



SUPREME COURT OF APPEALS OF WEST VIRGINIA

1998 STATISTICAL REPORT

Record Number of Petitions Filed

The **3415** petitions filed in 1998 were by far the highest number of filings in the Court's history, up **301**, or more than **10%**, from last year's total of **3114**, and **235** above the previous record of **3180** set in 1991. The new high is largely attributable to the continued increase in workers compensation appeals, which also set a new record total with **2067** filings in 1998, amounting to over **60%** of the total number of appeals filed in 1998.

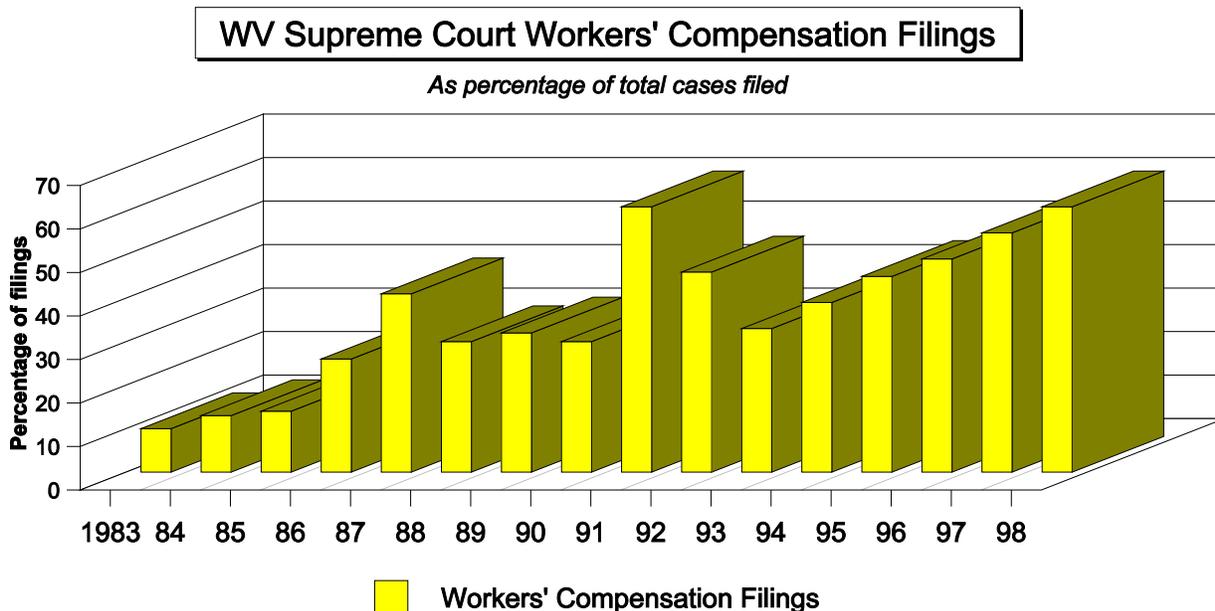
Apart from the statistical impact of workers' compensation appeals, the number of petitions filed in 1998 either remained stable or declined across most categories. The number of civil appeals fell to **556**, reflecting a four-year declining trend in that category. Perhaps indicative of the Court's more restrictive approach to review of certified questions, habeas corpus petitions, and petitions for mandamus and prohibition, case filings in all four of those categories continued to fall from 1996 levels. In the category of criminal appeals, **207** petitions were filed in 1998, a slight increase from the **203** criminal appeals filed in 1997. The table below shows the number of petitions filed in each year, along with projected caseloads for the year 2000, based upon a linear regression analysis.

CASELOAD HISTORY & PROJECTION

| CASE TYPE | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 2000 |
|---------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Certified | 18 | 20 | 12 | 17 | 23 | 21 | 28 | 29 | 35 | 43 | 34 | 46 | 27 | 30 | 27 | 15 | 34 |
| Certiorari | 9 | 27 | 10 | 6 | 4 | 2 | 7 | 5 | 4 | 2 | 2 | 7 | 8 | 4 | 5 | 3 | 1 |
| Civil | 293 | 306 | 332 | 376 | 422 | 394 | 419 | 426 | 524 | 538 | 536 | 575 | 642 | 646 | 571 | 556 | 667 |
| Compensation | 116 | 162 | 198 | 421 | 841 | 488 | 528 | 481 | 1947 | 1075 | 708 | 966 | 1220 | 1534 | 1708 | 2067 | 1858 |
| Criminal | 180 | 183 | 157 | 182 | 176 | 182 | 168 | 183 | 181 | 168 | 165 | 178 | 209 | 234 | 203 | 207 | 206 |
| Ethics | 0 | 1 | 10 | 16 | 20 | 13 | 12 | 17 | 23 | 25 | 27 | 69 | 43 | 33 | 27 | 24 | 43 |
| Habeas | 321 | 317 | 367 | 240 | 200 | 195 | 186 | 171 | 149 | 192 | 319 | 239 | 218 | 265 | 253 | 230 | 209 |
| Mandamus | 132 | 166 | 181 | 196 | 214 | 183 | 141 | 149 | 179 | 184 | 187 | 173 | 172 | 180 | 164 | 162 | 174 |
| Petition | 10 | 20 | 24 | 30 | 52 | 47 | 39 | 40 | 20 | 12 | 21 | 30 | 39 | 30 | 24 | 20 | 28 |
| Prohibition | 80 | 80 | 81 | 101 | 85 | 96 | 116 | 122 | 118 | 118 | 118 | 159 | 114 | 146 | 132 | 131 | 149 |
| TOTAL | 1159 | 1282 | 1372 | 1585 | 2037 | 1621 | 1644 | 1623 | 3180 | 2357 | 2117 | 2442 | 2692 | 3102 | 3114 | 3415 | 3369 |

Importantly, the number of workers' compensation appeals filed has grown not only in aggregate

terms, but has also consumed an increasing percentage of the Court’s docket each year. In 1983, workers’ compensation filings comprised only one out of every ten cases filed in the Supreme Court. In 1998, by contrast, over six out of every ten cases filed was a workers’ compensation appeal.



The anomalously large number of filings in 1991 and 1992 was due to clearance of a backlog of cases at the administrative level. Overall, the trend has been toward a steady increase in the percentage of workers’ compensation cases filed relative to the total number of cases filed. The trend is projected to continue, requiring the Court to devote increased resources and innovative structures to address the continually burgeoning caseload in this category.

Case Disposition

The overall case clearance rate at the end of 1998 was **75.6%**, with **2584** cases disposed of and **3415** cases filed. The comparable statistics for 1996 and 1997 were **67.27%** and **99.07%**, respectively. At the end of 1998, the number of cases that remained pending was **508**, compared with **512** in 1997 and **338** in 1996. For habeas corpus and mandamus filings, the Court exceeded **100%** clearance.

Despite the burgeoning workers’ compensation caseload, the Court cleared **56.5%** of those cases in 1998. For the first time in 1998, some workers’ compensation appeals were settled through the Workers’ Compensation Mediation Program (“WCMP”). Instituted in July 1998, the WCMP utilizes alternative dispute resolution as a method for returning control to the litigants and offering a more expeditious method for resolving these cases. Of the **370** cases selected for mediation in the final six months of 1998, **182** were actually mediated. Of those mediated, **100** cases, or **55%**, were settled.

The increasing demand placed upon the Court by workers' compensation filings may be evident in this year's overall clearance rate of **75.6%**. However, if workers' compensation cases are not considered, the Court's clearance rate this year was **103%**.

CASE DISPOSITION - 1998

| CASE TYPE | Filed | Refused | Granted | Opinion | Order | Dismissed | Withdrawn | Pending | Percent Cleared |
|---------------------|-------------|-------------|------------|------------|------------|-----------|-----------|------------|-----------------|
| Certified | 15 | 3 | 11 | 16 | 0 | 0 | 0 | 7 | 93% |
| Certiorari | 3 | 1 | 2 | 1 | 0 | 0 | 0 | 2 | 100% |
| Civil | 556 | 393 | 137 | 156 | 1 | 13 | 3 | 72 | 96% |
| Compensation | 2067 | 597 | 569 | 1 | 537 | 8 | 3 | 378 | 56.5% |
| Criminal | 207 | 166 | 35 | 34 | 0 | 0 | 3 | 18 | 98.5% |
| Ethics | 24 | 0 | 24 | 7 | 4 | 1 | 0 | 15 | 100% |
| Habeas | 230 | 263 | 32 | 15 | 25 | 3 | 0 | 1 | 128% |
| Mandamus | 162 | 152 | 43 | 5 | 14 | 21 | 1 | 8 | 120.9% |
| Petition | 20 | 17 | 1 | 0 | 1 | 0 | 0 | 2 | 90% |
| Prohibition | 131 | 94 | 34 | 25 | 1 | 15 | 0 | 7 | 97.7% |
| TOTAL | 3415 | 1686 | 888 | 260 | 583 | 61 | 10 | 508 | 75.6% |

Percentage of Cases Granted

In 1988, the Court granted **44%** of the petitions filed. Since that time, the clear trend has been toward granting a lesser percentage of the petitions. In 1998, Court agreed to hear **26%** of petitions filed. The most significant change in the percentage of cases granted appears in the categories of petitions for writs of mandamus and prohibition. Since 1983, the Supreme Court has agreed to hear between 40% to 50% of petitions for writ of mandamus. However, in 1998 that percentage dropped considerably, with only **27%** of mandamus petitions granted review. This drop in the exercise of the Court's original jurisdiction was also evident in the number of petitions for writs of prohibition granted review, which fell to **26%** in 1998.

Also continuing a declining trend, the Court agreed to hear **25%** of all civil appeals filed in 1998. Another marked decrease is evident in the category of petitions for post-conviction bail, of which only **1%** were granted review in 1998. The percentage of criminal appeals granted in 1998 was **17%**, up from the exceptionally low **7%** granted in 1997. Review of ethics cases is non-discretionary.

PERCENTAGE OF CASES GRANTED

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 |
|----------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Certified | 24 | 69 | 46 | 50 | 42 | 65 | 68 | 66 | 68 | 66 | 57 | 46 | 25 | 28 | 75 | 73 |
| Certiorari | 70 | 68 | 56 | 50 | 25 | 50 | 40 | 17 | 50 | 0 | 0 | 43 | 80 | 60 | 25 | 67 |
| Civil | 42 | 43 | 42 | 41 | 41 | 40 | 42 | 46 | 40 | 34 | 28 | 33 | 37 | 40 | 26 | 25 |
| Compensation | 76 | 80 | 56 | 57 | 48 | 57 | 43 | 38 | 34 | 28 | 28 | 18 | 20 | 37 | 35 | 28 |
| Criminal | 26 | 36 | 36 | 41 | 30 | 31 | 23 | 19 | 20 | 19 | 21 | 25 | 26 | 27 | 7 | 17 |
| Ethics | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Habeas Corpus | 18 | 25 | 17 | 15 | 18 | 22 | 16 | 21 | 17 | 13 | 11 | 24 | 15 | 18 | 14 | 14 |
| Mandamus | 50 | 46 | 41 | 41 | 41 | 48 | 40 | 46 | 45 | 45 | 47 | 54 | 54 | 51 | 43 | 27 |
| Petition | 11 | 38 | 54 | 54 | 35 | 34 | 36 | 32 | 21 | 17 | 21 | 25 | 12 | 18 | 0 | 1 |
| Prohibition | 51 | 31 | 49 | 26 | 29 | 43 | 33 | 33 | 33 | 30 | 28 | 30 | 18 | 31 | 31 | 26 |
| TOTAL | 37 | 43 | 38 | 39 | 41 | 44 | 38 | 37 | 34 | 30 | 28 | 29 | 29 | 36 | 31 | 26 |

Caseload Comparison with Comparable Courts

West Virginia is one of only ten states without an intermediate appellate court (“IAC”). In the past decade, Mississippi, Nebraska, North Dakota, and Utah have all created intermediate appellate courts, despite having caseloads smaller than ours. No other comparable appellate court in the country handles as many cases as this Court. The 1996 data from the National Center for State Courts confirms this Court’s position as the busiest appellate court of its type in the country. In 1996, our Court’s caseload was more than 1.5 times that of the next busiest state, Nevada, and more than the states of Delaware, Rhode Island, South Dakota, Vermont, and Wyoming, combined.

CASELOAD COMPARISON WITH COMPARABLE COURTS

| | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 |
|----------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| DELAWARE | 331 | 409 | 420 | 401 | 410 | 485 | 484 | 473 | 530 | 542 | 488 | 530 | 532 |
| MAINE | NA | 602 | 579 | 631 | 507 | 452 | 622 | 646 | 569 | NA | 1038 | 988 | 841 |
| MISSISSIPPI | 840 | 819 | 1013 | 893 | 793 | 872 | 1025 | 992 | 1025 | 1182 | 1073 | IAC | IAC |
| MONTANA | NA | 639 | 602 | 571 | 655 | 618 | 633 | 636 | 533 | 659 | 744 | 599 | 832 |
| NEBRASKA | 1002 | 997 | 1014 | 1196 | 1094 | 1277 | 1270 | 834 | IAC | IAC | IAC | IAC | IAC |
| NEVADA | 799 | 777 | 853 | 856 | 922 | 1047 | 1089 | 1080 | 1129 | 1138 | 1256 | 1350 | 1911 |
| NEW HAMPSHIRE | 603 | 574 | 534 | 516 | 543 | 532 | 627 | 597 | 774 | 864 | 880 | 892 | 850 |
| NORTH DAKOTA | 370 | 338 | 377 | 382 | IAC |
| RHODE ISLAND | 611 | 691 | 557 | 542 | 581 | 565 | 624 | 646 | 681 | 737 | 760 | 762 | 674 |
| SOUTH DAKOTA | 370 | 375 | 395 | 449 | 463 | 484 | 452 | 397 | 382 | 426 | 408 | 425 | 465 |
| UTAH | 712 | 670 | 674 | IAC |
| VERMONT | 648 | 594 | 574 | 569 | 625 | 659 | 622 | 578 | 636 | 649 | 657 | 675 | 653 |
| WEST VIRGINIA | 1282 | 1372 | 1585 | 2037 | 1621 | 1644 | 1623 | 3180 | 2357 | 2113 | 2442 | 2962 | 3102 |
| WYOMING | 331 | 306 | 342 | 320 | 334 | 363 | 314 | 301 | 302 | 306 | 335 | 345 | 357 |

Miscellaneous Workload

Important aspects of the Court's workload are not reflected in the foregoing statistical summary. For example, the Court addresses miscellaneous motions in conferences held at least bimonthly during each term. During 1998, the Court addressed a total of **556** matters during scheduled conferences. It should also be noted that at least **twice** as many miscellaneous motions are decided by the Court in the periods between scheduled motions conferences. Although the number of miscellaneous motions addressed by the Court in past years has not been recorded, anecdotal evidence suggests that motion practice in the Court has been on the increase during the past two years.

The Court also addresses Petitions for Rehearing in conference. During 1998, the Court considered **39** Petitions for Rehearing, only **1** of which was granted. On average, the Court produces between **1,200** and **1,500** Orders each month.