

Organizing Your Expedited Action Cases

A study of Civil Case Management Teams

Why a team based approach?

- Preserves judge time/attention for tasks that require judicial expertise/authority
- Institutionalizes effective business practices for case management
- Improves staff morale



Judge Time Preservation

- Who does what in your court and why?
- Judge Role / Coordinator Role / Clerk Role
- Who is reading pleadings?
- Judge time is limited (one judge supported by multiple staff)



Institutionalizing Business Practices

- Communication between team members is vital
- Differentiated case management can be more than just a pilot program
- Team approach spreads not only responsibility but broadens systemwide contacts

Improving Staff Morale

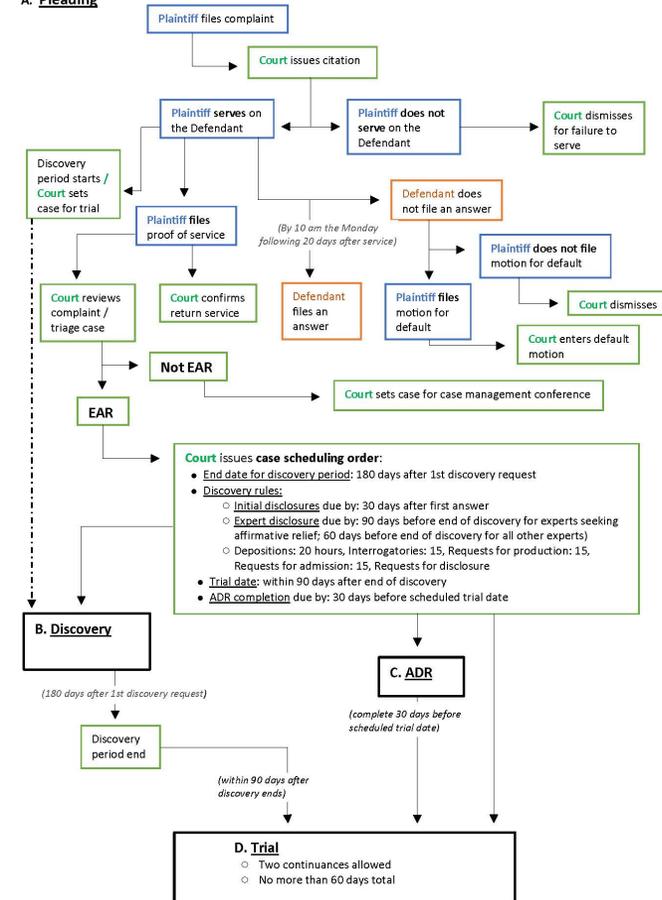
- How does an activity that preserves judge time also improve staff morale?
 - Part of the team means part of the purpose (more meaningful work)
 - Shorter case timeframe means faster resolution means easier scheduling and fewer tradeoffs
 - Staff feels better about enforcing timelines and deadlines
 - Performance measures look good



Essential Case Management Tools

Texas Expedited Action Rules

A. Pleading



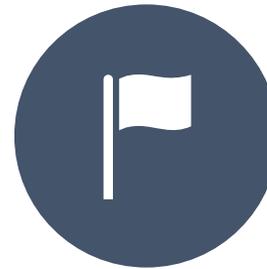
Steps to EAR Success



EDUCATION



FORMS



REPORTS, CALENDARS
AND FLAGS

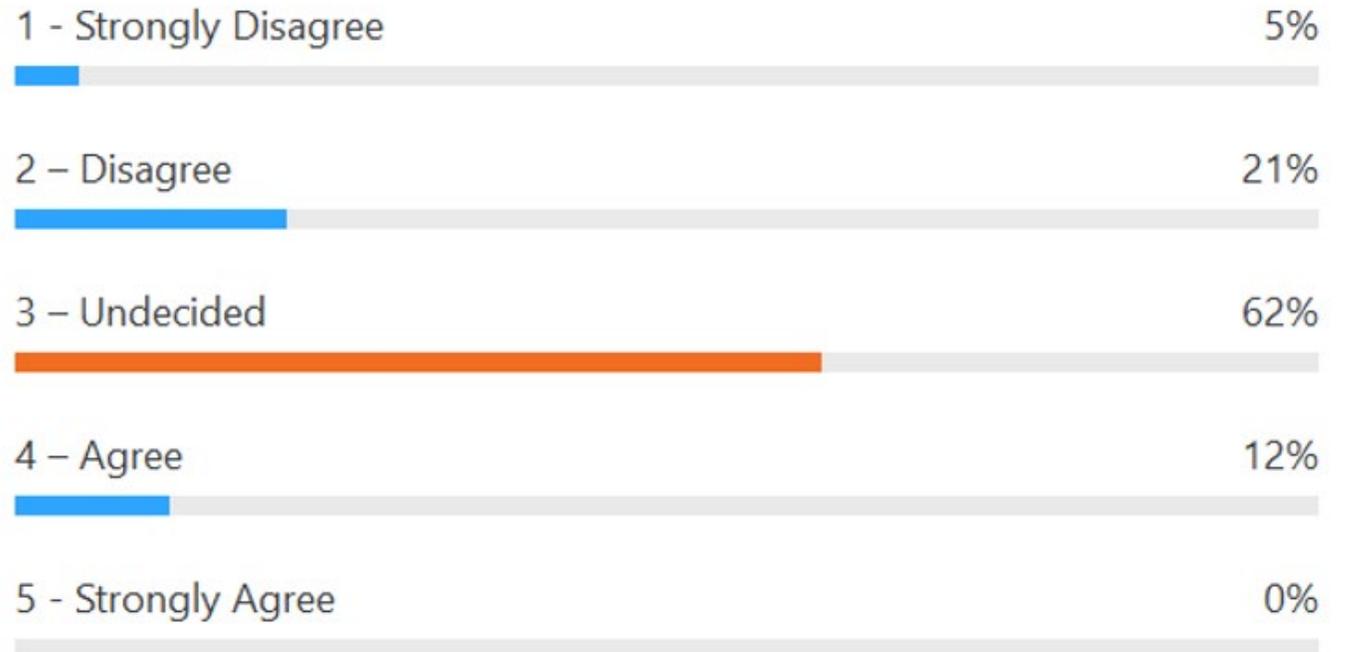


DIPLOMACY

Education

- Results of poll at last Tuesday's section indicates a lack of attorney education
- While Rules apply to all District and Statutory County Courts in the State, they are applied locally
- State Bar has (at least in the past) offered specialized courses on the rules
- Trial judges should consider serving as faculty for local bar association courses

5. The local civil bar is well aware of the expedited actions rules.



Forms

- Docket control orders
- Scheduling orders
- Standing orders
- Ultimately Judge-driven

DOCKET CONTROL ORDER

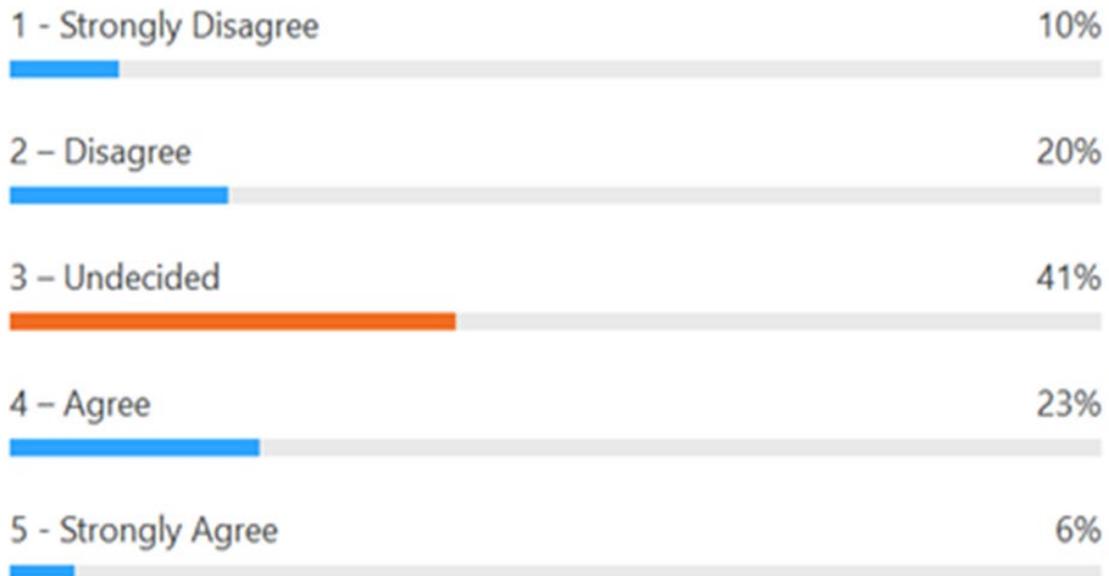
IT IS ORDERED that this Docket Control Order shall control the disposition of this matter; the Texas Rules of Civil Procedure shall control in computing any period of time not addressed within this Order; and any date that falls on a weekend or legal holiday (as determined by the Montgomery County Commissioners Court) shall be moved to the first business day thereafter.

IT IS ORDERED THAT THE PLAINTIFF MUST IMMEDIATELY SEND A COPY OF THIS DOCKET CONTROL ORDER, BY A METHOD PRESCRIBED BY RULE 21a, TO EACH AND EVERY PARTY ANSWERING OR OTHERWISE APPEARING IN THIS CASE AFTER THE DATE THIS ORDER IS SIGNED.

1. **PLEADING DEADLINE:** **90 DAYS BEFORE TRIAL**
All amendments and supplements to pleadings must be filed by this date.
 2. **DISCOVERY RESPONSES:** **60 DAYS BEFORE TRIAL**
By no later than this date, all written discovery responses must be due, all responses and supplements must be completed, and all depositions must be completed, read, and signed.
 3. **DISPOSITIVE MOTIONS:** **45 DAYS BEFORE TRIAL**
All dispositive motions shall be set for a submission docket which is no later than this date.
 4. **MOTIONS FOR CONTINUANCE:** **14 DAYS BEFORE TRIAL**
All motions for continuance of the Trial Date **must** be filed at least 14 days before the trial date, except in exigent circumstances, and will be considered by the Court without necessity of submission if they are agreed.
 5. **JOINT NOTICE FILING:** **14 DAYS BEFORE TRIAL**
All parties will file a SINGLE Joint Notice with the Court, answering:
 - (1) Are you ready for trial?
 - (2) What is the estimated length of time for trial?
 - (3) Do you need a Pre-Trial conference and, if so, why?
 - The Court will take up pre-trial motions in the hour prior to trial. You should request a Pre-Trial conference only if you need more time than that.
 - (4) Are there any pending motions? If so, what are they and when were they filed?
 - (5) Are there any special needs or accommodations for the presentation of the case, including any issues related to the availability of counsel and witnesses?
-

Reports, Calendars & Flags

7. The court effectively monitors compliance with expedited actions rules



- **Measuring time is essential**
- **Ticklers (case based alarm)**
- **Using flags**
- **Automated CMS reports (flags, age of active pending, age of cases disposed, etc.)**
- **Built in calendars**
- **Low(er) tech options, too:**
 - **Get case information in Excel and use formula to map out dates ***
 - **If still using a paper file: staple a twelve month calendar in the front cover and color code your case dates (90 days before trial/60 days before trial, etc.)**
 - **If Clerk uses a year-month cause number, create calendar that effects all cases within a specific year-month combination**

AutoSave Off Book1 - Excel

File Home Insert Draw Page Layout Formulas Data Review View Help

Clipboard: Paste, Cut, Copy, Format Painter

Font: Calibri, 11, Bold, Italic, Underline, Paragraph, Color, Background Color

Alignment: Wrap Text, Merge & Center

Formula Bar: C2 =B2-90

	A	B	C	D	E	F	G
1		Trial Date	Pleading	Discovery	Dispositives	Last Continuances	Joint Notice
2	20-03-00567-CV	11/16/2021	8/18/2021				
3	20-03-00981-CV	12/1/2021					
4	20-03-01101-CV	12/7/2021					
5	20-03-01102-CV	12/7/2021					
6	20-03-01103-CV	12/7/2021					
7	20-03-01104-CV	12/7/2021					
8	20-03-01145-CV	12/7/2021					
9							

- Start by adding the trial date
- Put cursor on next cell and type =
- Then select cell with trial date and subtract number of days (90 in this example)

AutoSave Off Book1 - Excel

File Home Insert Draw Page Layout Formulas Data Review View Hel

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Alignment: Wrap Text, Merge & Center

Formula Bar: C3 =B3-90

	A	B	C	D	E	F	G
1		Trial Date	Pleading	Discovery	Dispositives	Last Continuances	Joint Notice
2	20-03-00567-CV	11/16/2021	8/18/2021				
3	20-03-00981-CV	12/1/2021	9/2/2021				
4	20-03-01101-CV	12/7/2021	9/8/2021				
5	20-03-01102-CV	12/7/2021	9/8/2021				
6	20-03-01103-CV	12/7/2021	9/8/2021				
7	20-03-01104-CV	12/7/2021	9/8/2021				
8	20-03-01145-CV	12/7/2021	9/8/2021				
9							

- You then copy the calculated cell and paste all cells below that by pasting the formula (fx)
- This process can be repeated for each marked date

Diplomacy



- Creating a rule reliant on judicial action or control yields two responses:

- “I’m supposed to be a neutral”
- “I already effectively and timely dispose of these cases.”

Balancing judicial independence with system efficiencies *is* possible.

NCSC Evaluation of Expedited Actions Rules (2016)

- Compared outcomes of contested cases filed in 2011, 2013, and 2014 in 5 county courts of law
- Survey of judges and attorneys
- Interviews with judges and attorneys (Baylor University School of Law)

Civil Justice Initiative

Texas: Impact of the Expedited Actions Rules on the Texas County Courts at Law

Final Report: September 1, 2016

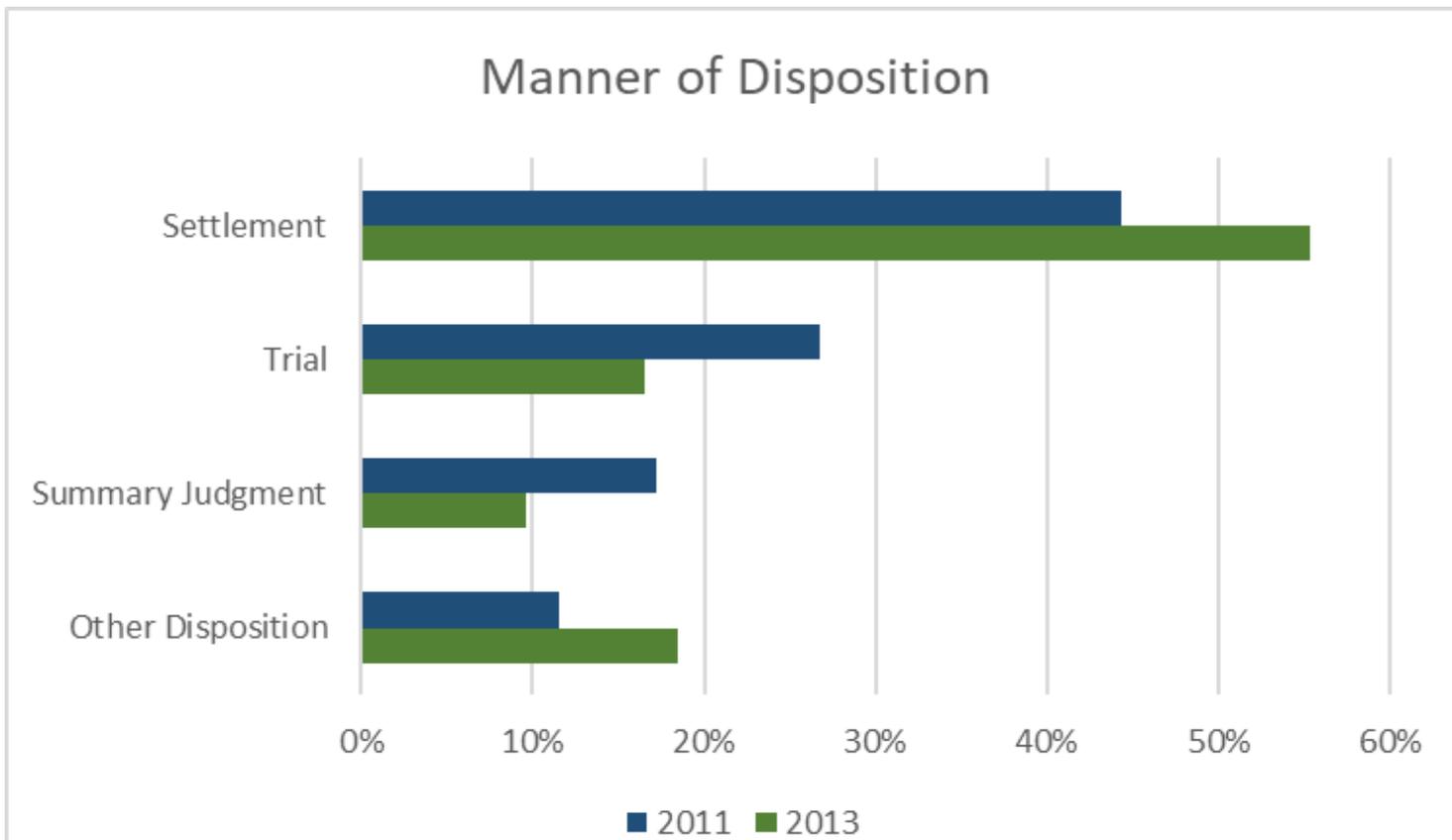




Discovery Disputes

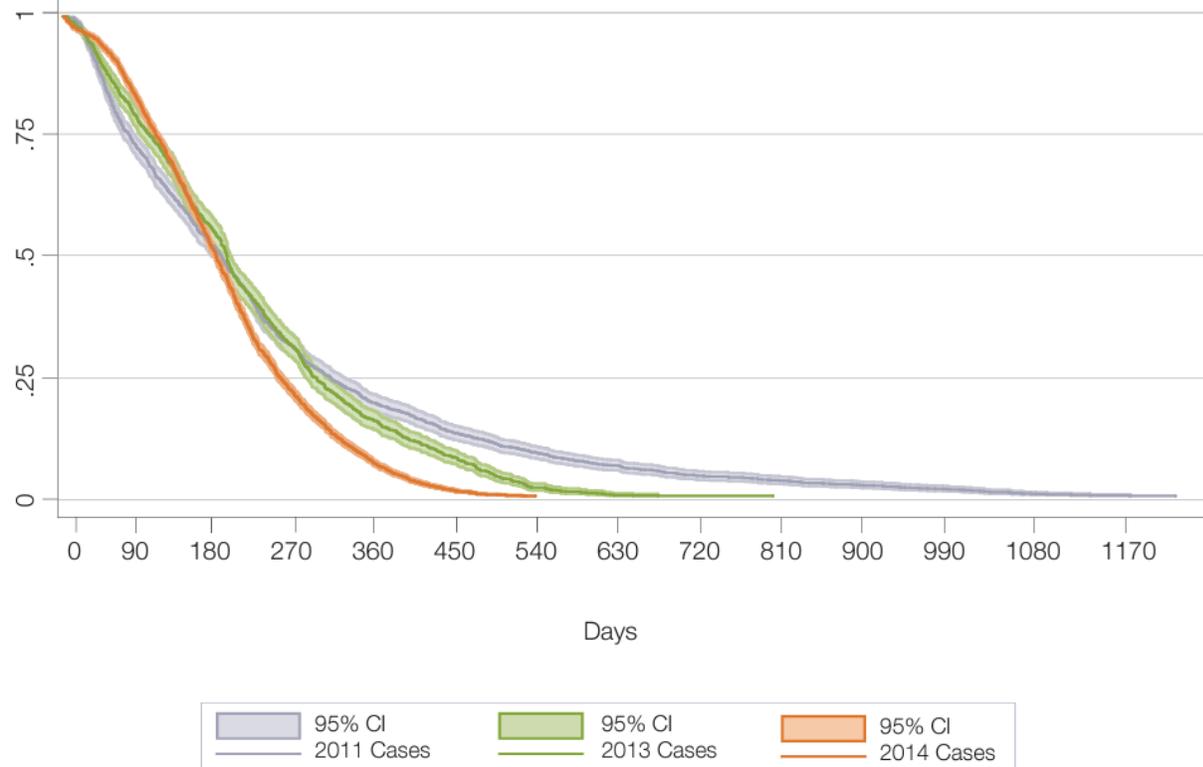
- No change in overall rate of discovery disputes
- 22% fewer motions
- Average filing 2 months earlier

Case Outcomes



- 25% increase in settlement rates
- Commensurate decreases in summary judgment and trials
- Mostly driven by contract/debt collection
 - Tort: trial rates increase, summary judgment rates decrease

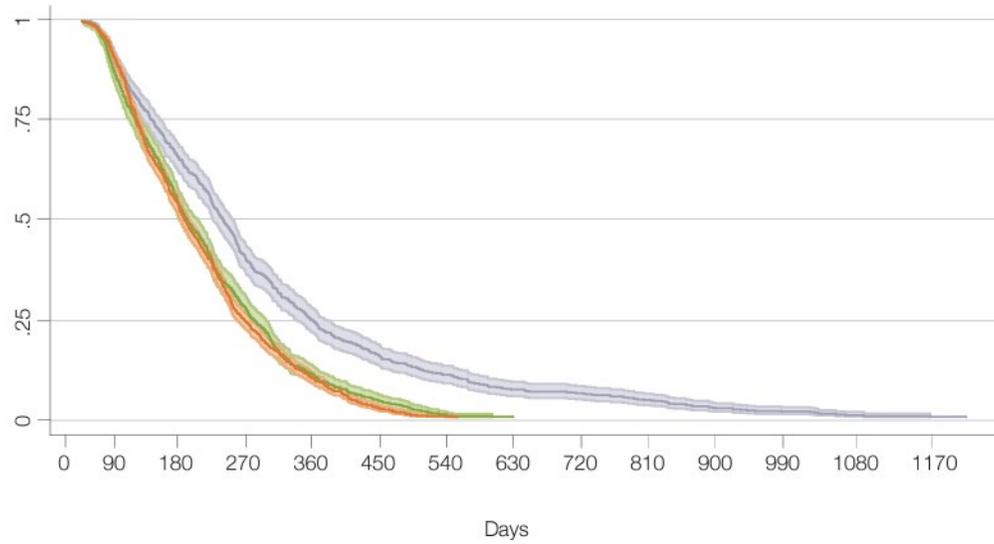
Time to Disposition



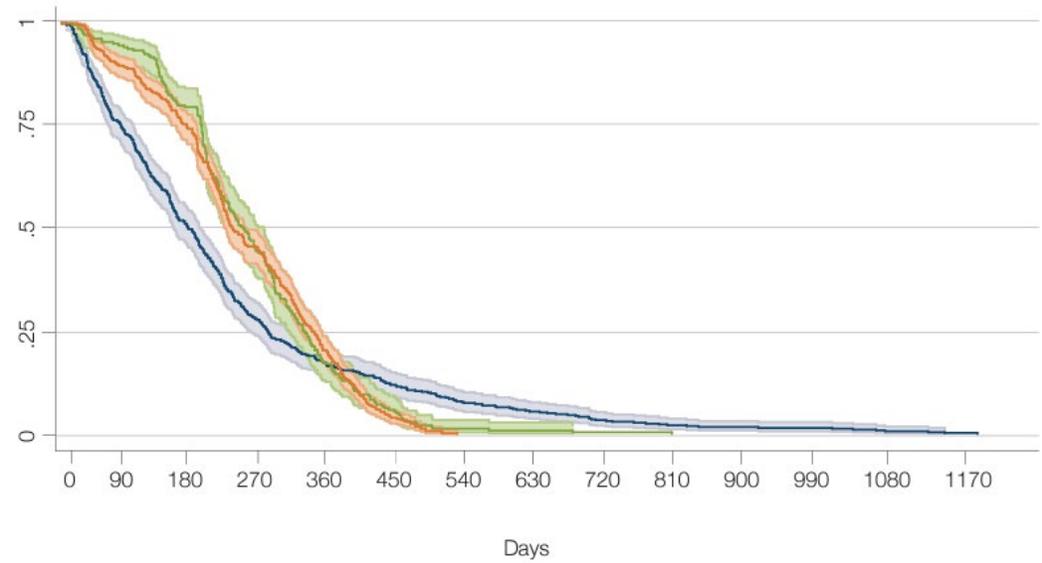
- Disposition rates about the same for the first 6 months
- EAR cases dispose at a significantly faster rate after 9 months in 2013 cases, after 6 months in 2014 cases

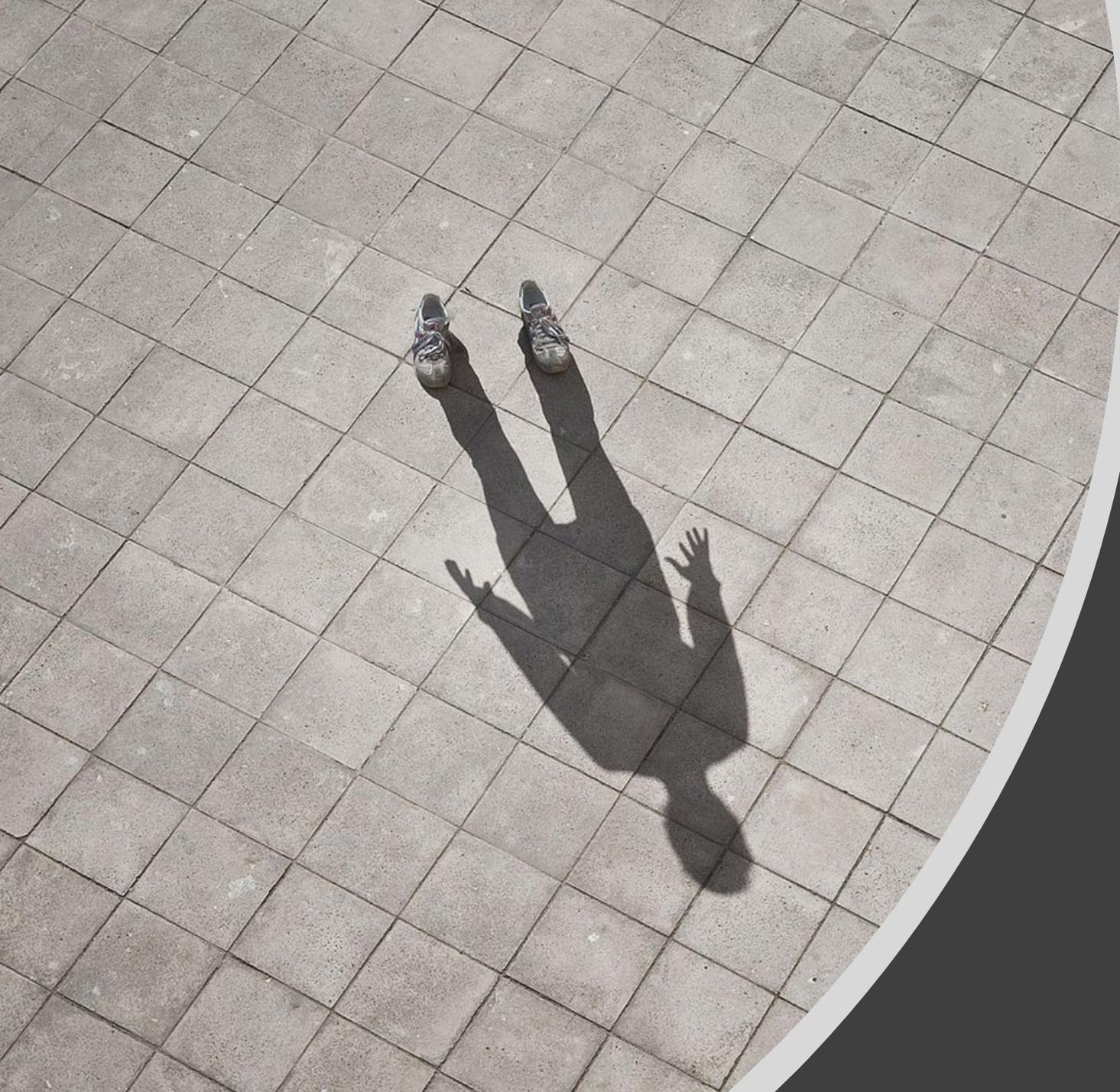
Differential impacts

Settlements



Trials





EAR changes
invisible to
judges and
lawyers?

Questions?

Nate Jensen

njensen@illinoiscourts.gov

(217) 524-3072