgage and equity line payments. The judges and attorneys all said that they expect the number of home foreclosures (and chapter 13 filings by homeowners) will continue to grow in the Chicago area in the coming months, due to continued unemployment, low real estate prices, the end of an unofficial national moratorium on foreclosures, backlogs at mortgage service companies, and delays in the state courts. According to the interviews, judicial foreclosure requires a minimum of eight months in Illinois and the Cook County sheriff stopped doing evictions for several months, creating a massive backlog.

Business closures have left retail locations vacant throughout the area. Several attorneys indicated that they expected foreclosures of commercial property and bankruptcy filings by small businesses to grow as a result of the sharp decline in retail sales.

As a result of these economic factors, the consensus of the judges and attorneys interviewed was that both consumer filings and business filings are likely to continue rising for the next few years.

DEMOGRAPHIC FACTORS: Despite high unemployment levels, the population of the Chicago area continues to grow, especially in the suburban counties between Chicago and Rockford. According to the Census Bureau, Kendall County was the nation's fastest growing county between 2000 and 2008, when its population increased 89.6 percent. Will County also was one of the fastest growing. Its population increased 35.6 percent over the eight years. Four counties in the Northern District – Cook, Will, Lake, and DuPage – are among the 100 most populous counties in the country. The lower cost of housing and availability of jobs in the outer suburbs was credited with spurring growth there.

The population of Cook County – which includes Chicago – has been stable in recent years. Cook County's population of 5.3 million is the second highest for any county in the country. The intellectual and cultural life in Chicago and an influx of immigrants have been credited with stabilizing the city's population. The interviews indicated that many workers have stayed in the Chicago area as a result of dismal job prospects elsewhere and difficulties in selling their homes.

CASE MANAGEMENT: Although the limited time available for the survey precluded an extensive review of the court's case management practices, the interviews and the reviews of local rules, procedural directives, and other document reviews revealed that the judges are working diligently and efficiently to keep their cases moving. The attorneys and court staff indicated that the parties are receiving hearings in a timely manner. With the help of an efficient clerk's office and a cooperative bar, the court has coped with its current workload despite not receiving a new judgeship for 24 years. It appeared unlikely that changes in the court's case management practices would alleviate the need for an additional judgeship.

Each of the judges has calendars of non-evidentiary matters (usually including several hundred matters) two or three days a week. Setting aside blocks of time for particular types of matters, such as chapter 13 confirmations, new motions by chapter, trustee motions, reaffirmations, and status conferences, has made it possible for the attorneys to schedule routine matters based on available dates posted on the court's website. The judges reserve afternoons and the rest of the week for longer hearings and trials, which are scheduled by the court, and chambers work. Because of the crowded dockets, multi-day trials and hearings often were scheduled and heard in segments over several days.

The bankruptcy court follows the district court's practice of "presentment" in which most matters are scheduled for hearing and are called in court, even if there is no objection. This creates lengthy dockets, but the judges said that routine, unopposed matters are called and disposed of quickly. If an attorney or a pro se party appears in court and objects, the matter is continued. Although the judges and many of the attorneys supported the current system, several business attorneys expressed concern about competing for the judges' time and attention. The

court is working with a bench-bar committee and the local rules committee to explore ways to reduce attorneys' waiting time.

At times, some of the judges granted unopposed motions before scheduled hearing and removed the matters from the calendar. Several attorneys suggested going further. The attorneys said that routine matters such as lift stay motions in consumer chapter 7 cases could be resolved by negative notice, as in many bankruptcy courts, without scheduling them for hearings. This also could reduce the time chambers staff spends preparing for hearings. The law clerks and courtroom deputies said that they spend hours reviewing matters set for hearing, including service, the terms of chapter 13 plans, lien stripping in chapter 13 plans, and time entries submitted with fee applications filed by professionals. Chambers staff also review proposed orders. Although the United States trustee said that his office does not routinely review the time entries, the chapter 13 trustees said the law clerks do not need to analyze the plans because they do so and object when warranted.

The court scheduled all chapter 13 confirmations for hearing, although the debtor's attorney was not required to appear for uncontested confirmations. In some bankruptcy courts, uncontested plans are confirmed without a hearing or are called in as a group. It appeared that hearings on contested confirmations were conducted in a timely manner with few multiple continuations. The judges, trustees, and attorneys indicated that the court's model chapter 13 plan has made it easier to identify issues with the plans.

The interviews indicated that the judges have managed to stay current with their heavy workload by working late and working at home on evenings and weekends, but the long hours have contributed to stress for the judges and staff. Although hearings rarely continued into the evening, the law clerks, courtroom deputies, and judicial assistants also took work at home on evenings and weekends, reviewing papers and preparing for hearings.

The information technology staff in the clerk's office has made it easier for the judges and staff to work at home with several innovations, including the Chicago Chambers Interface (CCI), which groups all filings related at a matter scheduled for hearing. Most of the judges utilize CCI and the electronic documents in the court's Case Management/Electronic Case Filing system, but at least one judge uses paper documents. The judge's courtroom deputy said that this requires several reams of paper to print the documents for the judge's typical, lengthy docket.

The bankruptcy judges said that their heavy workload has forced them to limit their written opinions and to rule from the bench more often, stating the findings and conclusions on the record. The attorneys said that they appreciated that judges resolved disputes promptly by using oral opinions, but several attorneys expressed a desire for more written opinions, as did some of the judges. Several judges said that they wished they had more time to explore issues that are not raised by the attorneys. The consensus appeared to be that the current number of

written opinions (including published opinions) is generally sufficient to provide guidance for the bar and to facilitate settlements based on the district's caselaw, but is not optimal. Although the judges said that it sometimes was a struggle, they rarely had more than one matter – if any – on their semiannual reports of matters under advisement for more than 60 days.

The judges do not utilize video conference links for hearings at the outlying locations because the lengthy dockets there make that impractical. The court has neither permanent, dedicated space to set up and store the video conference equipment nor the staffing to operate the equipment from the remote sites. Attorneys generally appear in court rather than participating in non-evidentiary hearings by teleconference.

ADDITIONAL FACTORS:

Pro Se Debtors. The judges and attorneys stated that the number of debtors filing without an attorney has risen in recent years, and now is about 5 percent of the court's filings. The judges stated that cases filed by debtors not represented by counsel require extra time and attention but that a help desk staffed by volunteers from the bankruptcy bar has helped by answering pro se debtors' questions about preparing schedules and simple motions. The clerk's office participates in the help desk by answering simple, nonlegal questions. In addition, a number of bankruptcy attorneys have agreed to take adversary proceedings that have merit for parties who cannot afford an attorney.

The United States trustee said that his office is not aware of any bankruptcy petition preparers operating in the district, but that "mortgage rescue" and "financial rescue" firms have caused problems by filing unauthorized bankruptcy cases for their customers.

Local Bar. The interviews indicated that many knowledgeable, experienced, and efficient attorneys practice before the court, in both consumer and business cases, and that the quality, relative stability, and cooperation of the bar has helped the court continue to function well.

The judges indicated, however, that delays and other problems have been created by less-experienced attorneys who have begun practicing bankruptcy law in the last three years as a result of the economic downturn and law firm layoffs. Inexperienced attorneys appear to be a problem particularly in single-asset and individual chapter 11 cases. In an effort to improve practice, the judges and the clerk have participated in bar association meetings and seminars to discuss recent developments in bankruptcy law, filing requirements, and practice before the court. In addition, the clerk has detailed several members of his staff to work with attorneys who make numerous mistakes in their electronic filings.

Trustees. The chapter 7 and chapter 13 trustees appeared to be efficient, hardworking, and experienced. No problems were observed with the administration of chapter 7 cases and the trustees stated that they were able to obtain court hearings as needed. As a result of the rising caseload, the United States trustee recently added eight new chapter 7 panel trustees. The United States trustee received 150 applications for those positions, including applications from several large law firms. The Northern District has four experienced chapter 13 trustees. Although the standing trustees did not use uniform procedures, the attorneys indicated that this has not caused major problems.

BAP Service. The Seventh Circuit does not have a Bankruptcy Appellate Panel.

Assistance Given to Other Districts. None of the judges currently serves as a visiting judge in another district.

Assistance by Recall and Visiting Judges. Retired Bankruptcy Judge William C. Altenberger of the Central District of Illinois served on recall in the Northern District for seven days during 2010. The present bankruptcy judges indicated that they would not serve on recall status when they retire because of the high workload, and one judge said he was seriously considering retiring as soon as possible due to the high workload, even though he enjoyed the job and had planned to stay longer. The judges questioned whether a visiting judge or a retired judge from elsewhere in the country would be willing to serve for an extended period in Northern Illinois, especially during the winter. The chief judge stated that continuity is needed in the larger, more difficult cases, but that a visiting judge could handle some matters.

Future Chapter 11 Cases. The interviews said that more chapter 11 cases, including additional filings by retail businesses, would be filed if debtor-in-possession and exit financing were available. In addition, a number of large cases, which could have been filed in the Northern District of Illinois, have been filed in the District of Delaware and the Southern District of New York. If either the availability of financing or the choice of venue changes, a number of larger cases could be filed in the district, as occurred several years ago.

ALTERNATIVES TO AN ADDITIONAL JUDGESHIP:

Assistance by visiting judges, recall judges, or additional law clerks does not appear to be a reasonable alternative to a new judgeship.

The court already has two additional temporary law clerks on the basis of its heavy workload. Because of the heavy caseloads in other bankruptcy courts, the Northern District of Illinois is unlikely to receive sufficient visiting judge or recall judge assistance from other courts to alleviate the need for an additional judgeship. Although one judge stated that he plans to retire at the end of 2011 and other judges said they are considering retirement, the likelihood of

their serving on recall is uncertain. Assistance is important at the out-lying locations because the judges and attorneys indicated that it would be difficult initially for a new judge to handle both a heavy workload at the judge's duty station and to travel to an outlying location with a large, growing caseload.

III. APPLICATION OF THE CONFERENCE STANDARD

The guidelines set by the 1991 Judicial Conference Policy for assessing a court's need for additional bankruptcy judgeship resources start with the court's weighted filings and authorized judgeships. Vacancies, visiting judge assistance, and recalled judges are disregarded in applying the threshold standard of 1,500 weighted filings per judgeships.

The threshold is based on current weighted filings, not expected filings in the future. The Northern District of Illinois' 2,162 weighted filings per judgeship meets the threshold. Weighted filings have exceeded the national average for the last nine years. Although the court appears to be functioning well despite the judges' heavy workload, continued increases in filings, one or more "megacase" filings, or the retirement of several judges would make it more difficult to provide hearings and render decisions in a timely fashion. The consensus of the judges and attorneys interviewed was that filings are likely to continue rising, at least for the next few years. Based on the economy and foreclosures, the concern appeared well founded.

IV. RECOMMENDATION

It is recommended that the circuit's request for one additional bankruptcy judgeship for the Northern District of Illinois be approved.

Attachments:

1. Request for the Judicial Council of the Seventh Circuit
2. 1991 Judicial Conference Policy Statement for Evaluating Additional Bankruptcy Judgeship Requests

Northern District of Illinois**2012 Additional Needs Survey**

Currently Authorized Judgeships		2012 Judgeship Request	
Permanent	10	Additional	1
Temporary	0	Conversions	0
Total	10	Extensions	0

Staff Recommendation: Approve 1 additional judgeship.

Weighted Caseload: As of September 30, 2012, the weighted caseload per authorized judgeship in the Northern District of Illinois stood at 2,054, 49% above the national average of 1,378. The district's weighted filings per authorized judgeship are the fourth highest for any bankruptcy court and have exceeded the 1,500 threshold for the last four fiscal years.

Caseload Nature and Mix: Most of the Northern District of Illinois' workload (97%) consists of consumer cases. Chapter 7 cases are 71% of the caseload and chapter 13 cases are 29%. Chapter 11 cases are less than 1% of the caseload, and chapter 12 cases are negligible.

On a per judgeship basis, the court exceeded the national average of cases filed per judgeship by 46% or more in total filings, chapter 7 filings, chapter 13 filings, business cases, and adversary proceedings. The district has the second highest total filings, chapter 7 filings, and non-business cases of any bankruptcy court. On a per judgeship basis, the court ranked fourth in total filings and fifth in chapter 7 filings. Chapter 11 filings, however, were 5% above the national average per judgeship.

Historical Caseload Data and Filing Trends: Case filings in the district have declined since the record of 65,443 in FY 2010, but, as of September 30, 2012, were 4% higher than in FY 2004 (the last fiscal year before the impact of BAPCPA affected filings). Chapter 7 filings in FY 2012 were almost the same as in 2004, chapter 13 filings were 13% higher, and chapter 11 filings were 62% higher. Business cases were 192% higher than in 2004 and non-business cases were 2% higher.

Chapter 11 filings have been relatively stable for the last four fiscal years, ranging from 351 in FY 2009 to 317 in FY 2010, 334 in FY 2011, and 318 in FY 2012. Interviews with the judges and attorneys indicated that more chapter 11 cases, including additional filings by retail businesses, would be filed if debtor-in-possession and exit financing were available. In addition, a number of large cases that could have been filed in the Northern District of Illinois have been filed in the District of Delaware and the Southern District of New York. If either the availability of financing or the choice of venue changes, a number of larger cases could be filed in the district, as occurred several years ago.

Geographic, Economic, and Demographic Factors in the District: Once a manufacturing, commercial, and financial center for the country, the Chicago area has lost thousands of jobs in all three sectors. Commercial and residential construction and sales of existing homes have declined dramatically. The unemployment rate in the Chicago Metropolitan Area was 8.3% in

October 2012, down from 9.7% in October 2011, but still above the national rate of 7.7%. According to the on-line database RealtyTrac, 1 in every 356 housing units in Illinois received a foreclosure filing in October 2012, almost double the national rate of 1 in 706 units. In Cook County, which includes Chicago, 1 in 298 units received foreclosure filings. The foreclosure rate was even higher in some of the surrounding counties, including Will County, where the rate was 1 in 174 units.

Despite high unemployment levels and foreclosures, the population of the Chicago area continues to grow, especially in the suburban counties between Chicago and Rockford. Three of the nine Chicago judges and the Rockford judge conduct hearings on a regular basis at four locations in the suburban counties surrounding Chicago. Their calendars usually include hundreds of matters and require a full day of hearings, which the judges said makes the use of video-conferencing impractical.

Effectiveness of the Court's Case Management Efforts: The judges are working diligently, including evenings and weekends, to keep their cases moving and to ensure that the parties receive hearings in a timely manner. The chief judge stated that the court's heavy caseload has made it more difficult to schedule and decide important matters in a timely manner. Although improvements may be possible, it appeared unlikely that changes in the court's case management practices would alleviate the need for an additional judgeship.

Availability of Alternative Solutions and Resources for Handling the Court's Workload: Assistance by visiting judges, recall judges, or additional law clerks does not appear to be a reasonable alternative to authorizing additional judgeships. The court has two additional temporary law clerks and two recall judges, one with a full caseload and one who assists with short-term needs.

Impact of Requested Additional Resources on the Court's Per Judgeship Caseload: For the period ended September 30, 2012, the district's weighted caseload per authorized judgeship was 2,054 (20,542 total weighted filings divided by ten). With the addition of one judgeship, the district's weighted caseload per authorized judgeship would be 1,867, which is higher than the FY 2012 weighted filings per judgeship in all but seven other courts.