Court-Annexed Mandatory Arbitration

Fiscal Year 2004 Annual Report to the Illinois General Assembly

Cynthia Y. Cobbs, Director
Administrative Office of the Illinois Courts
222 North LaSalle Street, 13th Floor
Chicago, Illinois 60601

FISCAL YEAR 2004 ANNUAL REPORT TO THE ILLINOIS GENERAL ASSEMBLY ON COURT-ANNEXED MANDATORY ARBITRATION

INTRODUCTION 1

OVERVIEW and HISTORY of
COURT-ANNEXED MANDATORY ARBITRATION 3

- Supreme Court Rules Governing Mandatory Arbitration 3
- Program Jurisdiction 3
- Pre-Hearing Matters 5
- Arbitration Hearing 5
- Rejecting an Arbitration Award 6
- Alternative Dispute Resolution Coordinating Committee 6
- Administrative Office of the Illinois Courts 7

FISCAL YEAR 2004 STATISTICS 7

- Introduction 7
- Pre-Hearing Calendar 8
- Pre-Hearing Statistics 8
- Summary Analysis 14
- Post-Hearing Calendar 14
- Post-Hearing Statistics 15
- Post-Rejection Calendar 19
- Post-Rejection Statistics 19

CONCLUSION 22

CIRCUIT PROFILES 23

- Eleventh Judicial Circuit 23
- Twelfth Judicial Circuit 23
- Fourteenth Judicial Circuit 24
- Sixteenth Judicial Circuit 24
- Seventeenth Judicial Circuit 24
- Eighteenth Judicial Circuit 25
- Nineteenth Judicial Circuit 25
- Twentieth Judicial Circuit 26
- Circuit Court of Cook County 26

INTRODUCTION

The Fiscal Year 2004 Annual Evaluation Report of the court-annexed mandatory arbitration program is presented in compliance with Section 2-1008A of the Mandatory Arbitration System Act, 735 ILCS 5/2-1001A *et seq.*

The Supreme Court of Illinois and the Illinois General Assembly created court-annexed mandatory arbitration to reduce the backlog of civil cases and to provide litigants with a forum, other than the trial courts, in which their complaints could be more expeditiously resolved by an impartial fact finder.

The institution of mandatory arbitration was the result of substantial deliberation and planning. Efforts by the Supreme Court in devising a high quality arbitration system spanned nearly a decade. When developing the Illinois program, the Supreme Court and its committees secured the input of public officials representing all branches of Illinois government, as well as the general public. As a result, the program now in place is truly a coalescence of the best dispute resolution concepts.

Beginning in September 1982, then Chief Justice Howard C. Ryan urged the judiciary to explore suitable court-sponsored alternative dispute resolution techniques. In September 1985, the Illinois General Assembly passed and the Governor signed House Bill 1265[1], authorizing the Supreme Court to institute a system of mandatory arbitration. Before the end of May 1987, the Supreme Court adopted arbitration-specific rules recommended by a committee of prominent judges and attorneys. Later that year, the Seventeenth Judicial Circuit, Winnebago County, began operating a pilot court-annexed mandatory arbitration program.

Expanding on the success of the Winnebago County program, the Supreme Court authorized the following counties to implement court-annexed mandatory arbitration programs:

- Cook, DuPage and Lake Counties (December 1988)
- McHenry County (November 1990)
- St. Clair County (May 1993)
- Boone and Kane Counties (November 1994)

[1]H.B. 1265, 83rd Gen. Assem., Reg. Sess., P.A. 84-844, (Il. 1985)

- Will County (March 1995)
- Ford and McLean Counties (March 1996)
- Henry, Mercer, Rock Island and Whiteside Counties (October 2000)

With the approval of the Supreme Court, and depending upon the availability of funding, future expansion of court-annexed mandatory arbitration programs in Illinois is anticipated.

This Fiscal Year 2004 Annual Report summarizes the activity of court-annexed mandatory arbitration from July 1, 2003 through June 30, 2004. The report includes an overview of mandatory arbitration in Illinois and contains a description of statistical data as maintained by each arbitration program site. Statewide statistics are provided as an aggregate and/or average of the data furnished by Illinois' fifteen court-annexed mandatory arbitration programs. The final section of the report is devoted to providing a narrative profile of each of the fifteen court-annexed mandatory arbitration programs. The local program reports include statistics that are unique for that jurisdiction.

OVERVIEW and HISTORY of COURT-ANNEXED MANDATORY ARBITRATION

In Illinois, court-annexed arbitration is a mandatory, non-binding form of alternative dispute resolution. In those jurisdictions approved by the Supreme Court to operate such programs, all civil cases filed in which the amount of money damages being sought fall within the program's jurisdictional limit are subject to the arbitration process.[2] These modest sized claims are directed into the arbitration program because they are amenable to closer management and faster resolution, using a less formal, alternative process than a typical trial court proceeding.

Supreme Court Rules Governing Mandatory Arbitration

The Supreme Court promulgates comprehensive rules that prescribe actions subject to mandatory arbitration; appointment, qualifications, and compensation of arbitrators; scheduling of hearings; discovery; conduct of the hearings; absence of a party at the hearing; award and judgment on an award; rejection of an award; and form of oath, award and notice of award. The Supreme Court rules governing mandatory arbitration programs are provided for under Supreme Court Rule 86 *et seq*.

Program Jurisdiction

Cases are assigned to mandatory arbitration in one of two ways. Generally, the first means is by filing the case as an arbitration case. Litigants may file their case with the office of the clerk of the court as an arbitration case. The clerk files the case using an "AR" designation. These "AR" designated cases are placed directly on the calendar of the supervising judge for arbitration. Summons are returnable and all pre-hearing matters are argued before the supervising judge for arbitration.

---

[2] See Illinois Supreme Court Rule 86(d). The jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000. The jurisdictional limit for arbitrations cases filed in Boon, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, St. Clair, Whiteside and Winnebago Counties is $50,000.

In the Circuit Court of Cook County, however, cases are not initially filed as arbitration cases. All civil cases in which the money damages being sought are between $5,000 and $50,000 are filed in the Municipal Department and are given an "M" designation by the clerk. Cases in which the money damages being sought do not exceed $30,000 are considered "arbitration-eligible." After all preliminary matters are heard all arbitration eligible cases are transferred to the arbitration program.

The second means by which cases are assigned to mandatory arbitration is through transfer by the court. In all jurisdictions operating a court-annexed mandatory arbitration program, a case may be transferred to the arbitration calendar from another calendar if it appears to the court that no claim in the action has a value in excess of the particular arbitration program's jurisdictional amount. For example, if the court finds that an action originally filed as a law case (actions for damages in excess of $50,000) has a potential for damages within the jurisdictional amount for arbitration, the court may transfer the law case to the arbitration calendar.

During Fiscal Year 1997, a number of Supreme Court Rules were amended which affected mandatory arbitration. Of particular note is Rule 281. In December 1996, the Supreme Court amended Rule 281, which increased the amount of small claims from up to $2,500 in damages to up to $5,000 in damages, effective January 1, 1997. Concerns about increases to the small claims calendar have prompted a number of counties operating arbitration programs to permit cases for money damages in excess of $2,500 to be assigned to arbitration.

In November 1996, the Supreme Court acted on the request of the Eighteenth Judicial Circuit to increase the jurisdictional limit of arbitration-eligible cases from a $30,000 threshold to cases seeking up to $50,000. The Court approved the request, but authorized the jurisdictional increase as a pilot project.[3] During Fiscal Year 2002, the Court removed the pilot designation from the DuPage County program which now operates permanently at the $50,000 jurisdictional limit.

In Fiscal Year 2002, the Alternative Dispute Resolution Coordinating Committee submitted a proposal to amend Supreme Court Rule 86(b) to the

[3]At the same time the Supreme Court amended Illinois Supreme Court Rule 93 to provide that parties wishing to reject an award of over $30,000 must pay a $500 rejection fee.

Director of the Administrative Office of the Illinois Courts for presentation to the Supreme Court. The proposed amendment would increase the jurisdictional limit for all arbitration programs up to $50,000 as set by local rule. The Court declined adoption of the proposal, continuing to review requests for increases of jurisdictional limits on a case-by-case basis. Subject to the discretion of the chief circuit judge, any circuit operating a mandatory arbitration program may petition the Supreme Court to increase its jurisdictional amount. With the exception of Cook and Will counties, all mandatory arbitration programs have petitioned and been approved by the Court to operate at the $50,000.

Pre-Hearing Matters

The pre-hearing stage for cases subject to arbitration is similar to the pretrial stage for all cases. Summons are issued, motions are made and argued, and discovery is conducted. However, for cases subject to arbitration, discovery is limited pursuant to Illinois Supreme Court Rules 89 and 222.

One of the most important features of the arbitration program is the court's control of the time elapsed between the date of filing or transfer of the case to arbitration and the arbitration hearing. The intent of Rule 89 is to insure speedy dispositions. Pursuant to the rule, all cases set for arbitration must proceed to hearing within one year of the date of filing or transfer to the arbitration calendar.

Arbitration Hearing

With some exceptions, the arbitration hearing resembles a traditional trial court proceeding. The Illinois Code of Civil Procedure and the rules of evidence apply. However, Supreme Court Rule 90©) makes certain documents presumptively admissible. These documents include bills, records, and reports of hospitals, doctors, dentists, repair persons and employers, as well as written statements of opinion witnesses. The streamlined mechanism for the presentation of evidence enables attorneys to present their cases without undue delay.

Unlike proceedings in the trial court, the arbitration hearing is conducted by a panel of three trained attorneys who serve as arbitrators. At the hearing, each party to the dispute makes a concise presentation of his/her case to the

arbitrators. Immediately following the hearing, the arbitrators deliberate privately and decide the issues as presented. To find in favor of a party requires the concurrence of two arbitrators. In most instances, an arbitration hearing is completed in not more than two hours. Following the hearing and the arbitrators' disposition, the clerk of the court records the arbitration award and forwards notice to the parties. As a courtesy to the litigants, many arbitration centers post the arbitration award immediately following submission by the arbitrators, thereby notifying the parties of the outcome on the same day as the hearing.

Rejecting an Arbitration Award

Supreme Court Rule 93 sets forth four conditions which a party must meet in order to reject an arbitration award. The rejecting party must (1) have been present, personally or via counsel, at the arbitration hearing or that party's right to reject the award will be deemed waived[4]; (2) have participated in the arbitration process in good faith and in a meaningful manner[5]; (3) file a rejection notice within thirty days of the date the award was filed; and (4) unless indigent, pay a rejection fee.[6] If these four conditions are not met, the party may be barred from rejecting the award and any other party to the action may petition the court to enter a judgment on the arbitration award. Once a party's rejection of an arbitration award is filed, the supervising judge for arbitration must place the case on the trial call.

The rejection fee is intended to discourage frivolous rejections. All such fees are paid to the clerk of the court. For awards of $30,000 or less, the rejection fee is $200. For awards greater than $30,000, the rejection fee is $500.

Alternative Dispute Resolution Coordinating Committee

The Alternative Dispute Resolution Coordinating Committee is one of seven standing committees of the Illinois Judicial Conference, whose membership is appointed by the Supreme Court. The charge of the Committee is to monitor and assess the court-annexed mandatory arbitration

[4] *See* Illinois Supreme Court Rule 91(a).

[5] *See* Illinois Supreme Court Rule 91(b).

[6] *See* Illinois Supreme Court Rule 93(a).

programs. The Committee also surveys and compiles information on existing court-supported dispute resolution programs, suggests broad-based policy recommendations, explores and examines innovative dispute resolution processing techniques and studies the impact of proposed rule amendments. In addition, the Committee proposes rule amendments in response to suggestions and information received from program participants, supervising judges and arbitration administrators.

Administrative Office of the Illinois Courts

The Administrative Office of the Illinois Courts ("AOIC") works with the circuit courts to coordinate the operations of the arbitration programs throughout the state. Administrative Office staff assists in establishing new arbitration programs that have been approved by the Supreme Court. Staff also provide other support services such as assisting in the drafting of local rules, recruiting personnel, acquiring facilities, training new arbitrators, purchasing equipment and developing judicial calendaring systems.

The AOIC assists existing programs by preparing budgets, processing vouchers, addressing personnel issues, compiling statistical data, negotiating contracts and leases and coordinating the collection of arbitration filing fees. The office also monitors the performance of each program. In addition, AOIC staff serve as liaison to the Illinois Judicial Conference's Alternative Dispute Resolution Coordinating Committee.

FISCAL YEAR 2004 STATISTICS

Introduction

Court-annexed mandatory arbitration has been operating in Illinois for more than seventeen years. The statistics and program data presented below provide a detailed depiction of the continued operation and development of the program.

Uniform data and statistical reports are maintained by each of the fifteen arbitration programs to ensure that the program is meeting its goals of reducing case backlog and providing expeditious resolution for the litigants. For purposes of data collection and analysis, the arbitration calendar is divided into three stages: pre-hearing, post-hearing and post-rejection. Close

monitoring and supervision of case events at each of these stages promotes analyzing the efficiency of the arbitration process. Each arbitration stage has its own inventory of cases pending at the beginning of the particular reporting period, its own statistical count of cases added and removed during the reporting period, and its own total inventory of cases that are pending at the end of each reporting period.

Pre-Hearing Calendar

The first stage of the arbitration process, the pre-hearing stage, encompasses cases that are pending an arbitration hearing. There are three sources from which cases may be added to the pre-hearing calendar: new filings, reinstatements and transfers from other calendars.

Cases may be removed from the pre-hearing arbitration calendar in either a dispositive or non-dispositive manner. A dispositive removal from the pre-hearing arbitration calendar is one which terminates the case prior to commencement of the arbitration hearing. There are generally three types of pre-hearing dispositive removals: entry of a judgment, case dismissal, or the entry of a settlement order by the court.

A non-dispositive removal of a case from the pre-hearing arbitration calendar may remove the case from the arbitration calendar altogether. Other non-dispositive removals may simply move the case along to the next stage of the arbitration process. Thus, a case which has proceeded to an arbitration hearing is considered a non-dispositive removal from the pre-hearing calendar. Other types of non-dispositive removals include those occasions when a case is placed on a special calendar. For example, a case transferred to a bankruptcy calendar will generally stay all arbitration-related activity. Another type of non-dispositive removal from the pre-hearing calendar occurs when a case is transferred out of arbitration. Occasionally, a judge may decide that a case is not suited for arbitration. The judge may then transfer the case to the appropriate calendar.

Pre-Hearing Statistics

To reduce backlog and to provide litigants with the timeliest disposition for their cases, Illinois' arbitration system encourages attorneys and litigants to focus their early attention on arbitration-eligible cases. Therefore, the practice is to set a firm and prompt date for the arbitration hearing so that disputing

parties, anxious to avoid the time and cost of an arbitration hearing, have a powerful incentive to negotiate and settle the matter prior to the hearing. In instances where a default judgment can be taken, parties are also encouraged to seek that disposition at the earliest possible time.

With this program philosophy, as cases move through the steps in the arbitration process, a sizeable portion of each jurisdiction's total caseload should terminate voluntarily, or by court order, in advance of the arbitration hearing if the process is operating well. An analysis of the Fiscal Year 2004 statistics demonstrate that parties are carefully managing their cases and working to settle their disputes without significant court intervention prior to the arbitration hearing.

During Fiscal Year 2004, 20,680 cases on the pre-hearing arbitration calendar were disposed through default judgment, dismissal or some other form of pre-hearing termination. This represents a statewide average of 65% of the cases referred to arbitration being disposed prior to the scheduled arbitration hearing. While it is true that a large number of these cases may have terminated without the need for a trial, arbitration tends to motivate a disposition sooner in the life of most cases because a firm arbitration hearing date has been set.

Additionally, terminations via court-ordered dismissals, voluntary dismissals, settlement orders and default judgments typically require limited court time to process. To the extent that arbitration encourages these dispositions, the system helps save the court and the litigants the expense of costlier, more time consuming proceedings that might have been necessary without arbitration programs.

A high rate of pre-hearing terminations also allows each program site to remain current with its hearing calendar and may allow the court to reduce a backlog. It is this combination of pre-hearing terminations and arbitration hearing capacity that enables the system to absorb and process a greater number of cases in less time.

Boone County

Boone County reported that 110 cases were referred to arbitration during Fiscal Year 2004. At the end of Fiscal Year 2003, 20 cases were pending on the pre-hearing arbitration calendar. In Fiscal Year 2004, prior to

the arbitration hearing, 80 cases were disposed. Therefore, as of June 30, 2004, 62% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing. Boone County conducted 11 arbitration hearings during Fiscal Year 2004, representing 8% of the cases on the pre-hearing arbitration calendar moving to hearing.

Cook County

During Fiscal Year 2004, 14,896 cases were transferred into the Cook County arbitration program. At the end of Fiscal Year 2003, 1,228 cases were pending on the pre-hearing arbitration calendar. As of June 30, 2004, 3,633 (23%) cases were disposed prior to the arbitration hearing.

The Cook County program conducted 9,151 hearings during Fiscal Year 2004. As of June 30, 2004, 57% of the cases on the pre-hearing arbitration calendar moved to the hearing stage.

The statistical profile for the Cook County arbitration program differs from that of other jurisdictions. The difference is explained, however, by examining the Cook County case assignment process. In Cook County, cases seeking between $5,000 and $50,000 in damages, are filed as Municipal Department cases. Cases within this category that are arbitration-eligible (cases seeking up to $30,000 in damages) are transferred to arbitration only after all pre-hearing matters have been heard and decided. Statistics are not available on the number of cases that may have been arbitration-eligible but were disposed prior to their transfer to arbitration.

Instead, statistics are available only on those cases which were transferred to arbitration and then were disposed prior to the hearing. This window of time is much shorter than that for which statistics are provided by other counties. Additionally, a number of cases have already been disposed of, meaning cases transferred have already gone through a substantial review process prior to their transfer to the arbitration program. Therefore, although it appears that fewer cases are disposed prior to an arbitration hearing, this may not be true as Cook County cases are counted substantially later in the process and for a substantially shorter time frame.

In the Circuit Court of Cook County, after preliminary hearing matters are decided and the case has been transferred to arbitration, the clerk of the court will set a date for the arbitration hearing. To ensure that discovery is

closed prior to the arbitration hearing, no hearing is set more than 30 days prior to date discovery is to close.

DuPage County

DuPage County reported that 3,817 cases were filed or transferred to the arbitration calendar during Fiscal Year 2004. During Fiscal Year 2004, 4,029 cases were disposed prior to their progression to an arbitration hearing.

DuPage County conducted 552 hearings during Fiscal Year 2004; as of June 30, 2004, only 14% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Ford County

In Fiscal Year 2004, Ford County reported that 38 cases were filed or transferred into arbitration. At the end of Fiscal Year 2003, 10 cases were pending on the pre-hearing arbitration calendar. Ford County reported that 32 cases, or 67%, were disposed pre-hearing.

Ford County conducted 6 arbitration hearings during Fiscal Year 2004. As of June 30, 2004, only 13% of the arbitration-eligible cases progressed to hearing in Ford County.

Henry County

In Fiscal Year 2004, Henry County reported 113 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 49 cases were pending on the pre-hearing calendar. Henry County reported that 129 cases, or 80%, were disposed pre-hearing.

Henry County reported that it conducted 8 arbitration hearings during Fiscal Year 2004; as of June 30, 2004, only 5% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Kane County

Kane County reported that 2,142 cases were referred to arbitration during Fiscal Year 2004. At the end of Fiscal Year 2003, 246 cases were

pending on the pre-hearing arbitration calendar. During Fiscal Year 2004, 1,656 cases, or 69%, were disposed prior to the arbitration hearing.

During Fiscal Year 2004, Kane County conducted 167 arbitration hearings. This represents only 7% of the cases on the pre-hearing arbitration calendar progressing to an arbitration hearing.

Lake County

Lake County reported that 3,249 cases were filed, or transferred to, the arbitration calendar during Fiscal Year 2004. There were 974 cases pending on the pre-hearing calendar at the end of Fiscal Year 2003. During Fiscal Year 2004, 2,725 cases, or 65%, were disposed prior to their progression to an arbitration hearing.

Lake County reported conducting 461 hearings, or 11% of their cases, during Fiscal Year 2004.

McHenry County

McHenry County reported that 1,308 cases were transferred or filed as arbitration-eligible during Fiscal Year 2004. At the end of Fiscal Year 2003, 426 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2004, 1,172 cases, or 68%, were disposed prior to the arbitration hearing.

During Fiscal Year 2004, McHenry County held 124 arbitration hearings. As of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to hearing.

McLean County

McLean County reported that in Fiscal Year 2004, 823 cases were filed or transferred into arbitration. At the end of Fiscal Year 2003, 696 cases were pending on the pre-hearing arbitration calendar. McLean County reported that 776 cases, or 51%, were disposed during the pre-hearing phase.

McLean County reported that it held 96 hearings during Fiscal Year 2004, a figure that represents 6% of the cases on the pre-hearing arbitration calendar.

Mercer County

In Fiscal Year 2004, Mercer County reported 25 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 21 cases were pending on the pre-hearing calendar. Mercer County reported that 30 cases, or 65%, were disposed pre-hearing.

Mercer County reported that it held 1 arbitration hearing during Fiscal Year 2004. As of June 30, 2004, only 2% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Rock Island County

In Fiscal Year 2004, Rock Island County reported 741 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 310 cases were pending on the pre-hearing calendar. Rock Island County reported that 636 cases, or 61%, were disposed pre-hearing.

Rock Island County reported that it held 89 arbitration hearings during Fiscal Year 2004. As of June 30, 2004, only 8% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

St. Clair County

St. Clair County reported that 2,328 cases were referred to court-annexed mandatory arbitration during Fiscal Year 2004 and 355 cases were pending on the pre-hearing arbitration calendar at the end of Fiscal Year 2003. During Fiscal Year 2004, 2,410 cases or 90% of the caseload were disposed prior to the arbitration hearing.

During Fiscal Year 2004, 132 arbitration hearings were held in St. Clair County, representing 5% of the cases on the arbitration pre-hearing calendar that progressed to the arbitration hearing.

Whiteside County

In Fiscal Year 2004, Whiteside County reported 253 cases filed or transferred into arbitration. At the end of Fiscal Year 2003, 110 cases were pending on the pre-hearing calendar. Whiteside County reported that 234 cases, or 64%, were disposed pre-hearing.

Whiteside County reported that it held 9 arbitration hearings during Fiscal Year 2004; as of June 30, 2004, only 2% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Will County

In Fiscal Year 2004, Will County reported that 2,077 cases were filed or transferred to arbitration. At the end of Fiscal Year 2003, 833 cases were pending on the pre-hearing calendar. During Fiscal Year 2004, 1,830 pre-hearing dispositions, or 63%, were disposed prior to the arbitration hearing.

Will County reported that it held 201 hearings during Fiscal Year 2004. As of June 30, 2004, only 7% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Winnebago County

During Fiscal Year 2004, Winnebago County reported that 1,478 cases were funneled into the arbitration program. At the end of Fiscal Year 2003, 195 cases were pending on the pre-hearing arbitration calendar.

Prior to the arbitration hearing, 1,308 cases were terminated. Therefore, as of June 30, 2004, 78% of cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2004, Winnebago County reported that 124 cases or 7%, progressed to an arbitration hearing.

Summary Analysis

In summary, the statistics provided by all programs on cases at the arbitration pre-hearing stage demonstrate that the parties are working to settle their differences without significant court intervention, prior to the arbitration hearing. The aggressive scheduling of hearing dates induces early settlements by requiring the parties to carefully manage the case prior to the arbitration hearing. Because arbitration hearings are held within one year of the filing or transfer of the arbitration case, in most jurisdictions the circuit court can dispose of approximately 65-75% of the arbitration caseload within

one year of case filing. This case management tool provides swifter dispositions for litigants.

Post-Hearing Calendar

The post-hearing arbitration calendar consists of cases which have been heard by an arbitration panel and are waiting further action. Upon conclusion of an arbitration hearing, a case is removed from the pre-hearing arbitration calendar and added to the post-hearing calendar. Although the arbitration hearing is the primary source of cases added to the post-hearing calendar, cases previously terminated following a hearing may subsequently be reinstated (added) at this stage. However, this is a rare occurrence even in the larger arbitration programs.

The arbitration administrators report three types of post-hearing removals from the arbitration calendar: entry of judgment on the arbitration award, other post-hearing termination, including dismissal or settlement by order of the court, or rejection of the arbitration award. While any of these actions will remove a case from the post-hearing calendar, only judgment on the award, dismissal and settlement result in termination of the case. These actions are dispositive removals. Post-hearing terminations, or dispositive removals, are typically the most common means by which cases are removed from the post-hearing arbitration calendar.

A rejection of an arbitration award is a non-dispositive removal of a case from the post-hearing arbitration calendar. A rejection removes the case from the post-hearing arbitration calendar and places it on the post-rejection arbitration calendar.

Post-Hearing Statistics

A commonly cited measure of performance for court-annexed arbitration programs is the extent to which awards are accepted by the litigants as the final resolution of the case. However, parties have many resolution options after the arbitration hearing is concluded. Therefore, tracking the various options by which post-hearing cases are removed from the arbitration inventory provides the most accurate measure.

A satisfied party may move the court to enter judgment on the arbitration award. If no party rejects the arbitration award, the court may enter judgment.

Figures reported indicate that approximately 40% of the cases which progressed to a hearing were disposed after the arbitration hearing on terms other than those stated in the award. These cases are disposed either through settlement reached by the parties or by dismissals.

These statistics suggest that in a number of cases which progress to hearing, while the parties may agree with the arbitrator's assessment of the worth of the case, they may not want a judgment entered against them. Thus, the parties work toward settling the conflict prior to the deadline for rejecting the arbitration award.

The post-hearing statistics for arbitration programs consist of judgments entered on the arbitration award, settlements reached after the arbitration award and prior to the expiration for the filing of a rejection, are detailed herein.

- ***Boone County*** reported the entry of 6 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Boone County, 5% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. Two cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004, 7% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Cook County*** reported the entry of 2,395 judgments on arbitration awards during Fiscal Year 2004. An additional 3,966 cases were either settled or dismissed prior to the expiration for the filing of a rejection.

- ***DuPage County*** reported the entry of 112 judgments on arbitration awards during Fiscal Year 2004. An additional 222 cases were either settled or dismissed prior to the expiration for the filing of a rejection.

- ***Ford County*** reported that 2 cases were added to the post-hearing calendar and both received a judgment on the arbitration award entered during Fiscal Year 2004. Two cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Ford County, during Fiscal Year 2004, 6% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Henry County*** reported the entry of 3 judgments on arbitration awards during Fiscal Year 2004. Therefore, 3% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 3 cases were either settled or dismissed prior to the expiration for the filing of a rejection, representing 7% of the cases that proceeded to an arbitration hearing being removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Kane County*** reported the entry of 37 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Kane County, 17% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 35 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004, 33% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Lake County*** reported the entry of 114 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Lake County, 22% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 114 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Lake County, 43% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***McHenry County*** reported the entry of 42 judgments on arbitration awards during Fiscal Year 2004. Therefore, in McHenry County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 28 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in McHenry County, 50% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***McLean County*** reported the entry of 31 judgments on arbitration awards during Fiscal Year 2004. Therefore, in McLean County, 16% of

the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 11 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in McLean County, 22% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Mercer County*** reported that no judgment was entered on the one arbitration award made in Fiscal Year 2004.

- ***Rock Island County*** reported the entry of 28 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Rock Island County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 34 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Rock Island County, 65% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***St. Clair County*** reported the entry of 67 judgments on arbitration awards during Fiscal Year 2004. Therefore, 46% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 27 cases were settled prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in St. Clair County, 64% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Whiteside County*** reported the entry of 2 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Whiteside County, 2% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 4 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Whiteside County, 6% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Will County*** reported the entry of 70 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Will County, 30% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 52 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Will County, 51% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Winnebago County*** reported the entry of 33 judgments on arbitration awards during Fiscal Year 2004. Therefore, in Winnebago County, 25% of the cases in which a hearing was held on or before June 30, 2004, were disposed when judgment was entered on the arbitration award. An additional 36 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2004 in Winnebago County, 52% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

As indicated earlier, parties may also reject the arbitration award and proceed to trial. Parties may file a notice of rejection of the arbitration award for the same variety of tactical reasons notices of appeal from trial court judgments are filed.

Rejection rates for arbitration awards varied from county to county. The statewide mean rejection rate was 46% in Fiscal Year 2004. This figure has remained consistent and stable for the past several years.

During Fiscal Year 2004, the mandatory arbitration programs reported the following rejection rates: Boone County, 9%; Cook County, 47%; Du Page County, 55%; Ford County, 0%; Henry County, 25%; Kane County, 57%; Lake County, 51%; McHenry County, 48%; McLean County, 26%; Mercer County, 100%; Rock Island County, 22%; St. Clair County, 28%; Whiteside County, 44%; Will County, 41%; Winnebago County, 40%.

Post-Rejection Calendar

The post-rejection calendar consists of arbitration cases in which one of the parties rejects the award of the arbitrators and seeks a trial before a judge

or jury. In addition, cases which are occasionally reinstated at this stage of the arbitration process may be added to the inventory of cases pending post-rejection action. Removals from the post-rejection arbitration calendar are generally dispositive. When a case is removed by way of judgment before or after trial, dismissal or settlement, it is removed from the court's inventory of pending civil cases.

Post-Rejection Statistics

Although rejection rates are an important indicator of the success of an arbitration program, many resolution options remain available to parties having rejected an award. As noted, parties file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. Therefore, a factor more significant than the rejection rate is the frequency with which arbitration cases are settled subsequent to the rejection but prior to trial.

Statistics demonstrate that few arbitration cases proceed to trial even after the arbitration award is rejected.

- In ***Boone County*** (Fiscal Year 2004), 1 case was placed on the post-rejection calendar, no cases were disposed of via trial and 2 cases were either settled or dismissed and removed from the post-rejection calendar; 1% of the cases funneled into the arbitration program in Boone County during Fiscal Year 2004 resulted in trial.

- In ***Cook County*** (Fiscal Year 2004), 4,256 cases were placed on the post-rejection calendar, 401 cases were disposed via trial and 2,018 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 2% of the total cases funneled into the arbitration program in Cook County during Fiscal Year 2004 resulted in trial.

- In ***DuPage County*** (Fiscal Year 2004), 552 cases were placed on the post-rejection calendar, 83 cases were disposed via trial and 282 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 2% of the total cases funneled into the arbitration program in DuPage County during Fiscal Year 2004 resulted in trial.

- In ***Ford County*** (Fiscal Year 2004), no cases were placed on the post-

rejection calendar, settled, dismissed or otherwise disposed and removed from the post-rejection calendar.

- In ***Henry County*** (Fiscal Year 2004), 2 cases were placed on the post-rejection calendar, no cases were disposed of via trial, and 3 cases were either settled or dismissed and removed from the post-rejection calendar; 1% of the cases funneled into the arbitration program in Henry County during Fiscal Year 2004 resulted in trial.

- In ***Kane County*** (Fiscal Year 2004), 95 cases were placed on the post-rejection calendar, 37cases were disposed via trial and 69 were settled or otherwise disposed and removed from the post-rejection calendar; 2% of the total cases funneled into the arbitration program in Kane County during Fiscal Year 2004 resulted in trial.

- In ***Lake County*** (Fiscal Year 2004), 241 cases were placed on the post-rejection calendar, 60 cases were disposed via trial and 196 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 1% of the total cases funneled into the arbitration program in Lake County during Fiscal Year 2004 resulted in trial.

- In ***McHenry County*** (Fiscal Year 2004), 63 cases were placed on the post-rejection calendar, 24 cases were disposed via trial and 53 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 1% of the total cases funneled into the arbitration program in McHenry County during Fiscal Year 2004 resulted in trial.

- In ***McLean County*** (Fiscal Year 2004), 26 cases were placed on the post-rejection calendar, 7 cases were disposed via trial and 23 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 1% of the total cases funneled into the arbitration program in McLean County during Fiscal Year 2004 resulted in trial.

- In ***Mercer County*** (Fiscal Year 2004), there was no activity on the post-rejection calendar.

- In ***Rock Island County*** (Fiscal Year 2004), 20 cases were placed on the post-rejection calendar, 8 cases were disposed of via trial and 26 cases were either settled or dismissed and removed from the post-

rejection calendar; 1% of the cases funneled into the arbitration program in Rock Island County during Fiscal Year 2004 resulted in trial.

- In ***St. Clair County*** (Fiscal Year 2004), 37 cases were placed on the post-rejection calendar, 8 cases were disposed via trial and 38 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 1% of the total cases funneled into the arbitration program in St. Clair County during Fiscal Year 2004 resulted in trial.

- In ***Whiteside County*** (Fiscal Year 2004), 5 cases were placed on the post-rejection calendar, 1 case was disposed of via trial and 7 cases were either settled or dismissed and removed from the post-rejection calendar; 1% of the cases funneled into the arbitration program in Whiteside County during Fiscal Year 2004 resulted in trial.

- In ***Will County*** (Fiscal Year 2004), 84 cases were placed on the post-rejection calendar, 17 cases were disposed of via trial and 49 cases were settled, dismissed or otherwise disposed and removed from the post-rejection calendar; 1% of the total cases funneled into the arbitration program in Will County during Fiscal Year 2004 resulted in trial.

- In ***Winnebago County*** (Fiscal Year 2004), 49 cases were placed on the post-rejection calendar, 11 cases were disposed via trial and 48 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar; 1% of the total cases funneled into the arbitration program in Winnebago County during Fiscal Year 2004 resulted in trial.

CONCLUSION

A review and analysis of the data and program descriptions provides confirmation that the arbitration system in Illinois is operating consistent with policy makers' initial expectations for the program.

Statewide figures show that only a small number of the cases filed or transferred into arbitration proceed to an arbitration hearing. Arbitration-eligible cases are resolved and disposed prior to hearing in ways that do not require a significant amount of court time. Court-ordered dismissals, voluntary dismissals, settlement orders and default judgments typically require very little court time to process. Arbitration encourages dispositions earlier in the life of

cases, helps the court operate more efficiently. It also saves the expense of costlier proceedings that might have been necessary later and saves time, energy and resources of the individuals accessing the court system to resolve their disputes.

Statewide statistics also show that a large number of cases that do proceed to the arbitration hearing are terminated in a post-hearing proceeding when the parties either petition the court to enter judgment on the arbitration award or remove the case from the arbitration calendar via another form of post-hearing termination, including settlement.

Finally, the overall success of the program can be quantified in the fact that a statewide average of less than 2% of the cases processed through an arbitration program proceeded to trial in Fiscal Year 2004.

CIRCUIT PROFILES

Eleventh Judicial Circuit

The Supreme Court of Illinois entered an order in March, 1996, allowing both McLean and Ford Counties to begin arbitration programs. Therefore, two counties within the five-county circuit currently use court-annexed mandatory arbitration as a case management tool. The Eleventh Judicial Circuit arbitration program is housed near the McLean County Law and Justice Center in Bloomington, Illinois.

The supervising judge for arbitration in McLean County is Judge Robert L. Freitag. The supervising judge for arbitration in Ford County is Judge Stephen R. Pacey. The supervising judges are assisted by an administrative assistant for arbitration for both the McLean and Ford County programs.

Twelfth Judicial Circuit

The Twelfth Judicial Circuit is one of only three single-county circuits in Illinois. The Will County Arbitration Center is housed near the courthouse in Joliet, Illinois. According to the 2000 federal census, the county is home to 502,266 residents, straddling the line between a growing urban area and rural/agricultural farm communities. After the Supreme Court approved its request, Will County began hearing arbitration cases in December of 1995.

Judge Richard J. Siegel is the supervising judge for arbitration in the Twelfth Judicial Circuit. He is assisted by a trial court administrator and an administrative assistant.

Fourteenth Judicial Circuit

The Fourteenth Judicial Circuit is comprised of Henry, Mercer, Rock Island and Whiteside Counties. This circuit is the most recent to receive Supreme Court approval to begin operating an arbitration program. In November 1999, the Supreme Court authorized the inception of the program and arbitration hearings began in October 2000. Hearings are conducted in the arbitration center located in downtown Rock Island.

The Fourteenth Circuit is the first program to receive permanent authorization to hear cases with damage claims between $30,000 and $50,000. The supervising judge for arbitration is Judge Mark A. VandeWiele.

Sixteenth Judicial Circuit

The Sixteenth Judicial Circuit consists of DeKalb, Kane and Kendall Counties. During Fiscal Year 1994, the Supreme Court approved the request of Kane County to begin operating a court-annexed mandatory arbitration program. Initial arbitration hearings were held in June 1995.

Judge Judith M. Brawka is the supervising judge for arbitration in Kane County. She is assisted by an administrative assistant for arbitration.

Seventeenth Judicial Circuit

The Seventeenth Judicial Circuit is located in the northern part of Illinois consisting of Winnebago and Boone Counties. The arbitration center is located near the courthouse in Rockford, Illinois. In the fall of 1987, court-annexed mandatory arbitration was instituted as a pilot program in Winnebago County, making it the oldest court-annexed arbitration system in the state.

Since its inception, the arbitration program in Winnebago County has consistently processed nearly (1,000) civil cases every year. Judge Timothy R. Gill is the supervising judge for Winnebago County. The Boone County program, which began hearings in February 1995, is supervised by Judge

Gerald F. Grubb. The supervising judges are assisted by an arbitration administrator and an assistant administrator for arbitration.

Eighteenth Judicial Circuit

The Eighteenth Judicial Circuit is a suburban jurisdiction serving the residents of DuPage County. DuPage is one of the fastest growing counties in the state and the third most populous judicial circuit in Illinois. The continuing increase in population creates demands on the public services in the county. The circuit court has strived to keep pace with those demands in order to provide services of the highest quality. Court-annexed arbitration has become an important resource for assisting the judicial system in delivering those services.

The Supreme Court approved an arbitration program for the circuit in December 1988. On January 1, 1997, a pilot program was instituted for cases with money damages seeking up to $50,000. During Fiscal Year 2002, the Supreme Court authorized DuPage County to permanently operate at the $50,000 jurisdictional limit. Judge Kenneth A. Abraham is the supervising judge for arbitration. He is assisted by an arbitration administrator and administrative assistant, who help ensure the smooth operation of the program.

Nineteenth Judicial Circuit

Lake and McHenry Counties currently combine to form the Nineteenth Judicial Circuit. This jurisdiction ranks as the second most populous judicial circuit in Illinois, serving 904,433 citizens. Lake County sought Supreme Court approval to implement an arbitration program and that approval was granted in December 1988.

As in the other circuits, the arbitration caseloads are assigned to a supervising judge. During Fiscal Year 2004, Judge Emilio B. Santi served as the supervising judge for arbitration in Lake County. He is assisted by an arbitration administrator and an administrative assistant. Arbitration hearings are conducted in a facility across the street from the Lake County Courthouse in downtown Waukegan.

Late in 1990, the Supreme Court was asked to consider the Nineteenth Judicial Circuit's request to expand the arbitration program into McHenry

County. That request was approved. The Nineteenth Judicial Circuit was the first multi-county circuit-wide arbitration program in Illinois. Although centrally administered, the arbitration programs in Lake and McHenry Counties use their own county-specific group of arbitrators to hear cases.

Judge Maureen P. McIntyre serves as the supervising judge in McHenry County. Arbitration hearings are conducted in the McHenry County Courthouse in Woodstock. The arbitration administrator and administrative assistant in Lake County administer the program in McHenry County as well.

Twentieth Judicial Circuit

The Twentieth Judicial Circuit is comprised of five counties: St. Clair, Perry, Monroe, Randolph and Washington. This circuit is located in downstate Illinois and is considered a part of the St. Louis metropolitan area. Circuit population is 355,836 according to the 2000 federal census.

The Supreme Court approved the request of St. Clair County to begin an arbitration program on May 11, 1993. The first hearings were held in February 1994. This circuit is the first and only circuit in the downstate area to have an arbitration program.

The arbitration center is located across the street from the St. Clair County Courthouse. Judge Annette A. Eckert is the supervising judge. She is assisted by an arbitration administrator and an administrative assistant, who oversee the program's operations.

Circuit Court of Cook County

As a general jurisdiction trial court, the Circuit Court of Cook County is the largest unified court in the nation. Serving a population of more than 5.3 million people, this court operates through a complex system of administratively created divisions and geographical departments.

The Supreme Court granted approval to implement an arbitration program in Cook County in January 1990, after the Illinois General Assembly and the Governor authorized a supplemental appropriation measure for the start-up costs. Cases pending in the circuit's Law Division were initially targeted for referral to arbitration and hearings for those cases commenced in

April 1990. Today, the majority of the cases transferred to arbitration are Municipal Department cases.

The Cook County program is supervised by Judge E. Kenneth Wright, Jr. and day-to-day operations are managed by an arbitration administrator and deputy administrator.