

Efficiency and Economic Benefits of Dispute Resolution through Arbitration Compared with U.S. District Court Proceedings

By
Roy Weinstein, Cullen Edes, Joe Hale and Nels Pearsall

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I. INTRODUCTION AND EXECUTIVE SUMMARY

In 2009, Micronomics was asked by the Presiding Judge of the Los Angeles Superior Court to calculate the economic impact of significant funding cutbacks facing the judiciary. Hundreds of millions of dollars had been cut from California's judicial budget, the effect of which included closed courtrooms and lost staff positions. These cuts produced crippling reductions in court services at a time when caseloads were increasing. Similar cutbacks have taken place throughout the country, producing layoffs and reduced operating hours in multiple states.

The consequences of these cutbacks have included significant delays in adjudication of pending litigation and increased burdens on our courts. Between 2009 and 2013, the economic impact in California of these cutbacks and delays includes approximately 150,000 lost jobs and \$30 billion in lost economic output.

In light of this experience, Micronomics has been engaged to compare the length of time to adjudicate disputes associated with U.S. district court proceedings on the one hand versus length of time to adjudicate disputes associated with arbitration administered by the American Arbitration Association ("AAA") on the other in order to ascertain whether significant differences exist between the two forms of dispute resolution with respect to the amount of time required to administer disputes. In addition, to the extent that we determine such differences exist, we have been asked to estimate the cost to business associated with delays in obtaining adjudication.

We recognize that factors other than time required for adjudication enter into decisions as to whether arbitration or litigation provides the best forum to resolve disputes. These factors are not addressed in this discussion.

Based on our analyses, we found that on average, U.S. district court cases took more than 12 months *longer* to get to *trial* than cases adjudicated by arbitration (24.2 months v. 11.6 months); when the comparison involved time through *appeal*, U.S. district and circuit court cases required at least 21 months *longer* than arbitration to resolve (33.6 months v. 11.6 months).¹ We also

¹ We compare median times required from filing to trial and from filing through appeal in federal court cases with median times required from filing to award in AAA arbitration cases. In our analyses, we make use of median data because statistically, medians better account for outliers, which can skew means in the direction of the

found it useful to conduct the same analysis for eight of the ten states that had the highest caseload in 2015 with respect to both AAA arbitration and U.S. district court proceedings. These eight states (California, New York, Texas, Florida, Pennsylvania, Georgia, New Jersey, and Illinois) account for more than half of the AAA arbitration caseload and more than half of the U.S. district court caseload in 2015. With respect to these states, U.S. district court cases took about 15-17 months *longer* to get to trial than cases adjudicated by arbitration (27.3 months v. 11.8 months); when the time for appeals is added (for the associated U.S. circuit courts), federal cases required about 24-26 months *longer* than arbitration to resolve (36.5 months v. 11.8 months).

The situation in state courts is likely to be even worse: According to our prior investigation, in recent years, 39 state courts have suspended filling clerk vacancies; 36 state courts have reported layoffs or furloughs; 28 state courts are facing increased case backlogs; 23 state courts have reduced operating hours; and ten state courts have reported furloughing judges.² An inevitable impact has been an increase in the amount of time required to adjudicate cases. Although state court data on time from filing the complaint to trial are largely unavailable, our prior work in this area leads us to expect that the amount of time required to adjudicate disputes through the state court system is greater than cases tried in federal courts. Accordingly, our conclusions regarding differences in the length of time associated with dispute resolution in the court system on the one hand compared with arbitration on the other are conservative.

Delays to adjudication are not without cost. During the period required to resolve disputes, resources at issue between litigants can be thought of as removed from circulation. When litigation takes longer to resolve, these resources remain unavailable in the sense that neither party can count on receiving them and putting them to use. By way of example: A dispute between a supplier and purchaser in which the supplier claims the purchaser owes \$1 million leaves both supplier and purchaser uncertain as to which party will retain the funds after the dispute has been adjudicated. The purchaser cannot comfortably invest the \$1 million to hire new

outlier(s). An outlier is an observation point in a data set that is distant (sometimes drastically distant) from other observation points. Moreover, U.S. District Courts and U.S. Courts of Appeals report time intervals as median values, not means. The use of median values enables a valid comparison.

Median, mean, and mode are statistical measurements of data sets. “Median” is the middle value in a data set, meaning that half of the observations in the data set are greater than the median while half the observations are less than the median; “mean” is the average value of all observations in a data set, computed by summing the individual observations and dividing by the number of observations; and “mode” is the observation that occurs most often in a data set.

Consider the following example data set: 195, 197, 199, 200, 204, 204, and 5003. The median is 200 (i.e. half of the observations are greater than 200 and half are less) while the mean is 886 (average of the range). In this example, 200 (the median) better represents six of the seven observations and is not impacted by “5003” (the outlier). In fact, if we exclude the outlier and calculate the mean of all remaining data points, we get 199.8, which is nearly equal to 200, or the median of the entire data set. As this example demonstrates, the presence of an outlier can significantly skew the mean one way or the other; use of the median allows one to avoid the influence of outliers.

² Micronomics publication, *Economic Impact of Reduced Judiciary Funding and Resulting Delays in State Civil Litigation*, March 2012, pp. 46-47.

employees since it may be required to pay the supplier once the dispute has been adjudicated. Likewise, the supplier cannot use the funds to purchase new equipment because it may never receive the money. Both parties are thus constrained; the funds are unavailable to either; both parties experience a loss until the dispute is resolved.

Other things equal, the greater the amount at issue, the greater the loss associated with delay. To calculate the direct economic cost of delays to adjudication, we relied on a conservative estimate of the minimum amount at issue in district court cases and on a corresponding minimum amount for arbitration cases. These figures represent resources that neither party can rely upon until the dispute is resolved.

- Based on minimum average estimated amounts at issue in district court cases and on a corresponding minimum amount for arbitration cases, direct losses associated with *additional time to trial* required for district court cases compared with AAA arbitration are approximately **\$10.9 - \$13.6 billion** between 2011 and 2015 (i.e. more than **\$180 million per month**).
- The direct minimum losses associated with *additional time through appeal* required for district and circuit court cases compared with arbitration are approximately **\$20.0 - \$22.9 billion** over the same period (i.e. more than **\$330 million per month**).

These direct losses represent lost resources solely to the parties involved in said disputes and are only the beginning. Economists and others have long recognized that a given change in economic activity (e.g. in this case, “direct” lost resources) produces benefits or costs in excess of that initial change. Often referred to as “multiplier effects,” these benefits or costs are based on the initial change and ultimately reflect secondary impacts on the economy at large. In the language of economic multipliers, secondary losses associated with resources unavailable to litigants due to delay are referred to as “indirect” and “induced” losses. We are able to estimate “indirect” and “induced” losses by utilizing an economic model known as IMPLAN, which is described later in this report. These secondary losses, together with the “direct” losses, reflect an estimate for the overall negative impact to society of delays associated with the district court system relative to arbitration.

- Based on the direct, indirect, and induced losses associated with *additional time to trial* for district court cases compared with AAA arbitration, estimated total losses are approximately **\$28.3 - \$35.3 billion** between 2011 and 2015 (i.e. more than **\$470 million per month**).
- The estimated total losses associated with *additional time through appeal* required for district and circuit court cases compared with arbitration are approximately **\$51.9 - \$59.2 billion** over the same period (i.e. more than **\$860 million per month**).

Given the size of these estimates, the conclusion is inescapable: Delays in civil justice carry very real consequences for litigants and our economy. This message should resonate as lawmakers contemplate budget cuts for the judiciary and leave judicial vacancies unfilled. The availability of arbitration as a means of dispute resolution represents one way for litigants to mitigate this impact.

II. DISCUSSION

A. IMPACTS OF ADJUDICATORY DELAYS

The connection between efficient operation of the judiciary and economic well-being of the community is widely recognized:

- “The importance of legal institutions and governance for economic growth is now relatively well-accepted in the economics profession. The association has been well-demonstrated both theoretically and empirically.”³
- “The role of the judiciary is to set up a framework in which the bargaining for property rights follow predetermined rules...and provides a clear and quick decision in cases of doubt...The anticipated future enforcement of rights is extremely important for current decisions, contracts and future activities of all participants.”⁴
- “Judicial slowness may reduce incentives to start businesses by deteriorating the security of property rights. It may also limit possibilities of obtaining loans. Finding ways to speed up judiciaries is thus fundamental to economic growth.”⁵
- “The insecurity created by a weak judiciary changes economic behavior in two ways. First, the overall cost structure of the economy increases....Increased collateral to make up for the risk associated with the poor performance of property rights increases the consumer price....Second, not all risk can be covered by higher premiums. If the risk is considered too high, certain transactions simply do not take place.”⁶

It also should be noted that since legal work often is clustered around settlement or adjudication of pending cases, if case processing is delayed, less legal work results.⁷

Arbitration, mediation, and negotiation represent alternative dispute resolution (“ADR”) methods for settling conflicts without litigation.⁸ In this report, we compare cases litigated in federal courts with cases heard and determined in arbitration at the American Arbitration Association.

³ Cross, F.B., “Law and Economic Growth,” *Texas Law Review*, 80 (2002), pp. 1737-1775.

⁴ Kohling, W.K.C., “The Economic Consequences of a Weak Judiciary,” Center for Development Research, University of Bonn (November 2000).

⁵ Chemin, Matthieu, “The Impact of the Judiciary on Entrepreneurship: Evaluation of Pakistan’s ‘Access to Justice Programme’,” *Journal of Public Economics*, 93 (2009), pp. 114-125.

⁶ Kohling, W.K.C., “The Economic Consequences of a Weak Judiciary,” Center for Development Research, University of Bonn (November 2000).

⁷ Spier, Kathryn, “The Dynamics of Pretrial Negotiation,” *The Review of Economic Studies*, Vol. 59, No. 1 (Jan. 1992), pp. 93-108.

See also the Micronomics publication, *Economic Impact on the County of Los Angeles and the State of California of Funding Cutbacks Affecting the Los Angeles Superior Court, December 2009.*

The not-for-profit American Arbitration Association (AAA) has administered approximately 4.7 million alternative dispute resolution (ADR) cases since its founding in 1926. With 23 offices in the United States and one in Singapore, the AAA provides organizations of all sizes in virtually every industry with ADR services and products. The AAA's global component, the International Centre for Dispute Resolution ("ICDR"), extends the AAA's legacy globally.⁹

In undertaking this study, we relied on information available from the United States District Courts and United States Courts of Appeals, which report statistical data on the operations of the federal judiciary. These data are available on the U.S. Courts website.¹⁰ We also made use of information provided to Micronomics by the American Arbitration Association. With respect to median time intervals for both arbitration and court proceedings, we limit our analysis to those data that reflect arbitrations that went to award and court proceedings that went to trial or through appeal. These data are described in the Appendix.

⁸ "Alternative Dispute Resolution," Legal Information Institute, Cornell University Law School (https://www.law.cornell.edu/wex/alternative_dispute_resolution).

"What is Alternative Dispute Resolution?" *Thomson Reuters FindLaw* (<http://hirealawyer.findlaw.com/choosing-the-right-lawyer/alternative-dispute-resolution.html>).

⁹ For more information, visit www.adr.org.

¹⁰ See <http://www.uscourts.gov/statistics-reports/caseload-statistics-data-tables>.

B. THE CASELOADS

A useful starting point for any analysis of the length of time required to adjudicate disputes associated with AAA arbitration on the one hand and U.S. district court civil proceedings on the other involves an examination of the caseload by state. Table 1 sets forth this information in 2015 for arbitration by the AAA and U.S. district courts. Figure 1 (below) shows 2015 AAA arbitration and district court data for (a) the top-ten states based on caseload; (b) the eight states that overlap within the top-ten caseload for both AAA arbitration and district courts (i.e. California, New York, Texas, Florida, Pennsylvania, Georgia, New Jersey, and Illinois); and (c) the overall U.S. total.¹¹ The only non-overlapping states within the top-ten caseload are Maryland and Michigan from the AAA arbitration data and West Virginia and Ohio from the district court data.

Figure 1: Caseload for Top 10 States, AAA Arbitration Cases Going to Award and U.S. District Court Civil Cases, 2015 (Reflected in Table 1)

Arbitration			U.S. District Courts		
State or Territory	Caseload	Percent of Total	State or Territory	Caseload	Percent of Total
1. California	191	14%	1. California	22,451	10%
2. New York	167	12%	2. New York	19,233	9%
3. Texas	156	11%	3. Florida	16,011	7%
4. Florida	76	6%	4. Illinois	13,962	6%
5. Pennsylvania	68	5%	5. West Virginia	13,813	6%
6. Maryland	52	4%	6. Pennsylvania	13,770	6%
7. Georgia	47	3%	7. Texas	13,406	6%
8. New Jersey	47	3%	8. Ohio	8,956	4%
9. Michigan	41	3%	9. New Jersey	8,089	4%
10. Illinois	37	3%	10. Georgia	5,531	3%
11. Top-10 States Total	882	64%	11. Top-10 States Total	135,222	62%
12. Overlapping States within Top-10 Total	789	57%	12. Overlapping States within Top-10 Total	112,453	52%
13. U.S. Total	1,375	100%	13. U.S. Total	217,288	100%

¹¹ U.S. district court caseload in 2015 is comprised of civil cases disposed of by trial or some other method. See Table 1 for additional details.

It is noteworthy that in 2015, the eight overlapping states within the top-ten account for more than half of the entire U.S. caseload for both AAA arbitration and district court data (see Line 12 in Figure 1). Given the substantial weight that the eight overlapping states contribute to the nationwide total, it is useful to calculate the *additional time* required to trial and through appeal in federal courts compared with AAA arbitration for those eight states alone as well as for the entire United States. These analyses are described below.

C. ADDITIONAL TIME TO TRIAL

Table 2 sets forth annual comparisons of the median number of months required on a state by state basis, U.S. district courts v. AAA arbitration, between 2011 and 2015. Figures shown in Table 2 demonstrate that almost without exception (i.e. regardless of the state or territory in which the action is brought), cases going to award at arbitration are fully adjudicated in less time than it takes district court cases to get to trial. For example, in New York, the state with the second highest caseload, the median time required from filing to trial in U.S. district courts was 30.9 months in 2015; the median time required from filing to award with cases administered by the AAA was 12.5 months in the same year. In other words, it took more than 18.4 months *longer* (i.e. more than one and a half years *longer*) for civil cases to get to trial in New York than required for final adjudication of arbitration cases in New York (Table 2.5, Line 34). Federal cases in California, the state with the highest caseload in 2015, similarly took much longer to get to trial when compared with cases fully adjudicated by AAA arbitration. In 2015, for example, getting to trial in district court took nearly 15 months *longer* (i.e. more than one year *longer*) than the time required for final adjudication by AAA arbitration in California (28.1 months v. 13.2 months; Table 2.5, Line 5). These differences are tremendously significant to litigants interested in resolving their dispute and moving on.

Table 3 depicts a summary of the length of time required during the period 2011 through 2015, filing to trial, for the eight overlapping states (i.e. eight states that had both the highest AAA arbitration caseload and highest district court caseload in 2015). For example, the median number of months from filing to trial for civil cases brought in district court in New York fluctuated between 30.9 months in 2015 and 41.2 months in 2013 (Table 3, Line 2). Even in Texas, known as the “rocket docket” for intellectual property cases,¹² the median time to trial was never less than 20 months (Table 3, Line 3).

Table 4 sets forth a summary of the median time required for final adjudication (i.e. filing to award) via arbitration during the period 2011 through 2015 in the same states shown in Table 3, i.e. eight states with the highest caseload in 2015. The differences between the district court system and arbitration are dramatic. In California, where civil cases take at least 25 months to get to trial (Table 3, Line 1), time required for final adjudication with AAA arbitration is on average less than 13 months (Table 4, Line 1). In New Jersey, civil cases required at least 32 months to get to trial (Table 3, Line 7), while final adjudication with AAA arbitration was less than 14 months (Table 4, Line 7).

Table 5 depicts a summary of *additional time* required, district court civil cases going to trial v. AAA arbitration cases going to award, for the same states shown in Tables 3 and 4. The differences (i.e. the *extra time* required to get to trial compared with final adjudication through AAA arbitration) are significant – typically in excess of 12 months and sometimes greater than

¹² See, for example, Bell, Jacqueline, “Texas Rocket Docket Faces New Surge of Patent Suits,” *Law360*, September 28, 2015 (<https://www.law360.com/articles/707840/texas-rocket-docket-faces-new-surge-of-patent-suits>).

See also “Rocket Docket Law and Legal Definition,” U.S. Legal (<https://definitions.uslegal.com/r/rocket-docket/>).

24 months (i.e. New York and New Jersey in 2013). Figure 2 below sets forth the *additional time* required (district courts going to trial v. AAA arbitration going to award) from 2011 through 2015 for the eight states with the highest caseload in 2015.

Figure 2: Additional Time Required, U.S. District Court Civil Cases Going to Trial v. AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 – 2015 (Reflected in Table 5)

State	Additional Time Required to Trial				
	2011	2012	2013	2014	2015
(Months)					
1. California	14.6	13.8	12.3	16.3	14.9
2. New York	19.8	22.6	29.4	21.8	18.4
3. Texas	10.8	7.6	8.8	11.9	9.9
4. Florida	6.9	7.4	9.3	6.4	6.3
5. Pennsylvania	17.2	15.4	9.8	16.6	12.9
6. Georgia	16.7	15.5	12.9	18.1	13.4
7. New Jersey	25.0	22.2	24.9	23.2	25.5
8. Illinois	12.6	17.4	14.5	20.4	18.6
9. Average	15.5	15.2	15.2	16.8	15.0

D. ADDITIONAL TIME THROUGH APPEAL

Table 6 sets forth a summary of the median time required for adjudication taking into account a conservative estimate of time required for appeals from outcomes at the district court level. Entries in Table 6 reflect the combined time required (a) from filing of an action in lower court (i.e. district court) to start of trial in the eight overlapping states with the highest caseload in 2015 plus (b) from filing of notice of appeal through last opinion or final order in each appellate court (i.e. circuit court) associated with the eight overlapping states with the highest caseload in 2015. For example, the median time required from the onset of litigation through appeal in New York (which is part of the Second Circuit) was 43 months in 2011 (i.e. more than three and a half years; Table 6, Line 2, Column 1). Even in Texas (the “rocket docket” for intellectual property cases), the median time required from initial filing through appeal was more than 30 months on average (i.e. approximately two and a half years).

Table 7 presents a summary of *additional time* required in district court cases that are appealed in the eight overlapping states with the highest caseload in 2015 v. AAA arbitration. For example, in New York, where appeals are heard in the Second Circuit, the length of time required for adjudication through appeal was 29-40 months *longer* than dispute resolution administered by AAA (45.7 months v. 12.2 months; Table 7, Line 2). Data for California, where appeals are heard in the Ninth Circuit, indicate that the length of time required for adjudication through appeal was 26-32 months *longer* than final adjudication through AAA arbitration (41.5 months v. 12.6 months; Table 7, Line 1). In other words, district court cases that went to trial in California and appealed in the Ninth Circuit (which includes California) took more than two years *longer* for adjudication through appeals v. resolution for AAA arbitration cases going to award. Regardless of the state or circuit, adjudication through appeal of district court cases took significantly longer than arbitration, as summarized in Figure 3 below.

Figure 3: Additional Time Required, U.S. District and Appellate Court Cases Going through Appeal v. AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 – 2015 (Reflected in Table 7)

State	Circuit	Additional Time Required through Appeal				
		2011	2012	2013	2014	2015
(Months)						
1. California	9th	32.0	29.1	25.6	28.7	29.0
2. New York	2nd	31.9	34.8	39.8	32.4	28.6
3. Texas	5th	21.0	16.6	18.1	20.8	19.3
4. Florida	11th	15.5	14.6	16.9	13.5	13.7
5. Pennsylvania	3rd	26.9	23.1	16.1	23.0	21.3
6. Georgia	11th	25.3	22.7	20.5	25.2	20.8
7. New Jersey	3rd	34.7	29.9	31.2	29.6	33.9
8. Illinois	7th	22.2	25.7	22.5	27.5	25.8
9. Average		26.2	24.6	23.8	25.1	24.1

E. SUMMARY OF ADDITIONAL TIME TO TRIAL AND THROUGH APPEAL

Table 8 sets forth the length of time required for filing to trial in district courts (Table 8, Column 1) for the period 2011 through 2015. These figures represent the average of figures shown in Table 3. Column 2 of Table 8 depicts the average total time required for filing through appeal for the five years examined (based on Table 6). Column 3 of Table 8 presents the average time required for filing to award in AAA arbitration cases for the eight states with the highest caseload in 2015. Columns 4 and 5 of Table 8 show the *additional time* required by district courts when compared with arbitration. See Figure 4 below.

Figure 4: Median Time Required and Additional Time Required, U.S. District and Appellate Court Cases Going to Trial and through Appeal v. AAA Arbitration Cases Going to Award, States with the Highest Caseload in 2015, 2011 – 2015 (Reflected in Table 8)

State	Circuit	U.S. District Courts (Filing to Trial)	U.S. District and Appellate Courts (Filing through Appeal)	AAA Arbitration (Filing to Award)	<u>Additional Time Required</u>	
					To Trial (1) - (3) (4)	Through Appeal (2) - (3) (5)
(Months)						
1. California	9th	27.0	41.5	12.6	14.4	28.9
2. New York	2nd	34.6	45.7	12.2	22.4	33.5
3. Texas	5th	22.0	31.4	12.2	9.8	19.2
4. Florida	11th	18.4	26.0	11.2	7.2	14.8
5. Pennsylvania	3rd	24.6	32.3	10.2	14.4	22.1
6. Georgia	11th	25.9	33.5	10.6	15.3	22.9
7. New Jersey	3rd	35.8	43.5	11.7	24.1	31.8
8. Illinois	7th	30.4	38.4	13.7	16.7	24.7

Comparisons for the U.S. as a whole (rather than the eight states with the highest caseload in 2015) are summarized in Table 9, which depicts the length of time required for district court cases to get to trial (Table 9, Column 1), and through appeal (Table 9, Column 2), and for AAA arbitration cases to be fully adjudicated (Table 9, Column 3). Data contained in Table 9 indicate that between 2011 and 2015, the median time required for district court cases to get to trial was approximately 12 months *longer* than the median time for cases completely resolved by

arbitration (24.2 months v. 11.6 months; Table 9, Column 4).¹³ These data also indicate that median time from initial filing in lower court to final appeal is more than 21 months *longer* than the median time for cases resolved by arbitration (33.6 months v. 11.6 months; Table 9, Column 5).¹⁴ These differences are systematic throughout the five-year period examined. They indicate that a significant difference exists in time to adjudication between cases that work their way through district courts and cases brought to arbitration. See Figure 5 below.

**Figure 5: Median Time Required and Additional Time Required,
U.S. District and Appellate Court Cases Going to Trial and through Appeal v.
AAA Arbitration Cases Going to Award, All States, 2011 – 2015
(Reflected in Table 9)**

Year	U.S. District Courts (Filing to Trial)	U.S. District and Appellate Courts (Filing through Appeal)	AAA Arbitration (Filing to Award)	Additional Time Required	
				To Trial	Through Appeal
	(1)	(2)	(3)	(1) - (3) (4)	(2) - (3) (5)
(Months)					
1. 2011	23.6	34.6	10.8	12.8	23.8
2. 2012	23.7	33.5	11.8	11.9	21.7
3. 2013	24.1	33.1	11.5	12.6	21.6
4. 2014	25.3	33.8	12.4	12.9	21.4
5. 2015	24.5	33.0	11.6	12.9	21.4

¹³ Our use of “filing to trial” is conservative given the time between “start of a trial” on the one hand and “rendering of a final judgment” on the other. See the Appendix for additional details.

¹⁴ Our calculation of “filing through appeal” is conservative given the gap in time between “start of trial” on the one hand and “filing of notice of appeal” on the other. See the Appendix for additional details.

F. DIRECT ECONOMIC CONSEQUENCES OF DELAY IN ADJUDICATION

As noted above, delayed disposition creates uncertainty among affected entities. It is well understood that the presence of such uncertainty makes businesses less prone to invest and expand operations, and can constrain the availability of capital for investment in business activities.¹⁵ Further, entities engaged in litigation are deprived of resources and funds that otherwise would be available. Inability to access these funds and resources can be thought of as the opportunity cost of delayed adjudication.

In order to calculate this direct opportunity cost to the parties in dispute, we have made use of an estimate of minimum amount at issue in cases brought at the district court level. District courts have subject matter jurisdiction over cases in which the parties to the lawsuit are citizens of different states, either foreign or domestic, and there is at least \$75,000 at stake in the lawsuit.¹⁶ District courts also have original subject matter jurisdiction over all cases that arise under any federal law. This would include patent infringement cases, antitrust cases, and certain types of civil rights actions.¹⁷ Given this mix of cases that arise in district courts, \$75,000 per case represents a highly conservative estimate of minimum resources at risk in federal litigation. For example, patent infringement and antitrust actions brought in district courts typically involve multi-million dollar damage claims.

Table 10 depicts an estimate of the total amounts at issue in civil litigation at the district court level. Column 1 of Table 10 sets forth figures for the number of civil cases at the district court level disposed of at trial or through some other method (i.e. summary judgment, settlement, etc.) by year, 2011-2015.¹⁸ Using \$75,000 as a conservative estimate of the minimum average amount at issue per case (Table 10, Column 2), it is possible to estimate the total minimum amount at issue in civil cases litigated at the district court level (Table 10, Column 3). Annual total minimum amounts at issue varied between \$14.9 billion in 2014 (and 2012) and \$18.6 billion in 2011. See Figure 6 below.

¹⁵ Bloom, Nicholas, "The Impact of Uncertainty Shocks," *Econometrica*, Vol. 77, No. 3 (May 2009), pp. 623-685.

¹⁶ "Federal or State Court: Subject Matter Jurisdiction," *Thomson Reuters FindLaw* (<http://litigation.findlaw.com/filing-a-lawsuit/federal-or-state-court-subject-matter-jurisdiction.html>).
Also, see 28 U.S. Code § 1331 (<https://www.law.cornell.edu/uscode/text/28/1331>) and 28 U.S. Code § 1332 (<https://www.law.cornell.edu/uscode/text/28/1332>).

¹⁷ "Federal or State Court: Subject Matter Jurisdiction," *Thomson Reuters FindLaw* (<http://litigation.findlaw.com/filing-a-lawsuit/federal-or-state-court-subject-matter-jurisdiction.html>).

¹⁸ As noted in the Appendix, U.S. District Court civil cases exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

Although not every case filed in district court goes to trial, all cases have the potential to go to trial or through appeal.

Figure 6: U.S. District Court Civil Cases, Number of Cases and Minimum Amount at Issue, 2011 – 2015 (Reflected in Table 10)

Year	Number of Cases Terminated	Minimum Amount At Issue Per Case (\$)	Total Minimum Amount At Issue (\$Billions)
1. 2011	247,419	\$75,000	\$18.6
2. 2012	198,023	75,000	14.9
3. 2013	199,400	75,000	15.0
4. 2014	198,998	75,000	14.9
5. 2015	217,288	75,000	16.3
6. Total	1,061,128		\$79.6

In order to estimate the direct economic opportunity cost (i.e. to the parties in dispute) attributable to delay associated with the slow pace of civil cases that go to trial in district courts relative to adjudication through AAA arbitration, we apply these “at issue” estimates to the *additional time* required to trial at the district court level as shown in Column 4 of Table 9. Table 11 depicts a calculation of the direct economic opportunity cost of delay (also referred to as “lost resources due to delay”) in getting to trial v. arbitration. These lost resources have been estimated by calculating the foregone return (i.e. unrealized investment income) from the minimum amount at issue per year (Table 11, Column 1) based on (a) the *additional time* required to trial (Table 11, Column 2) and (b) the average annual return on investments in the S&P 500, which was approximately 13 percent between 2011 and 2015 (Table 11, Column 3).¹⁹ This calculation yields an estimate of lost resources attributable to delay in getting to trial (Table 11, Column 4). The figures in Column 4 represent the value of resources which are unavailable to litigants *for the additional period of time* (i.e. at trial compared with arbitration) because of uncertainty associated with the litigation outcome. Said differently, these estimates reflect the value that could have been created if these resources had been successfully invested. This direct economic opportunity cost is approximately **\$10.9 billion** between 2011 and 2015 (Table 11, Column 4).

Table 12 presents a similar calculation to Table 11, i.e. opportunity cost associated with delay in getting to trial versus adjudicating via arbitration, but instead we use the time difference for the eight overlapping states with the highest caseload in 2015 as opposed to the time difference for

¹⁹ Of course, the S&P rate of return varies over time and is only one measure of potential returns on investment. The S&P rate of return is used because it is publicly available, carefully calculated, and representative of returns on an investment in this pool of public companies during the period of time that is the subject of this analysis.

the entire United States (see Table 12, Column 2). Here, the direct economic opportunity cost exceeds **\$13.6 billion** between 2011 and 2015 (Table 12, Column 4).²⁰

Appealed cases take even longer to adjudicate and thus are subject to additional losses. A calculation of these losses is shown at Table 13, which is based on the same total minimum amount at issue and the same average annual return on investments in the S&P 500 presented in Tables 11 and 12, as well as the *additional time* required through appeal (Table 13, Column 2). The estimated direct loss attributable to delay through appeal between 2011 and 2015 is approximately **\$20.0 billion** (Table 13, Column 4).

Table 14 presents a similar calculation to Table 13, i.e. lost resources through appeal, but instead it is based on *additional time* required through appeal for selected U.S. appellate courts for the eight states with the highest caseload in 2015 (see Table 14, Column 2). The estimated direct economic opportunity cost in this instance is roughly **\$22.9 billion** (Table 14, Column 4).²¹

A summary of the four distinct “direct loss” analyses is set forth in Figure 7 below.

Figure 7: Direct Economic Opportunity Cost (Lost Resources) Associated with Delay to Trial and Delay through Appeal, 2011 – 2015 (Reflected in Tables 11-14)

Year	U.S. District Courts v. Arbitration (Delay to Trial)		U.S. Appellate Courts v. Arbitration (Delay through Appeal)	
	Based on Delay in Entire U.S. (\$Billions)	Based on Delay in States with Highest Caseload in 2015 (\$Billions)	Based on Delay in Entire U.S. (\$Billions)	Based on Delay in States with Highest Caseload in 2015 (\$Billions)
1. 2011	\$2.6	\$3.2	\$5.1	\$5.7
2. 2012	1.9	2.5	3.7	4.2
3. 2013	2.0	2.5	3.7	4.1
4. 2014	2.1	2.8	3.6	4.3
5. 2015	2.3	2.7	4.0	4.5
6. Total	\$10.9	\$13.6	\$20.0	\$22.9

²⁰ To be clear, this second calculation also uses the total number of U.S. district court civil cases per year (Table 10, Column 1). The only difference in calculating direct economic opportunity cost in Tables 11 and 12 is that the *additional time* required (trial v. arbitration) is based on the entire U.S. in Table 11 and the eight states with the highest caseload (in 2015) in Table 12. In other words, both estimates of the direct economic opportunity cost of delay to trial utilize the entire U.S. district court caseload.

²¹ To be clear, this fourth calculation also uses the total number of U.S. district court civil cases per year (Table 10, Column 1). The only difference in calculating direct economic opportunity cost in Tables 13 and 14 is that the *additional time* required (appeal v. arbitration) is based on the entire U.S. in Table 13 and the eight states with the highest caseload (in 2015) in Table 14. In other words, both estimates of the direct economic opportunity cost of delay through appeal utilize the entire U.S. district court caseload.

These analyses reflect comparisons between federal courts and AAA arbitration. As noted above, systematic data reflecting the performance of state courts with respect to time required for adjudication are unavailable. That said, there is significant evidence that the performance of state courts in this area is even worse than that of the federal court system, i.e. it is likely that the amount of time required by state courts to adjudicate disputes is significantly greater than time required by federal courts. Anecdotal evidence in this regard includes the following:

- Michigan has cut 49 judgeships through retirements and attrition;
- Alabama’s chief justice ordered the state’s courts to close on Fridays to keep costs down;²²
- In Iowa, courts now operate at 12 percent below staffing standards, causing significant delays in case processing;²³
- New York laid off approximately 500 employees due to a \$178 million cut in state court system funding;²⁴
- New York also had to abandon a special program intended to reduce case backlog that made use of retired judges to handles thousands of cases.²⁵

There is little doubt that were systematic data available reflecting performance of state courts, overall results would support the conclusions described herein, i.e. administration of cases through the court system requires significantly more time than AAA arbitration.

Recognizing that delays impose costs on litigants, states have enacted statues to award interest for civil case recoveries obtained in district courts or state courts. Each state has its own laws as to the appropriate level of interest and as to how interest is to be calculated. For example, under New York law, interest shall be at the rate of nine percent per year.²⁶ Under California law, the

²² Weise, Karen, “U.S. Courts Face Backlogs and Layoffs,” Bloomberg Businessweek, April 28, 2011 (http://www.businessweek.com/magazine/content/11_19/b4227024878939.htm).

²³ Hall, Daniel J., “Reshaping the Face of Justice; The Economic Tsunami Continues” (<http://www.ncsc.org/~media/Files/PDF/Information%20and%20Resources/Budget%20Resource%20Center/Hall.ashx>).

²⁴ Adeboyejo, Betsy M. and Buller, Alexandria, “Cuts to State Courts Are Focus of Symposium,” American Bar Association News Service, September 23, 2011 (<http://web.archive.org/web/20111001051737/http://www.abanow.org/2011/09/cuts-to-state-court-focus-of-symposium/>).

As of 2011, at least six states opted to close their courts one day a week due to insufficient funding; New Hampshire suspended all civil cases for one year because of backlogs that were exacerbated by funding issues; and 40 states had decreased the funding for their courts. *See* Adeboyejo, Betsy M. and Buller, Alexandria, “Cuts to State Courts Are Focus of Symposium,” American Bar Association News Service, September 23, 2011 (<http://web.archive.org/web/20111001051737/http://www.abanow.org/2011/09/cuts-to-state-court-focus-of-symposium/>).

²⁵ Glaberson, William, “Cuts Could Stall Sluggish Courts at Every Turn,” New York Times, May 15, 2011 (<http://www.nytimes.com/2011/05/16/nyregion/budget-cuts-for-new-york-courts-likely-to-mean-delays.html>).

²⁶ New York Civil Practice Law and Rules § 5004, Rate of Interest (<http://codes.findlaw.com/ny/civil-practice-law-and-rules/cvp-sect-5004.html>).

interest rate is set by the legislature and is not to exceed 10 percent per year.²⁷ Under Florida law, the rate reflects a complex formula based on the discount rate of the Federal Reserve Bank of New York for the preceding year.²⁸ Texas makes use of a complex formula based on the prime rate published by the Federal Reserve Board of Governors.²⁹ Regardless of the state, interest allowed on money judgments obtained often is well under amounts associated with returns on common indices of invested capital performance such as the S&P 500. Further, we are not aware of any instance where a defendant is compensated for its inability to use capital at risk in litigation when the defendant prevails.

Where the courts have discretion in the determination of interest, they may adopt lower interest rates, sometimes based on “risk-free” federal government instrument rates. Illustrative cases show an award of interest rates as low as 2-3 percent.³⁰ Post-judgment interest in federal court is governed by 28 U.S.C. § 1961(a), which provides that: “Interest shall be allowed on any money judgment in a civil case recovered in a district court... Such interest shall be calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.”³¹ In recent years that rate has been less than

²⁷ “California Interest Rate Laws,” *Thomson Reuters FindLaw* (<http://statelaws.findlaw.com/california-law/california-interest-rates-laws.html>).

California Civil Code – Section 3287-3291: Article 2. Interest As Damages (<http://law.justia.com/codes/california/2009/civ/3287-3291.html>).

The interest rate on judgments is set by the legislature. The rate of interest will be 7 percent if the legislature does not set the rate. *See* “California Interest Rate Laws,” *Thomson Reuters FindLaw* (<http://statelaws.findlaw.com/california-law/california-interest-rates-laws.html>).

²⁸ The 2016 Florida Statutes, Title VI Chapter 55 Sec. 55.03 (http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0055/Sections/0055.03.html).

²⁹ 2005 Texas Finance Code Chapter 304, Judgment Interest (<http://law.justia.com/codes/texas/2005/fin/004.00.000304.00.html>).

³⁰ See, for example:

Opinion, *N.Y. Marine & General Insurance Co. v. Tradeline (L.L.C.)*, 266 F.3d 112 (2d Cir. 2001), pp. 6 and 16 [“Interest is intended to make the injured party whole, and generally should be measured by interest on short-term, risk-free obligations... District court did not abuse its discretion by applying United States Treasury Bill rate... in awarding pre-judgment interest... [t]he district court applied the United States Treasury Bill rate as provided in 28 U.S.C. § 1961(a)”].

Decision/Order, *ACM Advance Currency Markets, S.A. v. Bauer*, 2009 WL 1656046 (Sup. Ct. N.Y. Cty, 2009), p. 4 [“Plaintiff also seeks an award of prejudgment interest... the court, in its discretion, will set the interest rate at the average treasury bill rate for fiscal year 2005, 2.25%”].

Decision and Order, *In re CNB International, Inc., et al., v. Timothy S. Kelleher, et al.*, 393 B.R. 306 (Bankr. W.D.N.Y. 2008), p. 25 [“In the present instance, an appropriate level of pre-judgment interest will accomplish an objective similar to that of 28 U.S.C. § 1961, which allows for interest on federal judgments... the court will apply the average of the weekly 1 year constant maturity Treasury yields for the 392 weeks during which this matter has been litigated. This average comes to 2.975 percent. In the court’s view, this rate fairly reflects the time value of money”].

³¹ 28 U.S.C. 1961 – Post Judgment Interest Rates, U.S. Courts website (<http://www.uscourts.gov/services-forms/fees/post-judgement-interest-rate/28-usc-1961-post-judgment-interest-rates>).

one percent.³² Thus, the interest earned in federal court cases following judgment through appeal is significantly less than the state interest statutes suggest would be applied.

³² 1-Year Treasury Constant Maturity Rate, Economic Data from the Federal Reserve Bank of St. Louis (<https://fred.stlouisfed.org/series/DGS1>).

H.15 Selected Interest Rates, as of February 16, 2017, Board of Governors of the Federal Reserve System website (<https://www.federalreserve.gov/releases/h15/>).

G. INDUCED OR INDIRECT ECONOMIC CONSEQUENCES OF DELAY IN ADJUDICATION

The losses shown in Figure 7 (above) represent the direct opportunity cost to the parties involved in litigation. Economists recognize that a given change in economic activity produces benefits or costs in excess of the initial outcome. In economics, these costs or benefits are referred to as “multiplier effects.” With respect to resources in limbo due to litigation, multiplier effects would include reduced expenditures by entities during the period of delay. They also will include reduced expenditures by entities that otherwise would have been ultimate beneficiaries of expenditures during the period of delay by the litigating entities. Economists and financial analysts refer to these secondary impacts as “indirect” and “induced” losses respectively. In the context of our analyses, the combined direct, indirect, and induced losses can be thought of as an estimated loss to society as a whole.

In the 1970s and 1980s, policymakers, academics, and U.S. government representatives recognized a need to develop a tool that could provide information on the total economic impact on sectors of the economy associated with changes in various inputs. The tool they developed ultimately became known as IMPLAN, an acronym for “impact analysis and planning.” IMPLAN was developed originally at the University of Minnesota and has been in widespread use for decades.³³

Tables 15, 16, 17, and 18 make use of the IMPLAN model to estimate the indirect and induced economic impact based on direct economic impact (i.e. resources lost due to delay). Overall economic losses associated with delay to trial are roughly **\$28.3 billion to \$35.3 billion**,³⁴ while overall economic losses associated with delay through appeal are approximately **\$51.9 billion to \$59.2 billion**.³⁵ See Figure 8 below for a summary of our findings.

³³ See www.implan.com. Numerous articles have been written about the application of the IMPLAN model by government, academic, and private industry entities.

³⁴ The lower estimate is based on delay to trial (district courts v. AAA arbitration) for the entire U.S., while the higher estimate is based on delay to trial for the eight states with the highest caseload in 2015. See Tables 15 and 16.

³⁵ The lower estimate is based on delay through appeal (appellate courts v. AAA arbitration) for the entire U.S., while the higher estimate is based on delay through appeal for circuit courts associated with the eight states with the highest caseload in 2015. See Tables 17 and 18.

Figure 8: Overall Economic Losses (Direct, Indirect, and Induced Losses) Associated with Delay to Trial and Delay through Appeal, 2011 – 2015 (Reflected in Tables 15-18)

Economic Impact	U.S. District Courts v. Arbitration (Delay to Trial)		U.S. Appellate Courts v. Arbitration (Delay through Appeal)	
	Based on Delay in Entire U.S. (\$Billions)	Based on Delay in States with Highest Caseload in 2015 (\$Billions)	Based on Delay in Entire U.S. (\$Billions)	Based on Delay in States with Highest Caseload in 2015 (\$Billions)
1. Direct Loss	\$10.9	\$13.6	\$20.0	\$22.9
2. Indirect Loss	8.0	10.0	14.6	16.7
3. Induced Loss	9.4	11.7	17.2	19.6
4. Total Loss	\$28.3	\$35.3	\$51.9	\$59.2

H. QUALITATIVE DIFFERENCES BETWEEN ARBITRATION AND COURT PROCEEDINGS

In addition to the losses described above, arbitration may provide certain advantages compared with federal courts.

- More control over the process
 - Unlike litigation, arbitration is a creature of contract and the parties control the process. This means that parties can agree to design the arbitration so that it accommodates their respective needs both at the contractual stage and after the arbitration has commenced. The parties can determine the scope of discovery, where and how the hearing should be conducted, the length of time for the entire process and many other procedural issues. Arbitration affords a flexibility that courts, governed appropriately by more directive laws and rules, typically cannot provide.
- Selecting the decision-maker
 - A potential benefit of arbitration relates to the fact that the parties can select their arbitrators and thereby choose decision-makers with qualifications tailored to the needs of the dispute. These desired qualifications can include attributes such as subject matter expertise, temperament, and commitment and ability to conduct an efficient, cost-effective arbitration. At the same time, certain types of cases seem to wind up in particular federal court districts which have developed considerable subject matter expertise (e.g. patent infringement cases in the Eastern District of Texas, pharmaceutical cases in New Jersey).
- Exposure of confidential information
 - Litigated cases typically produce some type of public hearing(s) and/or public record; arbitration can allow parties to avoid such an open platform. Even with the use of Protective Orders that limit access to confidential information, sensitive information is more difficult to conceal with litigation. The ability to keep this kind of information private can prove beneficial.
- Harmful to the relationship between disputing parties
 - All cases are unique, but in general, litigation typically is more antagonistic and may lead to strained or severed relationships between the parties. Arbitration can be less combative.
- Accumulation of additional legal fees and attorney fees
 - Legal fees and attorney fees are significant to litigants, and vary generally with the length of time required to adjudicate disputes. Other things equal, the longer things take, the greater the fees, so that parties choosing the federal court system over arbitration are subject to additional ancillary costs just based on the fact that the process takes

longer. Moreover a court trial can often take longer than an arbitration hearing because procedures followed in court like evidentiary objections, *voir dire*, jury charges, proposed findings of fact, authentication of documents, qualification of experts and the like are often streamlined to save time and cost in arbitration where those procedures are not required.

- Loss of time, energy, and focus of company executives and employees
 - Because litigation to trial and through appeal takes approximately 12-21 months *longer* than arbitration, the choice of litigation over arbitration imposes burdens on executives, managers, and/or employees that are at the expense of revenue-generating business opportunities.
- Benefits for international disputes
 - Arbitration may provide a uniquely detached and neutral forum for dispute resolution decision makers and assure adherence to the rule of law in a familiar procedural setting. Moreover, arbitration permits the parties to choose adjudicators with the necessary expertise to decide a cross-border dispute, including knowledge of more than one legal system, ability to harmonize cultural differences, and fluency in more than one language. The New York Convention enables enforcement of international arbitration agreements and awards across borders in more than 150 countries. In contrast, judgments of national courts are more difficult and often impossible to enforce in other countries.

III. SUMMARY AND CONCLUSIONS

“Justice delayed is justice denied” is a long-standing legal maxim that aligns well with economic theory. The concept is a simple one: A party that experiences compensable economic injury is effectively denied redress if resolution takes too long. State-mandated statutory interest rates are typically lower than the average rate of return that could be earned by investing capital at risk due to litigation. This means that plaintiffs often are not made whole even when statutory interest is awarded. Reducing the amount of time required to resolve disputes represents an important way to mitigate economic losses associated with litigation. Further, while statutory interest compensates the claimant who wins, the defendant is never compensated for its inability to use capital tied up in litigation. This means that defendants no less than plaintiffs have an incentive to speed up the process.

Arbitration represents one way in which the pace of dispute resolution can be accelerated. Significant differences in time required exist between the onset of a dispute and a final determination when the choice is between the federal courts and arbitration. On average, federal courts take much longer to resolve by trial and appeal than arbitration by the AAA. These differences are systematic across almost all states and sections of the country and are especially significant in the states with the highest arbitration and federal court caseloads. In light of these differences and the economic costs associated with delay, other things equal, parties would be well-advised to consider arbitration for dispute resolution.

ABOUT THE AUTHORS

About the Authors

Roy Weinstein is an economist and Managing Director at Micronomics, an economic research and consulting firm based in Los Angeles, California. Mr. Weinstein has been involved with economic research and consulting since 1969. He has prepared a number of studies addressing issues associated with cutbacks to our judiciary and the economic impact of increases in the length of time required to adjudicate disputes. Mr. Weinstein also has been commissioned by the Tournament of Roses Committee to determine the economic impact of the Rose Bowl Parade and Game on Los Angeles County, and has been engaged to conduct similar studies for the Grammys, the Emmys, the NBA All Star Game, the X-Games, AEG, and the Special Olympics World Summer Games. Mr. Weinstein's areas of expertise include industrial organization, statistics, econometrics and the calculation of economic damages. He has published articles relating to economics in numerous professional journals and is a frequent speaker before professional associations and trade groups. Mr. Weinstein received a Bachelor of Business Administration Degree *cum laude* with honors in economics from City College New York and a Master of Arts Degree in economics from the University of Chicago. He is the first recipient of the Career Achievement Award for professional success from the Business and Economics Alumni Society of the Baruch School at City College New York.

Cullen Edes is a Senior Research Associate at Micronomics, and has been with the firm since 2013. Mr. Edes has extensive experience calculating damages associated with patent infringement, and has examined complex economic and statistical questions relating to telecommunications, pharmaceuticals, motion picture exhibition and banking. Prior to joining Micronomics, Mr. Edes worked as an Analyst for Promontory Financial Group. Mr. Edes received a Bachelor of Arts in Economics and a Bachelor of Arts in Political Science from Middlebury College.

Joe Hale is a Senior Research Associate at Micronomics. He has been engaged in economic research and consulting since 2012. Mr. Hale has managed and assisted on a variety of cases involving damages calculations, antitrust and competition, patent infringement, labor and wage disputes, and economic impact studies. Many of these proceedings were litigated in U.S. District Courts and at the International Trade Commission. Mr. Hale's assignments have covered products spanning multiple industries, including telecommunications (consumer devices and infrastructure), software, electronics, codecs, and pharmaceuticals, among others. Mr. Hale received a Bachelor of Arts in Economics and a Bachelor of Arts in Geography/Environmental Studies from the University of California, Los Angeles.

Nels Pearsall is a Director at Micronomics with more than 25 years of experience as a testifying expert and economic consultant. Mr. Pearsall has provided expert opinions in numerous matters involving intellectual property, antitrust, econometrics, statistical and financial analyses and generally determination of economic damages. He has led business consulting engagements involving market intelligence, pricing models, analyses of financial data, firms' assets, collection and interpretation of survey data, sales forecasts, economic modeling, predictive analyses, competition and marketing campaigns. Mr. Pearsall is a frequent speaker before professional

association and trade groups. Mr. Pearsall received Bachelor and Master of Arts Degrees in economics from Virginia Tech and is located in Washington, DC.

About Micronomics

Micronomics is an economic research and consulting firm located in Los Angeles, California. Founded in 1988, it specializes in the collection, tabulation and analysis of various types of economic, financial and statistical data. Areas of expertise include industrial organization, antitrust, economic impact studies, the valuation of intellectual property and the calculation of economic damages. Clients include publicly and privately held businesses and government agencies. Industry experience includes sports and entertainment, banking and financial services, pharmaceuticals, telecommunications, and computer hardware and software.

**APPENDIX
DESCRIPTION OF DATA**

APPENDIX DESCRIPTION OF DATA

DATA FROM THE UNITED STATES COURTS GOVERNMENT WEBSITE

1. Tables C-5, “U.S. District Courts – Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Periods Ending December 31, 2011 through 2015.”³⁶
 - From Tables C-5, we ascertain i) the total number of U.S. District Court civil cases terminated each year and ii) the median time interval from the date a case was filed to the date trial begins (i.e. “filing to trial”).³⁷
 - Tables C-5 exclude cases relating to land condemnations, prisoner petitions, deportation reviews, recovery of overpayments, and enforcement of judgments.
 - Information in Tables C-5 is available at three levels – district(s) within each state or territory; circuits (i.e. appellate courts); and overall total.³⁸

³⁶ See: http://www.uscourts.gov/sites/default/files/statistics_import_dir/C05Dec11.pdf;
http://www.uscourts.gov/sites/default/files/statistics_import_dir/C05Dec12.pdf;
http://www.uscourts.gov/sites/default/files/statistics_import_dir/C05Dec13.pdf;
http://www.uscourts.gov/sites/default/files/c05dec14_0.pdf; and
http://www.uscourts.gov/sites/default/files/data_tables/stfj_c5_1231.2015.pdf.

³⁷ “Explanation of Selected Terms” (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

Our use of “filing to trial” is conservative given the time between the start of trial and the rendering of a final judgment as judges may take weeks or months to issue a judgment after a bench trial. Further, post-trial motion practice following a jury trial in civil cases also may take weeks or months before a final judgment is rendered.

³⁸ Some states have more than one district court (e.g. California and New York both have four district courts). When a state has two or more district courts, we calculate the average time required from filing to trial for the districts within that state. For example, in California, median time required from filing to trial in 2015 is 28.1 months (shown at Line 5 of Table 2.5), which is the average of time required from filing to trial for the Northern District of California (26.7 months), the Eastern District of California (30.6 months), the Central District of California (20.9 months), and the Southern District of California (34.1 months). See Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2015.

2. Tables B-4, titled “U.S. Courts of Appeals – Median Time Intervals in Months for Merit Terminations of Appeals, by Circuit, During the 12-Month Periods Ending September 30, 2011 through 2015.”³⁹

- From Tables B-4, we ascertain the median time interval from filing of notice of appeal to last opinion or final order in appellate court (i.e. filing of appeal through conclusion of appeal).⁴⁰
- We combine data for (a) filing to trial and (b) filing of appeal through conclusion of appeal in order to calculate the duration of time required between initial filing and the conclusion of appeal (i.e. “filing through appeal”).⁴¹
- Tables B-4 do not include data from the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”).⁴² We do not believe that this omission impacts our results.

³⁹ See: http://www.uscourts.gov/sites/default/files/statistics_import_dir/B04Sep11.pdf;
http://www.uscourts.gov/sites/default/files/statistics_import_dir/B04Sep12.pdf;
http://www.uscourts.gov/sites/default/files/statistics_import_dir/B04Sep13.pdf;
http://www.uscourts.gov/sites/default/files/statistics_import_dir/B04Sep14.pdf; and
http://www.uscourts.gov/sites/default/files/data_tables/B04Sep15.pdf.

Our understanding is that Tables C-5 pertain to civil cases only, while Tables B-4 pertain to both civil and criminal cases. Anecdotal evidence suggests that appeals of criminal cases take less time to resolve than appeals of civil matters. Also, the gap between the end of a trial and the onset of an appeal typically is greater in civil than in criminal cases. Accordingly, use of data contained in Tables B-4 in conjunction with data contained in Tables C-5 is appropriate and probably conservative. See, for example:

The Honorable Carl West Anderson, “Are the American Bar Association’s Time Standards Relevant for California Courts of Appeal?” *University of San Francisco Law Review*, Winter 1993, p. 3.

Stephenson, Gail S., “Reaching the Top of the Docket: Louisiana’s Preference System,” *Loyola Law Review*, Spring 2010, p. 50.

Krown, Lexia B., “Clarity as the Last Resort? Why Federal Rule of Appellate Procedure 4 Should and Could Stipulate Which Judgments are ‘Final’,” *Ohio State Law Journal*, 2009, pp. 2 and 15.

⁴⁰ In Table B-4 for 2011, this is described as median time interval “from filing of notice of appeal to final disposition.”

The docket date is used to calculate median time intervals instead of “from filing of notice of appeal” for original proceedings, miscellaneous applications, and appeals from administrative agencies. See Tables B-4 for 2012-2015.

⁴¹ The calculation of filing through appeal is conservative given the gap in time between the start of a trial on the one hand and the filing of notice of appeal on the other. For example, in district court civil cases, parties have 30 days to file an appeal after an entry of judgment is made (or 60 days if the United States is a party). See, for example:

Rule 4, Appeal as of Right – When Taken (https://www.law.cornell.edu/rules/frap/rule_4).

U.S. Court of Appeals for the Fourth Circuit, Appellate Procedure Guide, December 2016 (http://www.ca4.uscourts.gov/AppellateProcedureGuide/General_Provisions/APG-appellatedeadlines.html).

Federal Rules of Appellate Procedure, Ninth Circuit Rules, Circuit Advisory Committee Notes (<http://cdn.ca9.uscourts.gov/datastore/uploads/rules/rules.htm>).

⁴² The Federal Circuit is unique compared with the other twelve Circuit Courts of Appeals in that it has nationwide jurisdiction in a variety of areas, including international trade, government contracts, patents, trademarks, certain

- While systematic Federal Circuit data are difficult to obtain, a business litigation article released by *Quinn Emanuel Trial Lawyers* notes that “the Federal Circuit’s median disposition time is in line with many of the other circuits.”⁴³
- Information in Tables B-4 is available at two levels – circuits and overall total.

money claims against the U.S. Government, federal personnel, veterans’ benefits, and public safety officers’ benefits claims. More than half of the cases administered by the Federal Circuit involve administrative law, while intellectual property and monetary damages against the U.S. Government account for approximately 31 percent and 11 percent, respectively. *See* United States Court of Appeals for the Federal Circuit, Court Jurisdiction, U.S. Courts website (<http://www.cafc.uscourts.gov/the-court/court-jurisdiction>).

⁴³ “Article: March 2013 Appellate Update – The Appellate Timetable,” Business Litigation Reports, *Quinn Emanuel Trial Lawyers* (<http://www.quinnemanuel.com/the-firm/news-events/article-march-2013-appellate-update-the-appellate-timetable/>).

DATA FROM AMERICAN ARBITRATION ASSOCIATION (AAA)

3. AAA provided Micronomics with data for its arbitration cases closed between 2011 and 2015.⁴⁴
 - From these data, we calculate the annual median time required from filing to final resolution in cases determined in arbitration at the American Arbitration Association (i.e. “filing to award”).
 - We calculate filing to award for all cases in the data with the status “awarded,” i.e. the case was determined in arbitration at the AAA.⁴⁵
 - Our calculation of median time interval from filing to award is based on the timing of the award.
 - We include only AAA and ICDR arbitration cases that had claimed amounts of *at least* \$75,000.⁴⁶ This matches our treatment of district court cases with subject matter jurisdiction over disputes where at least \$75,000 is involved.
 - AAA informed us that its data include cases related to business-to-business, construction, employment, and consumers, its data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois.⁴⁷

⁴⁴ Length of time for filing to trial in federal cases and filing to award in AAA arbitration is based on calendar year data; length of time for filing of appeal through conclusion of appeal in federal cases is provided on a fiscal year basis. Since all data cover a full year, this difference does not materially affect our analysis.

⁴⁵ AAA cases with status of administrative, dismissal based on settlement, withdrawn, settled, or otherwise closed without going to award are not used to calculate median time from filing to award because they were resolved in another manner (e.g. before a final decision was made in arbitration at the AAA).

⁴⁶ We have been informed by AAA that most of its data utilized in this report pertain to the domestic United States; some cases were administered by AAA’s international division, the International Centre for Dispute Resolution.

⁴⁷ Of the 7,416 AAA arbitration cases that went to award from 2011 through 2015, only 637 (or 8.6%) are consumer cases.

TABLES

TABLE 1
CASELOAD FOR TOP 10 STATES
AAA ARBITRATION CASES GOING TO AWARD AND U.S. DISTRICT COURT CIVIL CASES
2015

Arbitration ¹			U.S. District Courts ²		
State or Territory	Caseload	Percent of Total	State or Territory	Caseload	Percent of Total
1. California	191	13.9%	1. California	22,451	10.3%
2. New York	167	12.1%	2. New York	19,233	8.9%
3. Texas	156	11.3%	3. Florida	16,011	7.4%
4. Florida	76	5.5%	4. Illinois	13,962	6.4%
5. Pennsylvania	68	4.9%	5. West Virginia	13,813	6.4%
6. Maryland	52	3.8%	6. Pennsylvania	13,770	6.3%
7. Georgia	47	3.4%	7. Texas	13,406	6.2%
8. New Jersey	47	3.4%	8. Ohio	8,956	4.1%
9. Michigan	41	3.0%	9. New Jersey	8,089	3.7%
10. Illinois	37	2.7%	10. Georgia	5,531	2.5%
11. Delaware	34	2.5%	11. Minnesota	5,046	2.3%
12. Ohio	34	2.5%	12. Michigan	4,907	2.3%
13. Louisiana	28	2.0%	13. Louisiana	4,867	2.2%
14. Arizona	27	2.0%	14. Indiana	4,104	1.9%
15. Alabama	25	1.8%	15. Missouri	3,847	1.8%
16. Connecticut	25	1.8%	16. Washington	3,338	1.5%
17. Missouri	25	1.8%	17. Maryland	3,228	1.5%
18. District of Columbia	24	1.7%	18. Tennessee	3,107	1.4%
19. Tennessee	24	1.7%	19. Alabama	2,993	1.4%
20. Colorado	21	1.5%	20. Virginia	2,935	1.4%
21. North Carolina	21	1.5%	21. North Carolina	2,779	1.3%
22. Virginia	19	1.4%	22. Kansas	2,774	1.3%
23. Minnesota	18	1.3%	23. Massachusetts	2,719	1.3%
24. Washington	18	1.3%	24. Colorado	2,371	1.1%
25. Massachusetts	17	1.2%	25. Arizona	2,345	1.1%
26. Mississippi	14	1.0%	26. South Carolina	2,341	1.1%
27. Arkansas	8	0.6%	27. Oklahoma	2,338	1.1%
28. Nevada	8	0.6%	28. Nevada	2,165	1.0%
29. Oklahoma	8	0.6%	29. Kentucky	2,025	0.9%
30. South Carolina	7	0.5%	30. Arkansas	1,887	0.9%
31. Iowa	6	0.4%	31. Oregon	1,794	0.8%
32. Kentucky	6	0.4%	32. District of Columbia	1,777	0.8%
33. Kansas	5	0.4%	33. Mississippi	1,771	0.8%
34. North Dakota	5	0.4%	34. Connecticut	1,745	0.8%
35. Puerto Rico	5	0.4%	35. Wisconsin	1,737	0.8%
36. Utah	5	0.4%	36. Delaware	1,630	0.8%
37. Hawaii	4	0.3%	37. Iowa	1,104	0.5%
38. Indiana	4	0.3%	38. Puerto Rico	1,085	0.5%
39. New Mexico	4	0.3%	39. New Mexico	1,017	0.5%
40. Nebraska	3	0.2%	40. Utah	1,008	0.5%
41. Oregon	3	0.2%	41. Rhode Island	797	0.4%
42. Virgin Islands	3	0.2%	42. South Dakota	553	0.3%
43. Wisconsin	3	0.2%	43. Hawaii	551	0.3%
44. Idaho	2	0.1%	44. Nebraska	496	0.2%
45. Maine	2	0.1%	45. Maine	470	0.2%
46. Montana	2	0.1%	46. New Hampshire	421	0.2%
47. New Hampshire	2	0.1%	47. Idaho	419	0.2%
48. West Virginia	2	0.1%	48. Montana	407	0.2%
49. Rhode Island	1	0.1%	49. Vermont	251	0.1%
50. Vermont	1	0.1%	50. Alaska	237	0.1%
51. Alaska	-	0.0%	51. Virgin Islands	217	0.1%
52. Guam	-	0.0%	52. Wyoming	211	0.1%
53. South Dakota	-	0.0%	53. North Dakota	195	0.1%
54. Wyoming	-	0.0%	54. Guam	31	0.0%
55. N/A ³	20	1.5%	55. Northern Mariana Islands	26	0.0%
56. Top-10 Total	882	64.1%	56. Top-10 Total	135,222	62.2%
57. Overall Total	1,375	100.0%	57. Overall Total	217,288	100.0%

TABLE 1
CASELOAD FOR TOP 10 STATES
AAA ARBITRATION CASES GOING TO AWARD AND U.S. DISTRICT COURT CIVIL CASES
2015

Arbitration ¹			U.S. District Courts ²		
State or Territory	Caseload	Percent of Total	State or Territory	Caseload	Percent of Total

Notes: ¹ Entries reflect number of cases in 2015 that went to award in arbitration at the AAA and include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Entries include cases with claimed amounts of at least \$75,000.

² Entries reflect number of cases terminated in 2015 and exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments. Terminated cases include cases going to trial and cases disposed of prior to trial.

³ N/A -- not available.

Sources: American Arbitration Association Statistics for arbitrations closed 2011-2015.

Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

TABLE 2.1
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2011

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
1. Alabama	17.3	11.4	5.9
2. Alaska	N/A ³	14.1	N/A ³
3. Arizona	24.0	10.1	13.9
4. Arkansas	18.8	12.2	6.6
5. California	25.9	11.3	14.6
6. Colorado	27.5	10.7	16.8
7. Connecticut	38.6	9.0	29.6
8. Delaware	25.5	12.0	13.5
9. District of Columbia	37.6	10.6	27.0
10. Florida	17.6	10.7	6.9
11. Georgia	27.7	11.0	16.7
12. Guam	N/A ³	N/A ³	N/A ³
13. Hawaii	23.3	7.4	15.9
14. Idaho	20.8	17.1	3.7
15. Illinois	27.7	15.1	12.6
16. Indiana	30.0	11.1	18.9
17. Iowa	23.5	8.3	15.2
18. Kansas	27.1	12.3	14.8
19. Kentucky	26.0	7.9	18.1
20. Louisiana	24.3	10.3	14.0
21. Maine	N/A ³	4.9	N/A ³
22. Maryland	25.2	6.6	18.6
23. Massachusetts	25.2	11.3	13.9
24. Michigan	22.2	10.1	12.1
25. Minnesota	26.0	9.9	16.1
26. Mississippi	23.3	9.9	13.4
27. Missouri	19.8	8.9	10.9
28. Montana	N/A ³	13.6	N/A ³
29. Nebraska	21.2	11.8	9.4
30. Nevada	34.1	13.3	20.8
31. New Hampshire	22.8	6.6	16.2
32. New Jersey	35.5	10.5	25.0
33. New Mexico	17.0	15.3	1.7
34. New York	31.0	11.2	19.8
35. North Carolina	19.5	10.3	9.2
36. North Dakota	N/A ³	8.0	N/A ³
37. Northern Mariana Islands	N/A ³	N/A ³	N/A ³
38. Ohio	23.8	9.9	13.9
39. Oklahoma	19.6	9.5	10.1

TABLE 2.1
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2011

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
40. Oregon	26.1	9.3	16.8
41. Pennsylvania	25.4	8.2	17.2
42. Puerto Rico	26.0	17.7	8.3
43. Rhode Island	N/A ³	12.2	N/A ³
44. South Carolina	22.4	15.0	7.4
45. South Dakota	30.7	9.3	21.4
46. Tennessee	27.2	12.2	15.0
47. Texas	21.5	10.7	10.8
48. Utah	29.1	10.7	18.4
49. Vermont	N/A ³	5.8	N/A ³
50. Virgin Islands	61.2	14.6	46.6
51. Virginia	13.6	9.5	4.1
52. Washington	21.2	11.9	9.3
53. West Virginia	19.9	10.0	9.9
54. Wisconsin	23.9	12.3	11.6
55. Wyoming	12.8	12.2	0.6

Notes: ¹ Filing to trial reflects median time from filing to start of trial in civil cases. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Filing to award reflects median time from filing to award in cases determined in arbitration at the AAA. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Entries include cases with claimed amounts of at least \$75,000.

³ N/A -- not available.

Sources: Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2011 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 2.2
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2012

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
1. Alabama	21.7	17.0	4.7
2. Alaska	N/A ³	14.6	N/A ³
3. Arizona	29.1	10.6	18.5
4. Arkansas	17.7	18.6	(0.9)
5. California	26.3	12.5	13.8
6. Colorado	23.1	11.6	11.5
7. Connecticut	32.9	13.7	19.2
8. Delaware	34.9	12.5	22.4
9. District of Columbia	50.3	10.7	39.6
10. Florida	18.6	11.2	7.4
11. Georgia	23.6	8.1	15.5
12. Guam	N/A ³	N/A ³	N/A ³
13. Hawaii	13.4	6.6	6.8
14. Idaho	29.6	16.6	13.0
15. Illinois	30.1	12.7	17.4
16. Indiana	26.0	10.3	15.7
17. Iowa	N/A ³	17.5	N/A ³
18. Kansas	24.2	11.0	13.2
19. Kentucky	N/A ³	17.7	N/A ³
20. Louisiana	25.6	12.0	13.6
21. Maine	N/A ³	8.9	N/A ³
22. Maryland	30.1	7.5	22.6
23. Massachusetts	28.6	11.5	17.1
24. Michigan	23.5	13.0	10.5
25. Minnesota	23.4	12.5	10.9
26. Mississippi	20.4	11.3	9.1
27. Missouri	23.0	11.6	11.4
28. Montana	N/A ³	9.5	N/A ³
29. Nebraska	23.0	10.8	12.2
30. Nevada	36.8	13.8	23.0
31. New Hampshire	23.3	7.4	15.9
32. New Jersey	32.3	10.1	22.2
33. New Mexico	24.0	10.2	13.8
34. New York	35.0	12.4	22.6
35. North Carolina	26.9	9.8	17.1
36. North Dakota	N/A ³	16.0	N/A ³
37. Northern Mariana Islands	N/A ³	N/A ³	N/A ³
38. Ohio	26.2	11.8	14.4
39. Oklahoma	18.4	9.8	8.6

TABLE 2.2
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2012

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
40. Oregon	22.2	14.5	7.7
41. Pennsylvania	25.1	9.7	15.4
42. Puerto Rico	29.0	44.0	(15.0)
43. Rhode Island	31.2	23.0	8.2
44. South Carolina	27.3	15.2	12.1
45. South Dakota	N/A ³	4.2	N/A ³
46. Tennessee	26.1	11.2	14.9
47. Texas	20.8	13.2	7.6
48. Utah	38.8	9.3	29.5
49. Vermont	N/A ³	N/A ³	N/A ³
50. Virgin Islands	25.7	8.8	16.9
51. Virginia	12.4	9.2	3.2
52. Washington	22.3	11.5	10.8
53. West Virginia	19.7	32.7	(13.0)
54. Wisconsin	15.9	9.8	6.1
55. Wyoming	N/A ³	7.3	N/A ³

Notes: ¹ Filing to trial reflects median time from filing to start of trial in civil cases. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Filing to award reflects median time from filing to award in cases determined in arbitration at the AAA. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Entries include cases with claimed amounts of at least \$75,000.

³ N/A -- not available.

Sources: Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2012 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

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American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 2.3
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2013

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
1. Alabama	22.5	15.2	7.3
2. Alaska	N/A ³	9.2	N/A ³
3. Arizona	30.4	15.5	14.9
4. Arkansas	21.0	4.8	16.2
5. California	25.0	12.7	12.3
6. Colorado	24.9	8.7	16.2
7. Connecticut	33.3	10.7	22.6
8. Delaware	31.3	13.7	17.6
9. District of Columbia	34.2	10.7	23.5
10. Florida	20.4	11.1	9.3
11. Georgia	22.7	9.8	12.9
12. Guam	N/A ³	N/A ³	N/A ³
13. Hawaii	15.0	N/A ³	N/A ³
14. Idaho	24.8	11.1	13.7
15. Illinois	29.1	14.6	14.5
16. Indiana	28.6	11.8	16.8
17. Iowa	23.3	14.3	9.0
18. Kansas	28.5	15.2	13.3
19. Kentucky	36.7	7.4	29.3
20. Louisiana	28.3	15.5	12.8
21. Maine	N/A ³	13.2	N/A ³
22. Maryland	22.0	8.1	13.9
23. Massachusetts	31.1	12.0	19.1
24. Michigan	27.9	10.2	17.7
25. Minnesota	22.0	10.3	11.7
26. Mississippi	22.3	9.7	12.6
27. Missouri	20.2	9.0	11.2
28. Montana	N/A ³	6.4	N/A ³
29. Nebraska	23.1	4.5	18.6
30. Nevada	41.9	15.8	26.1
31. New Hampshire	N/A ³	8.8	N/A ³
32. New Jersey	35.7	10.8	24.9
33. New Mexico	25.1	10.8	14.3
34. New York	41.2	11.8	29.4
35. North Carolina	23.6	9.7	13.9
36. North Dakota	N/A ³	10.3	N/A ³
37. Northern Mariana Islands	N/A ³	N/A ³	N/A ³
38. Ohio	26.6	9.2	17.4
39. Oklahoma	17.3	12.4	4.9

TABLE 2.3
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2013

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
40. Oregon	21.7	10.3	11.4
41. Pennsylvania	23.0	13.2	9.8
42. Puerto Rico	18.5	17.5	1.0
43. Rhode Island	31.9	11.9	20.0
44. South Carolina	23.6	12.7	10.9
45. South Dakota	N/A ³	14.8	N/A ³
46. Tennessee	25.7	10.4	15.3
47. Texas	22.3	13.5	8.8
48. Utah	37.6	13.5	24.1
49. Vermont	N/A ³	12.0	N/A ³
50. Virgin Islands	44.1	16.1	28.0
51. Virginia	13.1	12.1	1.0
52. Washington	19.4	10.5	8.9
53. West Virginia	N/A ³	9.7	N/A ³
54. Wisconsin	17.3	11.2	6.1
55. Wyoming	N/A ³	13.6	N/A ³

Notes: ¹ Filing to trial reflects median time from filing to start of trial in civil cases. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Filing to award reflects median time from filing to award in cases determined in arbitration at the AAA. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Entries include cases with claimed amounts of at least \$75,000.

³ N/A -- not available.

Sources: Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2013 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 2.4
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2014

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
1. Alabama	22.7	22.7	-
2. Alaska	N/A ³	9.6	N/A ³
3. Arizona	27.5	8.1	19.4
4. Arkansas	19.7	15.6	4.1
5. California	29.5	13.2	16.3
6. Colorado	29.9	13.8	16.1
7. Connecticut	39.4	11.1	28.3
8. Delaware	34.2	4.6	29.6
9. District of Columbia	53.6	13.2	40.4
10. Florida	17.6	11.2	6.4
11. Georgia	29.3	11.2	18.1
12. Guam	N/A ³	6.6	N/A ³
13. Hawaii	18.0	27.4	(9.4)
14. Idaho	23.4	7.7	15.7
15. Illinois	33.7	13.3	20.4
16. Indiana	26.6	12.4	14.2
17. Iowa	N/A ³	16.6	N/A ³
18. Kansas	23.5	5.9	17.6
19. Kentucky	23.1	10.0	13.1
20. Louisiana	27.0	24.4	2.6
21. Maine	25.5	8.5	17.0
22. Maryland	19.1	7.3	11.8
23. Massachusetts	25.3	12.4	12.9
24. Michigan	25.9	16.6	9.3
25. Minnesota	23.7	10.5	13.2
26. Mississippi	22.4	9.0	13.4
27. Missouri	29.8	10.2	19.6
28. Montana	24.5	8.9	15.6
29. Nebraska	29.7	12.6	17.1
30. Nevada	32.2	10.6	21.6
31. New Hampshire	N/A ³	10.6	N/A ³
32. New Jersey	36.4	13.2	23.2
33. New Mexico	27.4	14.3	13.1
34. New York	35.1	13.3	21.8
35. North Carolina	25.1	11.9	13.2
36. North Dakota	N/A ³	9.7	N/A ³
37. Northern Mariana Islands	N/A ³	N/A ³	N/A ³
38. Ohio	17.3	9.2	8.1
39. Oklahoma	16.0	12.1	3.9

TABLE 2.4
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2014

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
40. Oregon	20.8	11.3	9.5
41. Pennsylvania	25.0	8.4	16.6
42. Puerto Rico	29.8	25.3	4.5
43. Rhode Island	N/A ³	9.6	N/A ³
44. South Carolina	27.8	10.6	17.2
45. South Dakota	30.0	10.4	19.6
46. Tennessee	37.4	12.9	24.5
47. Texas	24.2	12.3	11.9
48. Utah	35.4	13.6	21.8
49. Vermont	N/A ³	N/A ³	N/A ³
50. Virgin Islands	38.2	25.2	13.0
51. Virginia	14.9	13.5	1.4
52. Washington	25.6	11.6	14.0
53. West Virginia	N/A ³	8.7	N/A ³
54. Wisconsin	22.9	12.2	10.7
55. Wyoming	22.9	12.4	10.5

Notes: ¹ Filing to trial reflects median time from filing to start of trial in civil cases. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Filing to award reflects median time from filing to award in cases determined in arbitration at the AAA. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Entries include cases with claimed amounts of at least \$75,000.

³ N/A -- not available.

Sources: Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2014 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 2.5
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2015

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
1. Alabama	25.1	8.5	16.6
2. Alaska	N/A ³	N/A ³	N/A ³
3. Arizona	30.0	13.2	16.8
4. Arkansas	19.1	9.7	9.4
5. California	28.1	13.2	14.9
6. Colorado	22.1	10.1	12.0
7. Connecticut	36.6	6.7	29.9
8. Delaware	34.4	4.9	29.5
9. District of Columbia	37.1	11.5	25.6
10. Florida	17.9	11.6	6.3
11. Georgia	26.2	12.8	13.4
12. Guam	N/A ³	N/A ³	N/A ³
13. Hawaii	20.8	9.0	11.8
14. Idaho	N/A ³	16.4	N/A ³
15. Illinois	31.4	12.8	18.6
16. Indiana	31.5	10.6	20.9
17. Iowa	25.0	12.3	12.7
18. Kansas	24.7	13.4	11.3
19. Kentucky	N/A ³	8.4	N/A ³
20. Louisiana	26.7	13.9	12.8
21. Maine	23.7	12.7	11.0
22. Maryland	28.5	7.4	21.1
23. Massachusetts	33.4	11.5	21.9
24. Michigan	19.3	12.0	7.3
25. Minnesota	31.7	10.9	20.8
26. Mississippi	23.6	13.3	10.3
27. Missouri	21.0	10.9	10.1
28. Montana	N/A ³	10.7	N/A ³
29. Nebraska	26.8	20.4	6.4
30. Nevada	39.5	12.3	27.2
31. New Hampshire	N/A ³	23.3	N/A ³
32. New Jersey	39.3	13.8	25.5
33. New Mexico	28.4	10.7	17.7
34. New York	30.9	12.5	18.4
35. North Carolina	24.9	10.4	14.5
36. North Dakota	N/A ³	13.3	N/A ³
37. Northern Mariana Islands	N/A ³	N/A ³	N/A ³
38. Ohio	28.6	10.6	18.0
39. Oklahoma	15.4	9.3	6.1

TABLE 2.5
MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
2015

<u>State or Territory</u>	<u>U.S. District Courts, Filing to Trial¹</u>	<u>Arbitration, Filing to Award²</u>	<u>Additional Time Required to Trial</u>
	(Months)		
	(1)	(2)	(1) - (2) (3)
40. Oregon	21.6	16.1	5.5
41. Pennsylvania	24.6	11.7	12.9
42. Puerto Rico	25.8	22.3	3.5
43. Rhode Island	N/A ³	13.9	N/A ³
44. South Carolina	28.8	10.3	18.5
45. South Dakota	N/A ³	N/A ³	N/A ³
46. Tennessee	27.4	12.0	15.4
47. Texas	21.3	11.4	9.9
48. Utah	29.3	20.7	8.6
49. Vermont	N/A ³	8.3	N/A ³
50. Virgin Islands	N/A ³	31.6	N/A ³
51. Virginia	15.5	10.1	5.4
52. Washington	20.3	11.9	8.4
53. West Virginia	21.7	16.5	5.2
54. Wisconsin	20.4	19.9	0.5
55. Wyoming	16.3	N/A ³	N/A ³

Notes: ¹ Filing to trial reflects median time from filing to start of trial in civil cases. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Filing to award reflects median time from filing to award in cases determined in arbitration at the AAA. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Entries include cases with claimed amounts of at least \$75,000.

³ N/A -- not available.

Sources: Table C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending December 31, 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 3

**MEDIAN TIME REQUIRED
U.S. DISTRICT COURT CIVIL CASES GOING TO TRIAL
STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

State	Time Required, Filing to Trial (by State)				
	2011	2012	2013	2014	2015
	(Months)				
	(1)	(2)	(3)	(4)	(5)
1. California	25.9	26.3	25.0	29.5	28.1
2. New York	31.0	35.0	41.2	35.1	30.9
3. Texas	21.5	20.8	22.3	24.2	21.3
4. Florida	17.6	18.6	20.4	17.6	17.9
5. Pennsylvania	25.4	25.1	23.0	25.0	24.6
6. Georgia	27.7	23.6	22.7	29.3	26.2
7. New Jersey	35.5	32.3	35.7	36.4	39.3
8. Illinois	27.7	30.1	29.1	33.7	31.4

Sources: Micronomics Table 1, "Caseload for Top 10 States, AAA Arbitration Cases Going to Award and U.S. District Court Civil Cases, 2015."

Tables C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Periods Ending December 31, 2011 through 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

TABLE 4

**MEDIAN TIME REQUIRED
AAA ARBITRATION CASES GOING TO AWARD
STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

State	Time Required, Filing to Award (by State)				
	2011	2012	2013	2014	2015
	(Months)				
	(1)	(2)	(3)	(4)	(5)
1. California	11.3	12.5	12.7	13.2	13.2
2. New York	11.2	12.4	11.8	13.3	12.5
3. Texas	10.7	13.2	13.5	12.3	11.4
4. Florida	10.7	11.2	11.1	11.2	11.6
5. Pennsylvania	8.2	9.7	13.2	8.4	11.7
6. Georgia	11.0	8.1	9.8	11.2	12.8
7. New Jersey	10.5	10.1	10.8	13.2	13.8
8. Illinois	15.1	12.7	14.6	13.3	12.8

Note: Entries reflect median time from filing to award in cases determined in arbitration at the AAA.

Sources: Micronomics Table 1, "Caseload for Top 10 States, AAA Arbitration Cases Going to Award and U.S. District Court Civil Cases, 2015."

American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 5

**ADDITIONAL TIME REQUIRED
U.S. DISTRICT COURT CIVIL CASES GOING TO TRIAL V.
AAA ARBITRATION CASES GOING TO AWARD
STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

State	Additional Time Required to Trial (by State)				
	2011	2012	2013	2014	2015
	(Months)				
	(1)	(2)	(3)	(4)	(5)
1. California	14.6	13.8	12.3	16.3	14.9
2. New York	19.8	22.6	29.4	21.8	18.4
3. Texas	10.8	7.6	8.8	11.9	9.9
4. Florida	6.9	7.4	9.3	6.4	6.3
5. Pennsylvania	17.2	15.4	9.8	16.6	12.9
6. Georgia	16.7	15.5	12.9	18.1	13.4
7. New Jersey	25.0	22.2	24.9	23.2	25.5
8. Illinois	12.6	17.4	14.5	20.4	18.6
9. Average	15.5	15.2	15.2	16.8	15.0

Sources: Micronomics Table 3, "Median Time Required, U.S. District Court Civil Cases Going to Trial, States with Highest Caseload in 2015, 2011 - 2015."

Micronomics Table 4, "Median Time Required, AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 - 2015."

TABLE 6

MEDIAN TIME REQUIRED
U.S. DISTRICT AND APPELLATE COURT CASES
GOING THROUGH APPEAL
STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015

State	Circuit	Time Required, Filing through Appeal (by State)				
		2011	2012	2013	2014	2015
		(Months)				
		(1)	(2)	(3)	(4)	(5)
1. California	9th	43.3	41.6	38.3	41.9	42.2
2. New York	2nd	43.1	47.2	51.6	45.7	41.1
3. Texas	5th	31.7	29.8	31.6	33.1	30.7
4. Florida	11th	26.2	25.8	28.0	24.7	25.3
5. Pennsylvania	3rd	35.1	32.8	29.3	31.4	33.0
6. Georgia	11th	36.3	30.8	30.3	36.4	33.6
7. New Jersey	3rd	45.2	40.0	42.0	42.8	47.7
8. Illinois	7th	37.3	38.4	37.1	40.8	38.6

Note: Time required from filing in lower court through appeal is calculated by adding the median times for (a) filing in lower court to trial in each state listed and (b) filing of notice of appeal through last opinion or final order in each circuit court (i.e. appellate court) associated with each state listed.

Sources: Micronomics Table 1, "Caseload for Top 10 States, AAA Arbitration Cases Going to Award and U.S. District Court Civil Cases, 2015."

Tables C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Periods Ending December 31, 2011 through 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

Tables B-4, U.S. Courts of Appeals - Median Time Intervals in Months for Merit Terminations of Appeals, by Circuit, During the 12-Month Periods Ending September 30, 2011 through 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

TABLE 7

**ADDITIONAL TIME REQUIRED
U.S. DISTRICT AND APPELLATE COURT CASES
GOING THROUGH APPEAL V.
AAA ARBITRATION CASES GOING TO AWARD
STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

State	Circuit	Additional Time Required through Appeal (by State)				
		2011	2012	2013	2014	2015
		(Months)				
		(1)	(2)	(3)	(4)	(5)
1. California	9th	32.0	29.1	25.6	28.7	29.0
2. New York	2nd	31.9	34.8	39.8	32.4	28.6
3. Texas	5th	21.0	16.6	18.1	20.8	19.3
4. Florida	11th	15.5	14.6	16.9	13.5	13.7
5. Pennsylvania	3rd	26.9	23.1	16.1	23.0	21.3
6. Georgia	11th	25.3	22.7	20.5	25.2	20.8
7. New Jersey	3rd	34.7	29.9	31.2	29.6	33.9
8. Illinois	7th	22.2	25.7	22.5	27.5	25.8
9. Average		26.2	24.6	23.8	25.1	24.1

Sources: Micronomics Table 6, "Median Time Required, U.S. District and Appellate Courts Going through Appeal, States with Highest Caseload in 2015, 2011 - 2015."

Micronomics Table 4, "Median Time Required, AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 - 2015."

TABLE 8 -- SUMMARY

**MEDIAN TIME REQUIRED AND ADDITIONAL TIME REQUIRED
U.S. DISTRICT AND APPELLATE COURT CASES
GOING TO TRIAL AND THROUGH APPEAL V.
AAA ARBITRATION CASES GOING TO AWARD
STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

State	Circuit	U.S. District Courts, Filing to Trial ¹	U.S. District and Appellate Courts, Filing through Appeal ²	Arbitration, Filing to Award ³	Additional Time Required	
					To Trial	Through Appeal
(Months)						
		(1)	(2)	(3)	(1) - (3) (4)	(2) - (3) (5)
1. California	9th	27.0	41.5	12.6	14.4	28.9
2. New York	2nd	34.6	45.7	12.2	22.4	33.5
3. Texas	5th	22.0	31.4	12.2	9.8	19.2
4. Florida	11th	18.4	26.0	11.2	7.2	14.8
5. Pennsylvania	3rd	24.6	32.3	10.2	14.4	22.1
6. Georgia	11th	25.9	33.5	10.6	15.3	22.9
7. New Jersey	3rd	35.8	43.5	11.7	24.1	31.8
8. Illinois	7th	30.4	38.4	13.7	16.7	24.7

Notes: Entries reflect averages of the figures shown in Tables 3, 6, and 4 for the years 2011-2015.

¹ Time required for filing to trial reflects median time from filing to start of trial in each state listed. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Time required for filing through appeal is calculated by adding the median times for (a) filing in lower court (i.e. district court) to start of trial in each state listed and (b) filing of notice of appeal through last opinion or final order in each circuit court (i.e. appellate court) associated with each state listed.

³ Time required for filing to award reflects median time from filing to award in cases determined in arbitration at the AAA in each state listed. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Includes cases with claimed amounts of at least \$75,000.

Sources: Micronomics Table 3, "Median Time Required, U.S. District Court Civil Cases Going to Trial, States with Highest Caseload in 2015, 2011 - 2015."

Micronomics Table 6, "Median Time Required, U.S. District and Appellate Court Cases Going through Appeal, States with Highest Caseload in 2015, 2011 - 2015."

Micronomics Table 4, "Median Time Required, AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 - 2015."

TABLE 9 -- SUMMARY

MEDIAN TIME REQUIRED AND ADDITIONAL TIME REQUIRED U.S. DISTRICT AND APPELLATE COURT CASES GOING TO TRIAL AND THROUGH APPEAL V. AAA ARBITRATION CASES GOING TO AWARD ALL STATES 2011 - 2015

Year	U.S. District Courts, Filing to Trial ¹	U.S. District and Appellate Courts, Filing through Appeal ²	Arbitration, Filing to Award ³	Additional Time Required	
				To Trial	Through Appeal
(Months)					
	(1)	(2)	(3)	(1) - (3) (4)	(2) - (3) (5)
1. 2011	23.6	34.6	10.8	12.8	23.8
2. 2012	23.7	33.5	11.8	11.9	21.7
3. 2013	24.1	33.1	11.5	12.6	21.6
4. 2014	25.3	33.8	12.4	12.9	21.4
5. 2015	24.5	33.0	11.6	12.9	21.4

Notes: ¹ Time required for filing to trial reflects median time from filing to start of trial. Data exclude criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² Time required from filing through appeal is calculated by adding the median times for (a) filing in lower court (i.e. district court) to start of trial and (b) filing of notice of appeal through last opinion or final order. Entries do not include data for the Federal Circuit.

³ Time required for filing to award reflects median time from filing to award in cases determined in arbitration at the AAA. Data include cases related to business-to-business, construction, employment, and consumers; data exclude cases related to labor, no-fault insurance in New York, and automobile accident claims in Illinois. Includes cases with claimed amounts of at least \$75,000.

Sources: Tables C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Periods Ending December 31, 2011 through 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

Tables B-4, U.S. Courts of Appeals - Median Time Intervals in Months for Merit Terminations of Appeals, by Circuit, During the 12-Month Periods Ending September 30, 2011 through 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

American Arbitration Association Statistics for arbitrations closed 2011-2015.

TABLE 10

**U.S. DISTRICT COURT CIVIL CASES
NUMBER OF CASES AND
MINIMUM AMOUNT AT ISSUE
2011 - 2015**

Year	Number of Cases Terminated ¹	U.S. District Courts, Minimum Amount At Issue Per Case ²	Total Minimum Amount At Issue
		(Dollars)	(\$000s)
	(1)	(2)	(1) x (2) (3)
1. 2011	247,419	\$75,000	\$18,556,425
2. 2012	198,023	75,000	14,851,725
3. 2013	199,400	75,000	14,955,000
4. 2014	198,998	75,000	14,924,850
5. 2015	217,288	75,000	16,296,600
6. Total	1,061,128		\$79,584,600

Notes: ¹ Number of cases terminated includes cases disposed of by trial or some other method. Excludes criminal cases, prisoner petitions, land condemnations, deportation reviews, recovery of overpayments, and enforcement of judgments.

² U.S. District Courts have subject matter jurisdiction over cases that i) arise under any federal law and ii) contain parties of different states (foreign or domestic) and have at least \$75,000 at issue. See "Federal or State Court: Subject Matter Jurisdiction," *Thomson Reuters FindLaw* (<http://litigation.findlaw.com/filing-a-lawsuit/federal-or-state-court-subject-matter-jurisdiction.html>).

Sources: Tables C-5, U.S. District Courts - Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Periods Ending December 31, 2011 through 2015 (Data from Administrative Office of the U.S. Courts on behalf of the Federal Judiciary).

"Explanation of Selected Terms" (http://www.uscourts.gov/sites/default/files/explanation-of-selected-terms-september-2014_0.pdf).

"Federal or State Court: Subject Matter Jurisdiction," *Thomson Reuters FindLaw* (<http://litigation.findlaw.com/filing-a-lawsuit/federal-or-state-court-subject-matter-jurisdiction.html>).

TABLE 11

**U.S. DISTRICT COURTS V. AAA ARBITRATION
OPPORTUNITY COST ASSOCIATED WITH
DELAY TO TRIAL
ALL STATES
2011 - 2015**

Year	Minimum Amount At Issue	Additional Time Required to Trial¹	Average But- For Rate of Return²	Lost Resources Due to Delays³
	(\$000s)	(Months)	(Percent)	(\$000s)
	(1)	(2)	(3)	(4)
1. 2011	\$18,556,425	12.8	13.0%	\$2,583,883
2. 2012	14,851,725	11.9	13.0%	1,913,640
3. 2013	14,955,000	12.6	13.0%	2,047,735
4. 2014	14,924,850	12.9	13.0%	2,095,532
5. 2015	16,296,600	12.9	13.0%	2,288,133
6. Total	\$79,584,600			\$10,928,923

Notes: ¹ Additional time required to trial represents the difference between median time from filing to trial (U.S. district court civil cases) and median time from filing to award (arbitration).

² Average but-for rate of return represents a simple average of the 2011-2015 annual rates of return on investments in the S&P 500.

³ Lost resources due to delays represent unrealized investment income from funds at risk for longer duration at trial than arbitration. Column 4, lost resources due to delays, is calculated by applying the 13 percent return to the minimum amount at issue each year for the additional time required to trial. The compound interest formula is shown below:

"Column 4 = Column 1 x (1 + Column 3) ^ (Column 2 ÷ months per year) - Column 1".

Sources: Micronomics Table 10, "U.S. District Court Civil Cases, Number of Cases and Minimum Amount At Issue, 2011 - 2015."

Micronomics Table 9, "Median Time Required and Additional Time Required, U.S. District and Appellate Court Cases Going to Trial and through Appeal v. AAA Arbitration Cases Going to Award, All States, 2011 - 2015."

Annual Returns on Stock, Treasury Bonds and Treasury Bills: 1928 - Current, NYU website (http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/histretSP.html).

TABLE 12

**U.S. DISTRICT COURTS V. AAA ARBITRATION
OPPORTUNITY COST ASSOCIATED WITH
DELAY TO TRIAL FOR EIGHT STATES
WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

<u>Year</u>	<u>Minimum Amount At Issue</u>	<u>Additional Time Required to Trial¹</u>	<u>Average But- For Rate of Return²</u>	<u>Lost Resources Due to Delays³</u>
	(\$000s)	(Months)	(Percent)	(\$000s)
	(1)	(2)	(3)	(4)
1. 2011	\$18,556,425	15.5	13.0%	\$3,162,224
2. 2012	14,851,725	15.2	13.0%	2,493,321
3. 2013	14,955,000	15.2	13.0%	2,510,659
4. 2014	14,924,850	16.8	13.0%	2,791,966
5. 2015	16,296,600	15.0	13.0%	2,687,489
6. Total	\$79,584,600			\$13,645,659

Notes: ¹ Additional time required to trial represents a simple average of the difference between median time from filing to trial (U.S. district court civil cases) and median time from filing to award (arbitration) for eight states with highest caseload in 2015.

² Average but-for rate of return represents a simple average of the 2011-2015 annual rates of return on investments in the S&P 500.

³ Lost resources due to delays represent unrealized investment income from funds at risk for longer duration at trial than arbitration. Column 4, lost resources due to delays, is calculated by applying the 13 percent return to the minimum amount at issue each year for the additional time required to trial. The compound interest formula is shown below:

"Column 4 = Column 1 x (1 + Column 3) ^ (Column 2 ÷ months per year) - Column 1".

Sources: Micronomics Table 10, "U.S. District Court Civil Cases, Number of Cases and Minimum Amount At Issue, 2011 - 2015."

Micronomics Table 5, "Additional Time Required, U.S. District Court Civil Cases Going to Trial v. AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 - 2015."

Annual Returns on Stock, Treasury Bonds and Treasury Bills: 1928 - Current, NYU website (http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/histretSP.html).

TABLE 13

**U.S. DISTRICT AND APPELLATE COURTS V.
AAA ARBITRATION
OPPORTUNITY COST ASSOCIATED WITH
DELAY THROUGH APPEAL
ALL STATES
2011 - 2015**

Year	Minimum Amount At Issue	Additional Time Required through Appeal ¹	Average But- For Rate of Return ²	Lost Resources Due to Delays ³
	(\$000s)	(Months)	(Percent)	(\$000s)
	(1)	(2)	(3)	(4)
1. 2011	\$18,556,425	23.8	13.0%	\$5,090,058
2. 2012	14,851,725	21.7	13.0%	3,673,369
3. 2013	14,955,000	21.6	13.0%	3,679,924
4. 2014	14,924,850	21.4	13.0%	3,634,661
5. 2015	16,296,600	21.4	13.0%	3,968,725
6. Total	\$79,584,600			\$20,046,737

Notes: ¹ Additional time required through appeal represents the difference between median time from filing in lower court to last opinion or final order in appellate court (U.S. district and appellate courts) and median time from filing to award (arbitration).

² Average but-for rate of return represents a simple average of the 2011-2015 annual rates of return on investments in the S&P 500.

³ Lost resources due to delays represent unrealized investment income from funds at risk for longer duration at appeal than arbitration. Column 4, lost resources due to delays, is calculated by applying the 13 percent return to the minimum amount at issue each year for the additional time required through appeal. The compound interest formula is shown below:

"Column 4 = Column 1 x (1 + Column 3) ^ (Column 2 ÷ months per year) - Column 1".

Sources: Micronomics Table 10, "U.S. District Court Civil Cases, Number of Cases and Minimum Amount At Issue, 2011 - 2015."

Micronomics Table 9, "Median Time Required and Additional Time Required, U.S. District and Appellate Court Cases Going to Trial and through Appeal v. AAA Arbitration Cases Going to Award, All States, 2011 - 2015."

Annual Returns on Stock, Treasury Bonds and Treasury Bills: 1928 - Current, NYU website (http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/histretSP.html).

TABLE 14

**U.S. DISTRICT AND APPELLATE COURTS V.
AAA ARBITRATION**

**OPPORTUNITY COST ASSOCIATED WITH DELAY THROUGH
APPEAL FOR EIGHT STATES WITH HIGHEST
CASELOAD IN 2015**

2011 - 2015

Year	Minimum Amount At Issue	Additional Time Required through Appeal ¹	Average But- For Rate of Return ²	Lost Resources Due to Delays ³
	(\$000s)	(Months)	(Percent)	(\$000s)
	(1)	(2)	(3)	(4)
1. 2011	\$18,556,425	26.2	13.0%	\$5,672,099
2. 2012	14,851,725	24.6	13.0%	4,221,399
3. 2013	14,955,000	23.8	13.0%	4,109,461
4. 2014	14,924,850	25.1	13.0%	4,344,945
5. 2015	16,296,600	24.1	13.0%	4,523,128
6. Total	\$79,584,600			\$22,871,032

Notes: ¹ Additional time required through appeal represents a simple average of the difference between median time from filing in lower court to last opinion or final order in appellate court (U.S. district and appellate courts) and median time from filing to award (arbitration) for eight states with highest caseload in 2015.

² Average but-for rate of return represents a simple average of the 2011-2015 annual rates of return on investments in the S&P 500.

³ Lost resources due to delays represent unrealized investment income from funds at risk for longer duration at appeal than arbitration. Column 4, lost resources due to delays, is calculated by applying the 13 percent return to the minimum amount at issue each year for the additional time required through appeal. The compound interest formula is shown below:

"Column 4 = Column 1 x (1 + Column 3) ^ (Column 2 ÷ months per year) - Column 1".

Sources: Micronomics Table 10, "U.S. District Court Civil Cases, Number of Cases and Minimum Amount At Issue, 2011 - 2015."

Micronomics Table 7, "Additional Time Required, U.S. District and Appellate Court Cases Going through Appeal v. AAA Arbitration Cases Going to Award, States with Highest Caseload in 2015, 2011 - 2015."

Annual Returns on Stock, Treasury Bonds and Treasury Bills: 1928 - Current, NYU website (http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/histretSP.html).

TABLE 15 -- SUMMARY

DIRECT, INDIRECT, AND INDUCED LOSSES
DUE TO DELAY TO TRIAL
ALL STATES
2011 - 2015

	Estimated Losses Due to Delay to Trial
	(\$000s)
	(1)
1. Direct Loss ¹	\$10,928,923
2. Indirect Loss ²	7,978,696
3. Induced Loss ³	9,366,971
4. Total	\$28,274,590

Notes: ¹ Direct losses are equal to Lost Resources Due to Delays calculated at Micronomics Table 11, "U.S. District Courts v. AAA Arbitration, Opportunity Cost Associated with Delay to Trial, All States, 2011 - 2015."

² Indirect losses (or indirect effects) are estimated decreases in spending on goods and services by firms that experience direct losses.

³ Induced losses (or induced effects) are estimated decreases in spending by households containing employees of firms that experienced direct and indirect losses.

Sources: Micronomics Table 11, "U.S. District Courts v. AAA Arbitration, Opportunity Cost Associated with Delay to Trial, All States, 2011 - 2015."

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TABLE 16 -- SUMMARY

**DIRECT, INDIRECT, AND INDUCED LOSSES
DUE TO DELAY TO TRIAL FOR
EIGHT STATES WITH HIGHEST CASELOAD IN 2015
2011 - 2015**

	Estimated Losses Due to Delay to Trial
	(\$000s)
	(1)
1. Direct Loss ¹	\$13,645,659
2. Indirect Loss ²	9,962,058
3. Induced Loss ³	11,695,431
4. Total	\$35,303,148

Notes: ¹ Direct losses are equal to Lost Resources Due to Delays calculated at Micronomics Table 12, "U.S. District Courts v. AAA Arbitration, Opportunity Cost Associated with Delay to Trial for Eight States with Highest Caseload in 2015, 2011 - 2015."

² Indirect losses (or indirect effects) are estimated decreases in spending on goods and services by firms that experience direct losses.

³ Induced losses (or induced effects) are estimated decreases in spending by households containing employees of firms that experienced direct and indirect losses.

Sources: Micronomics Table 12, "U.S. District Courts v. AAA Arbitration, Opportunity Cost Associated with Delay to Trial for Eight States with Highest Caseload in 2015, 2011 - 2015."

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TABLE 17 -- SUMMARY

**DIRECT, INDIRECT, AND INDUCED LOSSES
DUE TO DELAY THROUGH APPEAL
ALL STATES
2011 - 2015**

	Estimated Losses Due to Delay through Appeal
	(\$000s)
	(1)
1. Direct Loss ¹	\$20,046,737
2. Indirect Loss ²	14,635,186
3. Induced Loss ³	17,181,672
4. Total	\$51,863,595

Notes: ¹ Direct losses are equal to Lost Resources Due to Delays calculated at Micronomics Table 13, "U.S. District and Appellate Courts v. AAA Arbitration, Opportunity Cost Associated with Delay through Appeal, All States, 2011 - 2015."

² Indirect losses (or indirect effects) are estimated decreases in spending on goods and services by firms that experience direct losses.

³ Induced losses (or induced effects) are estimated decreases in spending by households containing employees of firms that experienced direct and indirect losses.

Sources: Micronomics Table 13, "U.S. District and Appellate Courts v. AAA Arbitration, Opportunity Cost Associated with Delay through Appeal, All States, 2011 - 2015."

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TABLE 18 -- SUMMARY

DIRECT, INDIRECT, AND INDUCED LOSSES DUE TO DELAY THROUGH APPEAL FOR EIGHT STATES WITH HIGHEST CASELOAD IN 2015 2011 - 2015

	Estimated Losses Due to Delay through Appeal
	(\$000s)
	(1)
1. Direct Loss ¹	\$22,871,032
2. Indirect Loss ²	16,697,072
3. Induced Loss ³	19,602,323
4. Total	\$59,170,427

Notes: ¹ Direct losses are equal to Lost Resources Due to Delays calculated at Micronomics Table 14, "U.S. District and Appellate Courts v. AAA Arbitration, Opportunity Cost Associated with Delay through Appeal for Eight States with Highest Caseload in 2015, 2011 - 2015."

² Indirect losses (or indirect effects) are estimated decreases in spending on goods and services by firms that experience direct losses.

³ Induced losses (or induced effects) are estimated decreases in spending by households containing employees of firms that experienced direct and indirect losses.

Sources: Micronomics Table 14, "U.S. District and Appellate Courts v. AAA Arbitration, Opportunity Cost Associated with Delay through Appeal for Eight States with Highest Caseload in 2015, 2011 - 2015."

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