

#### **ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**

# CREATING EFFECTIVE CIVIL CASE MANAGEMENT TEAMS

Civil Justice Initiative Pilot Project (CJIPP)





# Case Management (Verb):

Court action to monitor and progress cases, from filing to disposition to post-disposition, to assure that each case is resolved fairly, justly, cost-effectively and without undue delay

# Case Management (Noun):

The systemic effort by courts to assure effective movement of cases with the goal of elimination of strategic process distortion by imposing unnecessary cost and delay on the other side.

# WHY DON'T JUDGES **CASE MANAGE?**

Lack of definition or misunderstanding of case management

Lack of staff and technology

Institutional support: time, inertia: "Local Court Culture"

**Cross-incentives:** elections, bar polls/popularity, attorneys fees, ambition

Judicial independence/ not my job

Lack of awareness of case management

# CASE MANAGEMENT

# TRADITIONAL DEFERENTIAL CASE MANAGEMENT

Reliance on litigants to progress the case to resolutionrequiring only the obligation to provide a hearing date or trial upon request, at the convenience of the court, and in the absence of such a request, allows continued inactivity

### REACTIVE CASE MANAGEMENT

The court routinely gets
involved upon a request for
enforcement or ruling by a
party or notice for trial, and
additionally recognizes an
obligation to act when there is
period of inactivity in the case
or the case is aged beyond the
judge's tolerance level

## PROACTIVE CASE MANAGEMENT

Provides consistent
momentum through a courtsupervised case management
plan designed from the outset
to ensure effective progress
through case stages, with a
defined anticipated resolution
deadline, whether by trial or
settlement, without
unnecessary delay between
events.

### **DELAYS**

#### INATTENTIVE DELAY

 Nobody is paying attention to the case, to compliance with orders and rule deadlines or time standards until a client complains or performance measures are reviewed

#### INSTITUTIONAL DELAY

- Delays due to available resources or practical coordination
- Hearing time, trial dates, or other resolution mechanisms are not available within a meaningful time frame
- Lawyers/parties won't agree on scheduling dates
- Prerequisite events are not timely accomplished, like discovery, in order to use the time set by the court

#### INTENTIONAL DELAY

- Strategic or tactical exploitation of rules, procedures, and limited court resources to delay a case or
- The intentional delay by choice due to a related case, appeal, or for settlement

# WHAT

# CASE MANAGEMENT IS:

A **COURT** FUNCTION



A **SYSTEMATIC SOLUTION** TO COST AND DELAY

#### X CASE MANAGEMENT IS NOT:

AN INDIVIDUAL JUDGE FUNCTION - JUSTICE SHOULD NOT DEPEND ON WHO YOU DRAW IN BLIND FILE

#### X CASE MANAGEMENT IS NOT:

COMPROMISED BY INDIVIDUAL JUDICIAL PHILOSOPHY, WORK ETHIC, STAFFING CHOICES OR ROTATION

# WHAT IS THE NEED FOR CASE MANAGEMENT?

REDUCES COST AND DELAY IN CIVIL LITIGATION

PROVIDES ACTIVE AND CONTINUING OVERSIGHT OF CIVIL CASES

CASE MANAGEMENT PROPORTIONATE TO CASE NEEDS

PERMITS JUDGES TO FOCUS
ON TASKS THAT REQUIRE
JUDICIAL TRAINING AND
EXPERTISE

# DATA GROUPS



**15 JUDICIAL SECTIONS** 



22,000 TOTAL CASES



1,467 AVERAGE CASES PER JUDICIAL SECTION



**4 JUDICIAL SECTIONS** 



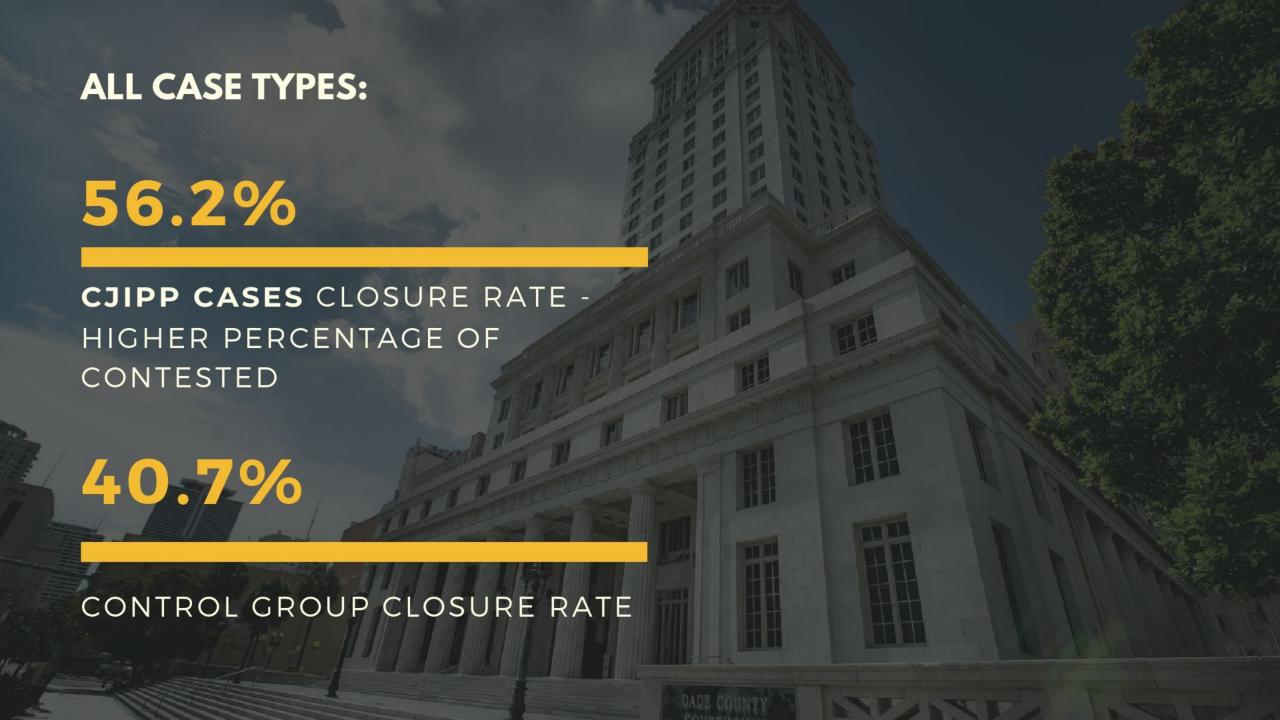
5,868 TOTAL CASES



1,467 AVERAGE CASES PER JUDICIAL SECTION

GROUP PROFILE

**CJIPP PROFILE** 

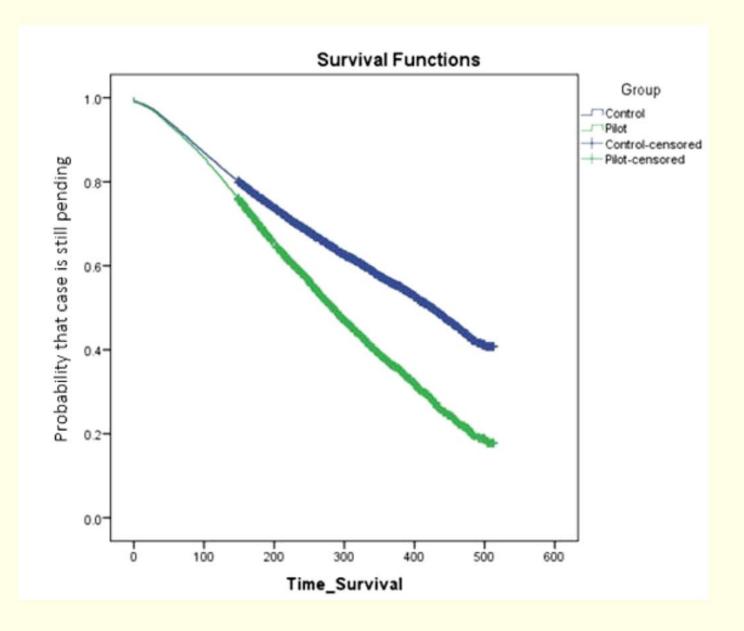


50%

CJIPP CASES: CLOSED AT
9 MONTHS V. CONTROL
14 MONTHS <5 MONTHS>

50%

UNCONTESTED CJIPP CASES:
6 MONTHS V. CONTROL
11 MONTHS <5 MONTHS>



# PENDING CASELOAD WITHIN TIME STANDARDS

8%
CJIPP GROUP

21% CONTROL GROUP

**CJIPP** 

91%

**CLOSURE RATE** 

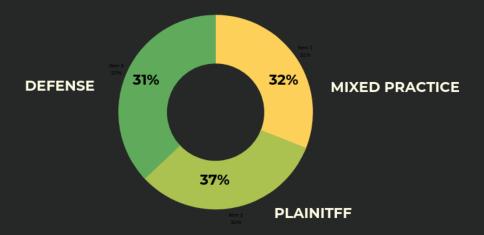
**CONTROL GROUP** 

76%

**CLOSURE RATE** 

#### **ATTORNEY SURVEY RESULTS**

#### **RESPONDENT CHARACTERISTCS**



#### YEARS IN PRACTICE









PROVIDED FOR
MEETING
KEY DEADLINES



DEADLINES WERE REASONABLE



EARLY STRUCTURE OF CASES AND CASE MANAGEMENT PLAN BETTER APPROACH



COURT SHOULD
CONTROL THE PACE OF
LITIGATION



1

ORGANIZATIONAL RESTRUCTURE

2

DEVELOP COMPREHENSIVE PLAN ARATIS YEARS

**IMPLEMENTATION** 

# 1

# ORGANIZATIONAL RESTRUCTURE

#### STEP 1:

ANALYZE EXISTING CASELOAD AND OPERATIONAL STRUCTURE

#### STEP 2:

CONDUCT THOROUGH ASSESSMENT OF CORE RESPONSIBILITIES OF COURT POSITIONS

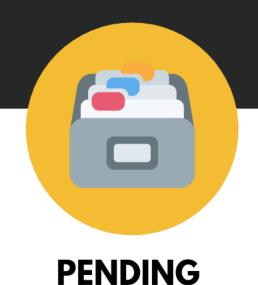
#### STEP 3:

RESTRUCTURE CORE RESPONSIBILITIES TO INCLUDE CASE MANAGEMENT TASKS

#### STEP 4:

DESIGN AND IMPLEMENT TIER OF CASE
MANAGEMENT RESPONSIBILITY BASED ON
ASSIGNED TASKS

# ANALYZE EXISTING CASELOAD



**CASES** 





RULES OF CIVIL PROCEDURE



COMMON TRENDS



# TIER OF CASE MANAGEMENT RESPONSIBILITY

The CCMT Model consists of distinct tiers of responsibility over civil case managment

Inhabit the topmost tier, performing tasks that require unique skills and legal expertise such as, conducting trial and hearings, entering court orders

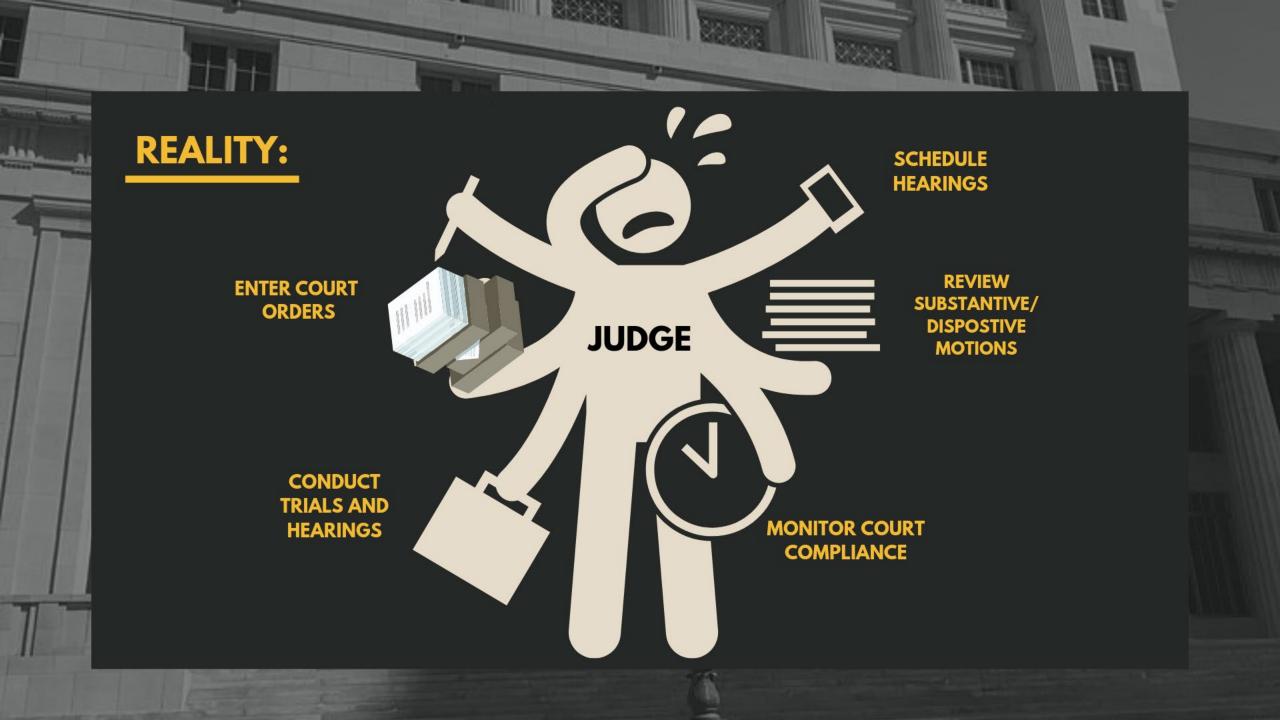
**JUDGES** 

Require more specialized legal knowledge and training than required for administrative positions. Review case issues, make recommendations, draft case management order, develop case management plan, review substantive/dispositive motions, highlight legal issues for judicial review

**SKILLED TIER** 

ADMINISTRATIVE POSITIONS

Judicial Assistants, Bailiffs, Secretaries, Clerk. Schedule cases for trial, monitor court compliance, ensure judges have complete information for hearings, communicate with lawyers and parties, prepare court order for signature



# 2

# DEVELOP COMPREHENSIVE PLAN

#### STEP 1:

IDENTIFY POLICIES AND BUSINESS PRACTICES FOR CASE TYPES OR CASE CHARACTERISTICS

#### STEP 2:

SPECIFY THE SCOPE OF RESPONSIBILITY FOR EACH TIER

#### STEP 3:

DEVELOP CURRICULUM FOR JUDICIAL AND STAFF TRAINING

#### STEP 4:

IDENTIFY TECHNOLOGY TOOLS TO SUPPORT YOUR COMPREHENSIVE PLAN

#### **STREAMLINED**

- AUTO NEGLIGENCE
- CONDOMINIUM
- CONSTRUCTION LIEN
- CONTRACT & INDEBTEDNESS
- DECLARATORY JUDGMENT
- INJUNCTIVE RELIEF
- PERSONAL INJURY PROTECTION
- FORECLOSURES
- REPLEVIN

#### STANDARD

- CIVIL FORFEITURE
- COMM PREMISES LIABILITY
- DISCRIMINATION
- LIBEL/SLANDER
- NEGLIGENT SECURITY

#### COMPLEX

- ANTITRUST/TRADE REGULATION
- BUSINESS TORTS
- BUSINESS TRANSACTIONS
- EMINENT DOMAIN
- MEDICAL MALPRACTICE
- PROFESSIONAL MALPRACTICE
- PRODUCT LIABILITY

85.9%

6.0%

DADE COUNTY

3.0%

### ORDERS

ORDER TO SERVE DEFENDANTS
ORDER TO FILE RESPONSIVE PLEADING
ORDER TO TAKE ACTION/ELIGIBILITY FOR DEFAULT
ORDER FOR JUDICIAL DEFAULT
ORDER ON MOTION FOR EXTENSION OF TIME
ORDER SETTING FINAL HEARING
ORDER TO FILE
ORDER TO SHOW CAUSE
CASE MANAGEMENT CONFERENCE ORDER



UNSERVED PARTIES
NO RESPONSIVE PLEADING FILED
NO DEFAULTS
NON COMPLIANCE
PENDING MOTIONS
PENDING DISCOVERY
PENDING TRIAL DATE
CONTINUANCES





PHASE 1:

**INTAKE** 



PHASE 2:

**SERVICE** 



PHASE 3:

RESPONSIVE PLEADING



PHASE 4:

CASE MANAGEMENT CONFERENCE



PHASE 5:

**DISPOSITION** 

# PHASE 1: INTAKE

Phase

Intake

#### Initial Case Filing Report

Case Manager runs report of daily case filings of judge's section through Odyssey List Manager



#### Daily Case Filing

Case Manager forwards daily case filings to division bailiffs/judicial assistants



#### CJIPP Report Upload

Bailiff's to complete administrative section of СЛРР Report for each case and uploads into Mentis Case Folder



#### CJIPP Spreadsheet Update

Case Managers update master CJIPP Case Tracking Spreadsheet with daily case filings



#### CJIPP Spreadsheet Update

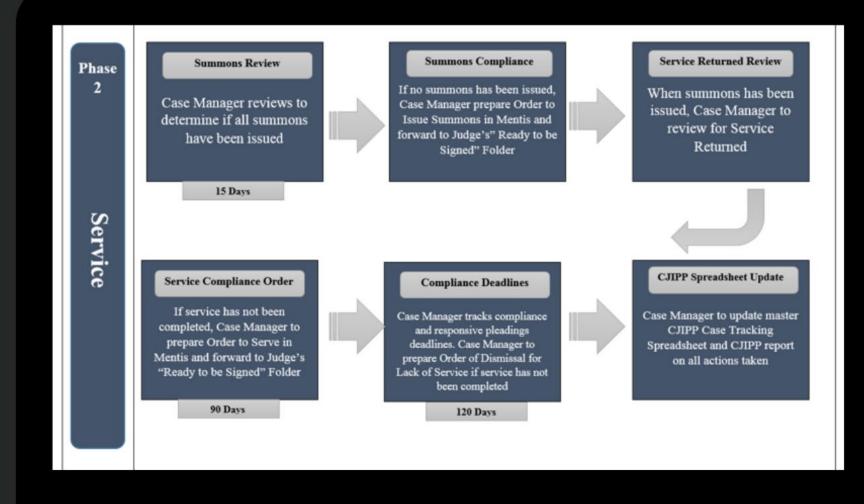
Case Manager performs weekly quality control of CJIPP Reports and Update Master CJIPP Spreadsheet



#### **CJIPP** Welcome Letter

Bailiff's to upload and eFile CJIPP Welcome Letter through aiSmartBench

# PHASE 2: SERVICE



# PHASE 3A: FILING OF RESPONSIVE PLEADING DEFAULT ELIGIBILITY

Phase

A Filing of Responsive Pleading: Default Eligibility

#### Responsive Pleading Review\*

Case Manager reviews to determine if any pleadings have been filed by defendant(s)

20 from Service Date



#### **Default Eligibility**

If after 20 days from service date defendant(s) failed to file any pleading(s) and plaintiff has not moved for entry of a default prepare Order to Take Action



#### Motion for Judicial Default

Case Manager to review motion and supporting affidavits to determine compliance and eligibility. Case Manager to prepare Order for Judicial Default when appropriate.



#### Show of Good Cause

Case Manager to prepare Order to Show Cause Hearing

#### Scenario 3

#### Motion for Clerk's Default

If Motion for Clerk's Default has not been entered, Case Manager to prepare Order to Supplement Default.

\*Note: Notice of Appearance filed – Case Managers to prepare Order to File a Responsive Pleading

### PHASE 3B: FILING OF RESPONSIVE PLEADING -MOTION

Phase 3B

Filing of Responsive Pleading: Motion

#### Motion for Extension Respond

If a Motion for Extension of Time to Respond to Complaint has been filed: Case Manager to Prepare Order Granting Motion for 20 days or reasonable time requested

Scenario 1

#### Motion for Extension: Discovery (Streamlined cases only)\*

If a Motion for Extension of Time to Respond to Discovery has been filed: Case Manager to Prepare Order Granting Motion to Respond to Discovery for 20 days or reasonable time requested

Scenario 2

#### Motion to Dismiss

If a Motion to Dismiss is filed: Case Manager to prepare Order Setting Motion for Hearing if matter has not been set.

Scenario 5

#### Responsive Pleading Review

Case Manager reviews to determine if any pleadings have been filed by defendant(s)

20 from Service Date

\*Note: Complex/Standard Cases: Motion for Extension of Time (Discovery) – Prepare Order

#### Subsequent Motion for Extension of Time

If an additional Motion for Extension of Time is filed after Order issued. Case Manager to meet with Judge for review

Scenario 3

#### Non Compliance

If defendant(s) failed to comply with Order Granting Motion for Extension of Time to Respond: Case Manager to Prepare Order to Take Action for Default

Scenario 4

### PHASE 3C: FILING OF RESPONSIVE PLEADING -ANSWER/DEFAULT

Phase 3C

Filing of Responsive Pleading: Answer/Default

#### Responsive Pleading Review

Case Manager to review to determine if an Answer has been filed and/or Default has been entered for all defendants



#### Uncontested Cases

In an uncontested case: Case Manager to set case for Final Hearing/Trial (25 days after last pleading for a date 35 days out)

Defaults/Admitted Answers

#### Scenario 3

#### Streamlined Case: Answer, Affirmative Defenses, Activity

Once a responsive pleading has been filed: Case Manager to prepare CJIPP Initial Case Management Order along with proposed trial date and case management procedures

#### Scenario 2

#### Streamlined Cases: Answer-No Activity

In a streamlined case if all answers filed and no further activity: Prepare <u>Trial Order</u> along with CJIPP Initial Case Management Order

#### Scenario 4

#### Complex/Standard Cases

Once a responsive pleading has been filed: Case Manager to set CJIPP Initial Case Management Conference along with Joint Case Management Report and Procedures

### PHASE 4A: ISSUING INITIAL CASE MANAGEMENT ORDER

Phase 4A

Issuing Initial Case Management Order

Review Cases to determine eligibility for Initial Case Management Order (ICMO)

- Case Manager to review to determine if an Answer has been filed.
- Determine track assignment based on case type.
- Issue ICMO based on track assignment.

#### If track assignment is:

#### Streamlined

- 1 Responsive pleading filed
- Issue Initial Case Management
  Order following time guidelines.
- 3. Schedule Initial Case Management Conference.
- 4. Set for trial when case is at issue

#### If track assignment is:

#### Foreclosure

- 1.Responsive pleading filed
- 2. Issue Initial Case Management Order following time guidelines.
- Set for trial when case is at issue based on ICMO.

#### If track assignment is:

#### Complex/Standard Cases

- 1 Responsive pleading filed
- 2. Schedule Initial Case Management Conference
- Joint case management report submitted by parties.
- Issue Initial Case Management
  Order based on agreed submission
- Set for trial when case is at issue based on ICMO.

#### If track assignment is:

#### Auto Negligence

- 1 Responsive pleading filed
- Issue Initial Case Management
   Order following time guidelines.
- Schedule Initial Case Management Conference.
- 4. Set for trial when case is at issue based on ICMO.

# PHASE 4B: CASE MONITORING

Phase 4B

Case Monitoring Phase

#### Civil Forfeiture

Review for complaint 45 days after filing.

If no complaint is filed, prepare an order to show cause why case should not be dismissed and set on motion calendar.

If filed, review for answer after 20 days. Treat case as streamlined.

#### Insurance

First party insurance cases with only a Notice of Appearance Filed but no responsive pleading, issue an order directing them to file a responsive pleading or case will be defaulted.

#### Replevin

Prejudgment Writ of Replevin: 1. Set on Motion Calendar ASAP; or

2. Have Judge review or deny ex

parte based on submission.

Defendant Motion to Dissolve: Set for immediate hearing

#### Contract & Indebtedness

Make sure contract is attached. If contract is not attached, send out notice to supplement filing within 10 days (Rule 1.130).

#### Bond Estreature

No Case Management Plan needed. Set for final hearing 60 days after filing. This should result in an order that will close the case. Review and make sure the case is closed.

#### Foreclosure

Send out Foreclosure ICMO in all cases. Schedule trials for Foreclosures within 90 days. Trial notice goes out once case is at issue, at least 35 days prior to trial.

### PHASE 4C: CASE MANAGEMENT CONFERENCE

Phase 4C

Case Management Conference

Schedule Case Management Conference based on timeframe specified in ICMO

- Case Manager to issue Notice of hearing.
- Attend hearings to monitor progress.
- Pending motions affecting case progress are heard.

If Continuance Granted:

#### Motion for Extension of Time

If a Continuance is granted, leave in place all prior deadlines unless the Judge issues an Order extending such deadlines. If a new trial date is granted, issue updated ICMO in accordance with the new Trial Date.

#### If Stay is granted:

#### Motion to Stay

Track case at the lifting of the Stay and set for Status Conference to determine how to proceed forward.

#### If Parties are Non-Compliant

#### Non-Compliance

If parties are non-compliant, an order to show cause will be issued and set for immediate hearing.

#### If Closing Action is filed:

#### **Nontrial Dispositions**

If parties file a Notice of Settlement, Voluntary Dismissal, Case Removal, Case Transfer or Withdrawal issue a Judicial Order of Dismissal to close the case.

# CASE MANAGEMENT TEAM **JUDGE BAILIFF** CASE **MANAGER JUDICIAL ASSISTANT**

#### **JUDGE**

- Perform tasks that require unique skills and legal expertise
- Rule on pending motions

#### **JUDICIAL ASSISTANT**

- Schedule Cases for Trial
- Monitor Court Compliance
- Prepare documents for hearings
- Communicate with lawyers and parties
- Prepare Court Orders

# MANAGER

- Review Case Issues
- Make Recommendations
- Draft Case management plan
- Review Substantive and dispositive motions
- Highlight Legal Issues

#### **BAILIFF**

- Intake of Cases
- Initial Track/Pathway Assignment
- Assemble documents for hearings
- Provide security to Judge
- Prepare courtroom for hearings

# CASE MANAGEMENT TEAMS WORKFLOW

	Intake	Service	Responsive Pleadings Case Management Conferences	Deposition
Phase	Resources (Input)	Staff	Duties(Output)	Outcome
Intake	Odyssey List Manager	Case Manager	Perform daily query for pilot project divisions to identify filed cases	Prevents backlog of case loads
	Microsoft Outlook	Bailiff/Case Manager	Email daily case filings from Odyssey List Manager to pilot project divisions	Provides accountability
	CJIPP Report	Bailiff/Judicial Assistant and Case Manager	Upload CJIPP template to individual case folders in Mentis  Complete Triage Content  Number of Parties  Number of Counts  Relief Requested  Jury Demand  Identify case track assignment  Streamlined  Complex  Standard  Varies	Initiates proactive case management     Provides initial case frame and overview     Lays case management foundation
	Mentis aiSmartBench	Bailiff/Judicial Assistant and Case Manager	Review complaint and attached supporting documents Prepare Order to Transfer (if applicable) Identify and Prepare Order for cases that should be closed	Ensures accurate     assignment of cases     Early screening and     identification of cases     ready for disposition     Identify abandoned cases
	CJIPP Case Tracking Excel Spreadsheet	Case Manager	Identify completed CJIPP Reports     Update case overview and triage content     Track disposition of cases	Provides quality control     Ensures readiness of cases for next phase

# 3 IMPLEMENTATION

#### STEP 1:

FINALIZE ALL TRAINING

#### STEP 2:

ENSURE ALL STAFF MEMBERS ARE AWARE OF RESPONSIBILITIES AND TASKS

#### STEP 3:

ENSURE NECESSARY DEPARTMENTS ARE AWARE OF NEW POLICIES AND PROCEDURES

# WHAT WORKED FOR US

Having an introductory meeting prior to project implementation to provide an overview of the purpose and importance of the project

Sharing statistics with Judge and Judicial Staff of case progression was a motivating factor for judicial offices:

- Number of Cases Set for Trial: Control Group vs. CJIPP
- Closure Statistics: Control Group vs. CJIPP

Providing additional training on technology and procedures to interested staff

Cultivating a better relationship with Judge which led to a better relationship with the staff

Developing a relationship with the Clerk as well as Judicial Staff

 SETTING BEHAVIORAL EXPECTATIONS MAKE A BIG DIFFERENCE WITHOUT MUCH EFFORT

 CONSISTENCY ACROSS SECTIONS MAKES A DIFFERENCE

• IT IS A HEAVY LIFT TO GET JUDICIAL CONSISTENCY, BUT WELL WORTH IT

 LAWYERS SQUAWKED BUT ADJUSTED QUICKLY AND LIKED IT

 CLIENT INVOLVEMENT SHOULD BE USED JUDICIOUSLY

# WHAT WE LEARNED



### **TIPS**

COMMUNICATION

COMMUNICATE IMMEDIATE
GOALS AND OBJECTIVES WITH
ALL AFFECTED COURT STAFF

ENGAGE

ENGAGE STAFF AND OTHER DEPARTMENTS IN THE PROCESS

PROJECT MANAGEMENT

SCHEDULE PERIODIC MEETINGS
TO DISCUSS PROGRESS AND
CHALLENGES

FLEXIBILITY

BE OPEN TO STAFF AND PUBLIC INPUT, CRITICISMS AND CONCERNS