Time is Money:
Lessons Learned from Rocket Dockets to Improve Efficiency in Litigation

ABA’S CORPORATE COUNSEL CONFERENCE
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The Goal of the Program

• No courts and no dockets are identical. Each court faces its own mix of cases that it must manage and adjudicate with the resources available to it.

• Amidst the differences, there are some courts that have come to be known for accelerating the time from initial filing to final adjudication before or at trial. They are sometimes called, “rocket dockets.” By reducing the time of litigation, those courts often reduce the cost of the litigation, to both the litigants and the court itself.

• The goal of this program is to identify various techniques that so-called “rocket dockets” employ to accelerate adjudication of cases and to discuss whether and how those techniques could be used by other courts. In doing so, there will be no judging – no pun intended.
What is a “Rocket Docket”? 

- There is no commonly accepted definition of a “rocket docket.”

- For purposes of this program, however, we use the term to refer to a trial court in which the median time for resolving civil cases and terminating them on the court’s active docket is 18 months or less.
Identifying “Rocket Dockets” By Data

• Federal District Courts

• State Courts
  ◦ National Center for State Courts: https://www.ncsc.org/
  ◦ National Center for State Courts, Case Processing Time Standards: https://www.ncsc.org/cpts
Examples of “Rocket Dockets”: U.S. District Courts

**FAST**

- Eastern District of Virginia (13.0 months)
- Eastern District of Pennsylvania (14.7 months)
- Southern District of Florida (15.2 months)
- Western District of Oklahoma (16.5 months)

**NOT SO FAST**

- District of Columbia (52.1 months)
- Northern District of Indiana (41.3 months)
- Northern District of New York (39.0 months)
- District of Utah (38.6 months)

Examples of “Rocket Dockets”: State Courts

**STATE COURT TIME STANDARDS (EXAMPLES)**

- 2018 California Rules of Court, Standard 2.2 (Trial court case disposition time goals) (disposal of all general civil cases within 24 months of filing)
- Florida Rules of Judicial Administration 2.250 (Time standards for trial and appellate courts and reporting requirements) (18 months from filing to final disposition for civil jury cases)
- Texas Supreme Court Administrative Rule 6.1 (18 months from appearance date for civil jury cases)

**ACTUAL CASE DISPOSITION DATA**

- No centrally available, apples-to-apples data for comparing median time from filing to trial for civil cases in state courts

*Source: National Center for State Courts, Case Processing Time Standards, [https://www.ncsc.org/cpts](https://www.ncsc.org/cpts)*
## Why Does Time Matter? A Plaintiff’s Perspective

<table>
<thead>
<tr>
<th></th>
<th>Less Time</th>
<th>More Time</th>
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<tbody>
<tr>
<td><strong>Time Value of Money</strong></td>
<td>Accelerates potential recovery</td>
<td>Delays potential recovery</td>
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<tr>
<td><strong>Investment in the Case</strong></td>
<td>Limits investment</td>
<td>Increases investment</td>
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<tr>
<td><strong>Risk from Non-Recovery</strong></td>
<td>Lessens risk</td>
<td>Increases risk</td>
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<tr>
<td><strong>Settlement Discussions and Possibility of Settlement</strong></td>
<td>Accelerates</td>
<td>Extends</td>
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<td><strong>Plaintiff’s Exposure to Expensive and Intrusive Party and Non-Party Discovery</strong></td>
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<td>Extends</td>
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<td><strong>Defendant’s Exposure to Expensive and Intrusive Party and Non-Party Discovery</strong></td>
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<tr>
<td><strong>Defendant’s Perception of Risk</strong></td>
<td>Might limit</td>
<td>Might increase</td>
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<td><strong>Risk for Unprepared Plaintiff</strong></td>
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<td>Reduces risk</td>
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<td><strong>Time Value of Money</strong></td>
<td>Accelerates possibly payment to plaintiff</td>
<td>Delays possible payment to plaintiff</td>
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<tr>
<td><strong>Cost of the Litigation</strong></td>
<td>Concentrates but ultimately limits cost</td>
<td>Extends but ultimately increases cost</td>
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<tr>
<td><strong>Budgeting and Reporting</strong></td>
<td>More predictable</td>
<td>Less predictable</td>
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<tr>
<td><strong>Impact on Financial Reporting, Including Booking of Reserves</strong></td>
<td>Shortens impact</td>
<td>Extends impact</td>
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<tr>
<td><strong>Insurance Issues, Including Coverage, Renewal, Premium Issues</strong></td>
<td>Lessens risk</td>
<td>Increases risk</td>
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What Factors Cause or Contribute to Extended Dockets?

- Heavy criminal dockets
- Urban vs. rural jurisdictions
- Federal vs. state courts
- Legislature-mandated court rules and procedures (e.g., limiting viability of motions for summary judgment)
- Legislated expansion of jurisdiction or dockets (e.g., Congressional action to send all Guantanamo habeas cases to the DDC)
- Diverse dockets (including substantial domestic relations, personal injury, collections, class action cases) (e.g., high volume of immigration cases in the border states)
- Limited judicial resources (including lack of discovery or magistrate judges) (e.g., extended judicial vacancies)
- Non-assigned or rotating judge system
- Inadequate or ineffective commitment to ADR (compare selective use of ADR, where appropriateness of cases for ADR is assessed by court staff or judges, to mandated ADR regardless of appropriateness, where no pretrial occurs before a trip to Multi-Door)
- Multi-district litigation
- Parallel or related agency, criminal or Congressional proceedings which can slow some civil cases.
- Availability of interlocutory appeals before trial court resolution (e.g., New York and Pennsylvania)
What Techniques Do Rocket Dockets Employ?

• Active court oversight/participation
• Creating a culture of proactive case management (including chief judges’ or court administrators’ internal rigor in overseeing individual judges’ timeliness)
• Transparency and access to court data, with monitoring and comparative analysis
• Individual case assignment system
• Early and automatic scheduling orders
• Early and automatic commencement of discovery
• Efficient and compact motions practice
• Prompt decision-making (including in absence of formal written opinion)
• Disfavoring extensions (or extensions that affect major case milestones)
• Mandatory/parallel ADR procedures that do not affect major case milestones
• Fixed final pretrial conference
• Prompt and reliable trial dates
What Techniques Can Realistically Work in Non-Rocket Docket Courts?

• Individual case assignment rather than general rotation system
• Specialty dockets, *e.g.*, business courts, complex civil litigation dockets, case tracks
• Tailored local rules and standing orders
• Transparency and accountability systems
• Streamlined motions practice (*e.g.*, time and length of briefs, regular motions day, prompt decision-making)
• Revised discovery process (*e.g.*, automatic/early commencement, parallel to motions practice, accelerated dispute resolutions, time limitations, strict guidelines)
• Prompt issuance of scheduling orders with standard structure and timeline
• Meaningful summary judgment procedures
• Immutable final pretrial conferences
• Prompt and fixed trial dates
• Limitations on extensions and continuances
Role of Bar Organizations in Contributing to Culture of Efficient and Timely Court Dockets

• Establishing bar organizations and groups focused on court efficiency issues
• Coordination with established bar organizations and groups
• Involving bar groups in drafting and implementing local rules and standard orders
• Hold annual bench-bar dialogues
• Frequent and consistent communication of court culture
• Holding frequent and regular CLE programs on court procedures and issues
• Developing enhanced systems for fostering civility among members of the bar