



**2019 STATISTICS  
U.S. DISTRICT COURT,  
DISTRICT OF COLORADO**

**Michael E. Hegarty  
United States Magistrate Judge**

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## 2019 TRIAL STATISTICS

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This report analyzes trial results and statistics<sup>1</sup> in civil and criminal cases in the District of Colorado (“the District”) from January 1, 2019, through December 31, 2019, as well as information concerning dispositive motions practice, ADR, and Magistrate Judge consent.

### **I. SUMMARY OF TRIALS**

In 2019, the District had sixty-two total cases tried to verdict.<sup>2</sup> This includes thirty-one civil jury trials and twenty-five criminal jury trials, for a total of fifty-six jury trials (last year saw a total of sixty jury trials including forty-eight civil jury trials and twelve criminal jury trials). Additionally, the District had six civil bench trials and no criminal bench trials (last year saw a total of fifteen civil bench trials and one criminal bench trial). This represents the second consecutive year in which there has been a decline in the number of total jury trials that reached a verdict.<sup>3</sup>

### **II. CIVIL JURY TRIALS**

#### **A. Overview**

The District tried thirty-one civil cases to jury verdicts in 2019, the lowest total since thirty civil jury trials in 2011. Viewed in light of overall case filings, litigants filed a total of 3,733 civil cases in 2019. This compares to 3,365 civil cases filed in 2018; 3,184 cases in 2017; 3,216 in

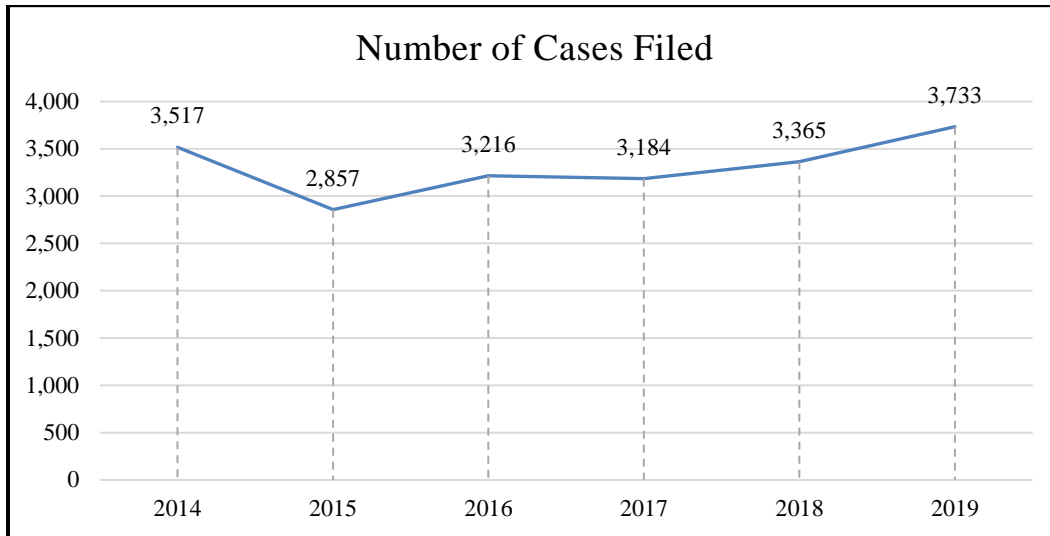
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<sup>1</sup> Statistics reflect trial verdicts as opposed to dispositions entered by the court through some other mechanism.

<sup>2</sup> One criminal jury trial resulted in a hung jury and is set to be re-tried in 2020. Another criminal jury trial was continued after the government moved for a re-trial which is set for 2020. Two civil jury trials settled either during trial or on the morning of trial. These are not included in the statistics, although this obviously leaves the 2019 numbers slightly understated when viewed in the light of a litigant’s access to trials in our court.

<sup>3</sup> Prior recent years saw sixty-one civil and criminal jury trials in 2017; fifty-five in 2016; fifty-eight in 2015; sixty-two in 2014; and seventy-four in 2013.

2016; 2,857 in 2015; and 3,517 in 2014. These case filing totals are demonstrated in the chart below:



Taking the average cases filed in 2014 through 2019 of 3,312 (rounded to the nearest whole number) and comparing it with the thirty-one civil jury verdicts in 2019 represents a 0.94% trial rate, a significant decrease from last year's 1.45% rate using the same 3,312 cases total. The filing date for each case tried to jury verdict in 2019 is reported below:

<u>YEAR FILED</u>	<u>NO. TRIED IN 2019</u>
<b>2018</b>	4
<b>2017</b>	14
<b>2016</b>	8
<b>2015</b>	2
<b>2014</b>	2
<b>2013</b>	1

## **B. Time to Trial**

The average time from civil case filing to jury trial in 2019 was 30.97 months, a 9% decrease from the 34.1 months in 2018. The shortest time from filing to trial occurred in two cases which were tried within fifteen months from filing. One of these cases involved an auto accident and the other was a race/national origin employment discrimination case. The longest time to trial was seventy-six months in a common law negligence and failure to warn case. Further, nine of the thirty-one cases were tried within two years of filing (29.03%), compared with twenty-seven of the forty-eight cases last year (56.2%). Two of the “under two years” civil trials were tried to a Magistrate Judge, which is lower than the six cases tried to a Magistrate Judge within two years of filing in 2018. The average time to trial for cases tried to a Magistrate Judge was 27.25 months, about 12% faster than the overall average.

## **C. Volume of Trials**

The number of civil jury trials that reached a verdict in 2019 (thirty-one) declined significantly from that number in 2018 (forty-eight) and 2017 (forty). The number of civil cases filed in 2019 (3,733) was the highest number of civil cases filed in the last eighteen years.<sup>4</sup> It was significantly higher than the 2015-2019 five-year average of 3,271. The number of civil cases in 2019 is a significant 14.12% deviation from the five-year average (3,271). 2019 (3,722) saw a 10.94% deviation from 2018 (3,365). In contrast, 2018 saw only a 5.7% deviation from the number of cases in 2017, and 2017 saw only a 1% deviation from the total cases filed in 2016. The only comparable deviation to the deviation from 2018 –2019 since the District began tracking numbers was a 359-case increase from 2015–2016 (12.6% increase). Thus, 2019 saw the highest number of cases filed since tracking began, and it represented the second-highest deviation between the

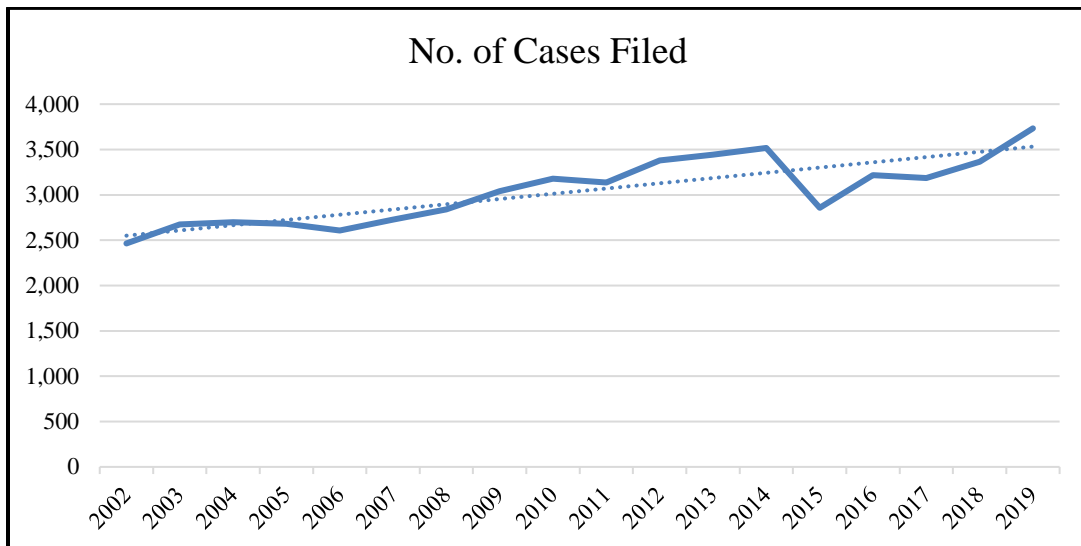
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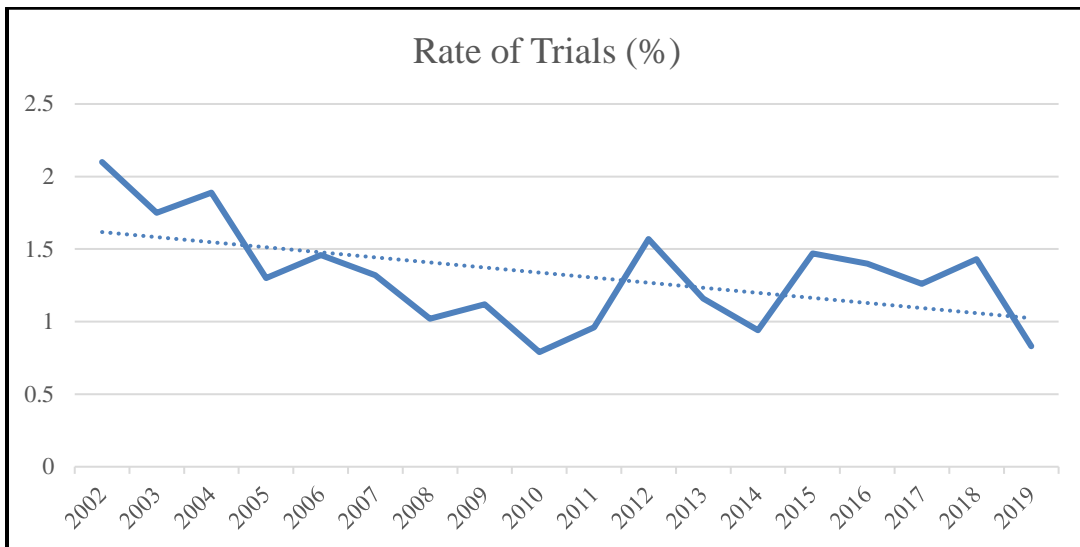
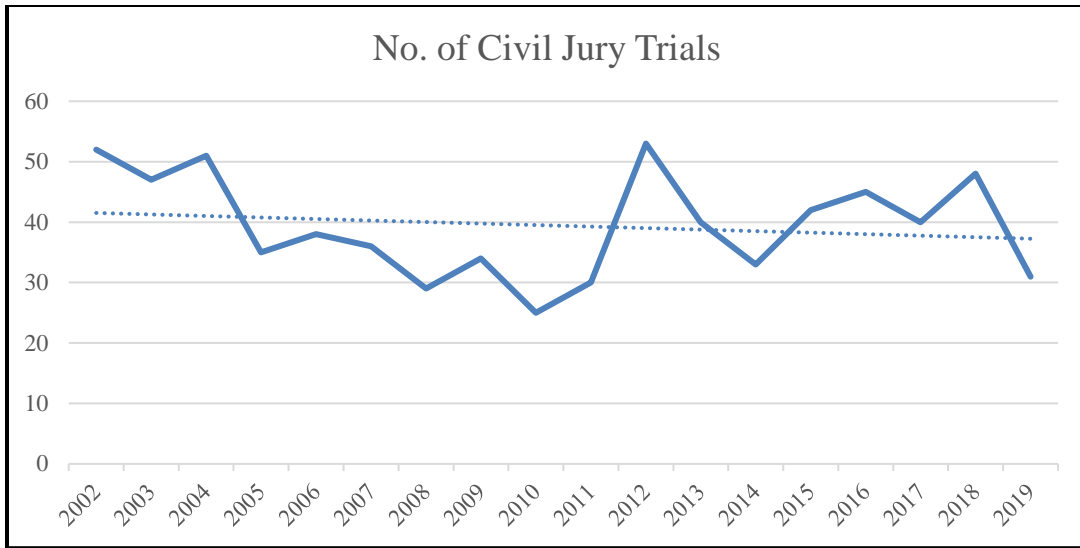
<sup>4</sup> The District began tracking data in 2002.

number of cases filed in two years since 2002. In contrast, the rate of trials was the lowest percentage since tracking began, at 0.83%.

Relevant statistics regarding civil jury trials for each of the last eighteen years are reported below:

<u>Year</u>	<u>No. of Cases Filed</u>	<u>No. of Civil Jury Trials</u>	<u>Rate of Trials (%)</u>
2019	3,733	31	0.83
2018	3,365	48	1.43
2017	3,184	40	1.26
2016	3,216	45	1.40
2015	2,857	42	1.47
2014	3,516	33	0.94
2013	3,444	40	1.16
2012	3,380	53	1.57
2011	3,136	30	0.96
2010	3,177	25	0.79
2009	3,042	34	1.12
2008	2,838	29	1.02
2007	2,726	36	1.32
2006	2,607	38	1.46
2005	2,679	35	1.30
2004	2,698	51	1.89
2003	2,672	47	1.75
2002	2,464	52	2.10
<b>Average</b>	<b>3,041</b>	<b>39.39</b>	<b>1.32</b>





Despite this year’s drop, the five-year average from 2015 through 2019 is 41.2 trials per year, close to the eighteen-year average of 39.39 trials per year.

**D. Parties’ Success Rates**

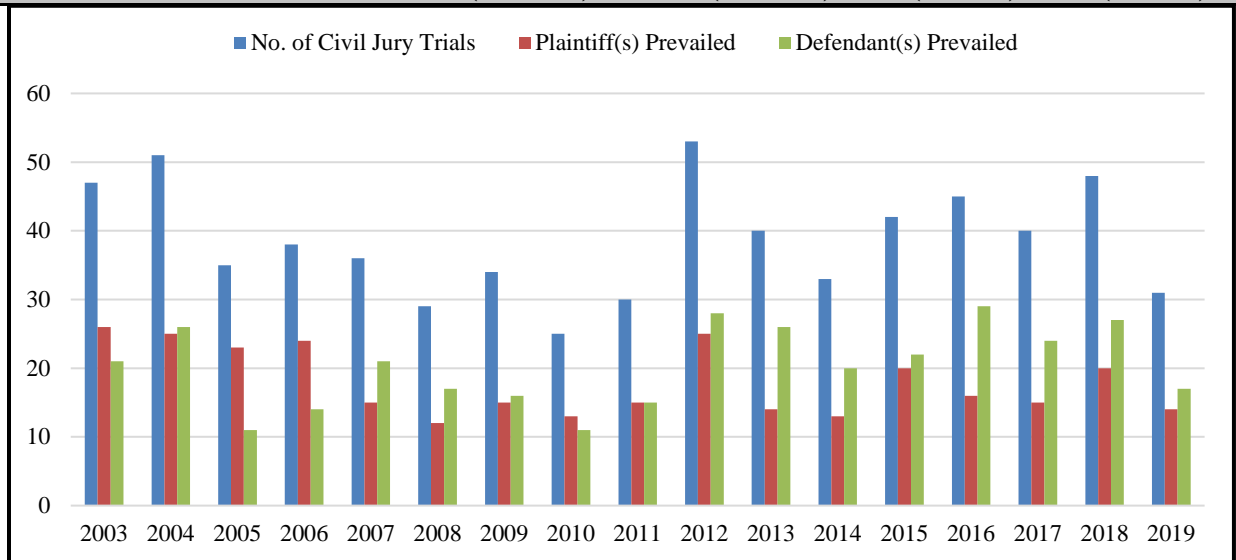
Defendants prevailed in sixteen of the thirty-one jury trials (51.6%), while plaintiffs prevailed in fifteen of the trials (49.4%).<sup>5</sup> As noted above, one case settled during trial and one

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<sup>5</sup> These calculations include a condemnation case that resulted in a verdict of \$70,865 which has been categorized as a defense verdict because the amount was more favorable amount to the defendant.

settled the morning of trial. These two cases are not included in the overall number of jury trials reaching verdict. Since 2003, there have been 657 civil jury trials. The plaintiffs prevailed in 306 (46.57%), and the defendants prevailed in 344 (52.34%). There were six (0.91%) split verdicts and one (0.15%) judgment vacated. Rates of success since 2003 are presented below:

Year	No. of Civil Jury Trials	Plaintiff(s) Prevailed	Defendant(s) Prevailed	Split Verdicts	Judgment Vacated
2019	31	15 (49.4%)	16 (51.4%)	0	0
2018	48	20 (43.7%)	27 (56.3%)	0	1
2017	40	15 (37.5%)	24 (60.0%)	1	0
2016	45	16 (35.5%)	29 (64.5%)	0	0
2015	42	20 (47.6%)	22 (52.4%)	0	0
2014	33	13 (39.4%)	20 (60.6%)	0	0
2013	40	14 (35.0%)	26 (65.0%)	0	0
2012	53	25 (47.2%)	28 (52.8%)	0	0
2011	30	15 (50.0%)	15 (50.0%)	0	0
2010	25	13 (52.0%)	11 (44.0%)	0	0
2009	34	15 (44.1%)	16 (47.1%)	1	0
2008	29	12 (41.1%)	17 (58.6%)	3	0
2007	36	15 (41.8%)	21 (58.3%)	0	0
2006	38	24 (63.2%)	14 (36.8%)	0	0
2005	35	23 (65.7%)	11 (31.4%)	0	0
2004	51	25 (49.0%)	26 (51.0%)	1	0
2003	47	26 (55.3%)	21 (44.7%)	0	0
<b>TOTAL</b>	<b>657</b>	<b>306 (46.57%)</b>	<b>344 (52.34%)</b>	<b>6 (0.91%)</b>	<b>1 (0.15%)</b>





Although cumulative success rates of plaintiffs and defendants are rather similar dating back to 2003, a different view shows that plaintiffs prevailed in 51.7% of trials in the nine-year period from 2003 to 2011. However, in the seven-year period from 2012 through 2018, plaintiffs only prevailed 40.8% of the time, while defendants prevailed 58.6% the time. In the past three years, 2017-2019, defendants prevailed in 56.3% of civil jury trials.

**E. Level of Plaintiffs’ Verdicts**

The largest civil jury verdict in 2019 was \$2,995,004 in an unlawful arrest case. The smallest verdict was a \$6,000 in an auto accident case. By comparison, the largest verdict in 2018 was \$383,500,000 split between three plaintiffs in a medical malpractice/device case. The smallest verdict in 2018 was \$1.00 in a Title VII pregnancy discrimination case. The average civil jury verdict in 2019 was \$545,968. When removing the largest and the smallest verdicts, the 2019 average was \$474,104. Comparatively, when removing the largest and smallest verdicts in 2018, the average was \$593,476.08. In 2017, the average verdict amount after eliminating the largest and smallest verdicts was \$2,197,841.32. Thus, 2018 and 2019 have shown a steady decrease in the average verdict when removing the largest and smallest outlier verdicts in a given year. The following chart reports the jury verdicts in 2019 from highest to lowest:<sup>6</sup>

<b>Rank</b>	<b>Amount</b>	<b>Type of Case</b>
1	\$ 2,995,004	Unlawful Arrest
2	\$ 1,380,745	Fraudulent Inducement

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<sup>6</sup> For the purpose of the above calculations and the table, a condemnation case resulting in a verdict of \$70,865 to be paid by the United States to the defendants for their property has been excluded because it was not an “award” to the plaintiffs. It is counted in these statistics as a defense verdict, as the United States claimed the value of the land was approximately \$30,000.00.

3	\$ 1,050,000	Employment Discrimination - FRSA
4	\$ 1,043,000	Whistleblower Retaliation
5	\$ 680,000	Title VII- National Origin Discrimination
6	\$ 631,000	Title VII - Sex Discrimination
7	\$ 500,000	Breach of Contract (Non-Insurance)
8	\$ 475,000	Patent Infringement
9	\$ 180,002	First Amendment
10	\$ 110,600	Breach of Contract
11	\$ 50,000	Title VII and Section 1981 Harassment
12	\$ 30,000	Premises Liability
13	\$ 21,000	Asset Forfeiture
14	\$ 12,000	First Amendment
15	\$ 6,000	Auto Accident Negligence

Active District Judges presided over twenty-three jury trials (compared with twenty-seven last year); Senior District Judges presided over one civil jury trial (compared with fifteen last year); and Magistrate Judges presided over eight jury trials (up from six last year). The following is a breakdown of civil jury trials in 2019 by presiding judge:

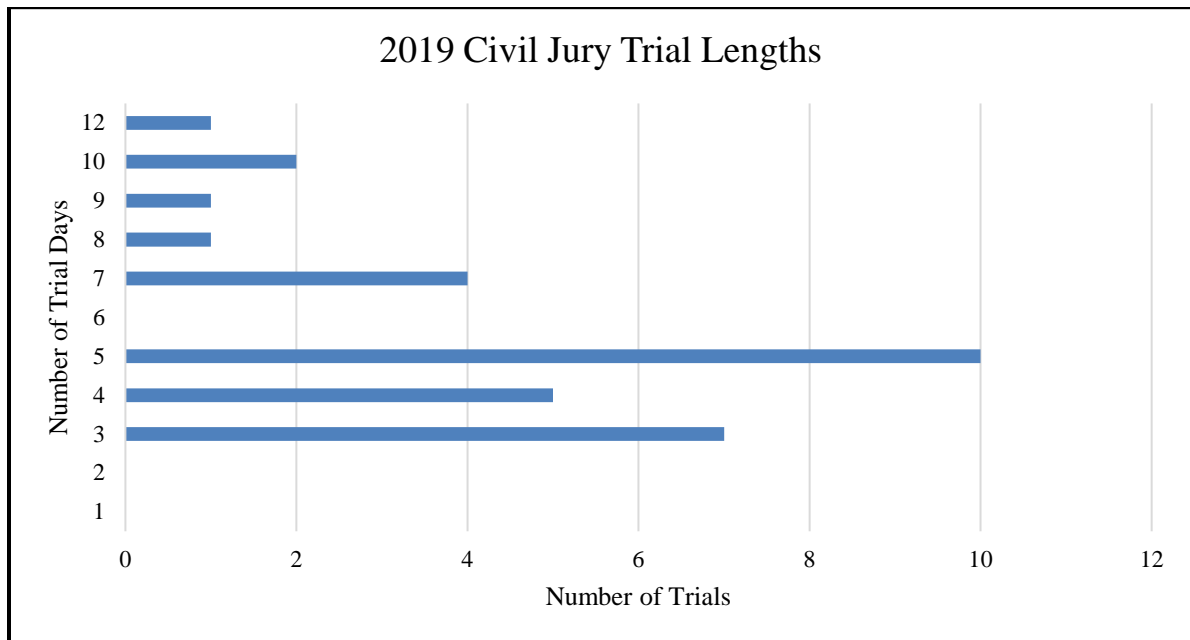
<b>Judge</b>	<b>Type of Case</b>	<b>Prevailing Party</b>	<b>Amount of Verdict</b>
CMA	Negligence	Defendant	

	Asset Forfeiture	Plaintiff	\$ 21,000.00
	First Amendment	Plaintiff	\$ 180,002.00
DDD	First Amendment	Plaintiff	\$ 12,000.00
KLM	Breach of Contract (Underinsured Motorist)	Defendant	
	Employment Race Discrimination	Plaintiff	\$ 50,000.00
KMT	Breach of Contract (Insurance)	Defendant	
MEH	ADA Premises Liability	Defendant	
	Breach of Contract (Non-Insurance)	Plaintiff	\$ 110,600.00
NRN	Breach of Contract (Insurance)	Defendant	
PAB	Fourteenth Amendment	Defendant	
	Unreasonable Force	Defendant	
RBJ	Breach of Contract (Non-Insurance)	Plaintiff	\$ 500,000.00
	Breach of Contract (Insurance)	Defendant	
	Employment Disability Discrimination	Defendant	
	Breach of Contract (Non-Insurance)	Plaintiff	Costs
	Excessive Force	Defendant	
	Employment National Origin Discrimination	Plaintiff	\$ 680,000.00
REB	Whistleblower Retaliation	Plaintiff	\$ 1,043,000.00
RM	Patent Infringement	Plaintiff	\$ 475,000.00
	Condemnation	Defendant	\$ 70,865.00
	Fraudulent Inducement	Plaintiff	\$ 1,380,745.47
	Auto Accident	Plaintiff	\$ 6,000.00
RPM	Employment Sex Discrimination	Plaintiff	\$ 631,000.00
SKC	Employment Sex Discrimination	Defendant	
STV	Premises Liability	Plaintiff	\$ 30,000.00
TMT	Unlawful Arrest	Plaintiff	\$ 2,995,004.00
WJM	Deliberate Indifference	Defendant	

	Employment Retaliation Unreasonable Force	Plaintiff Defendant	\$ 1,050,000.00
WYD	Medical Malpractice	Defendant	

**F. Trial Lengths**

Civil jury trials that went to verdict in 2019 required 168 total trial days compared with 252 in 2018. The longest trial lasted twelve days (Breach of Contract – Non-Insurance); the shortest trials lasted three days (seven cases: four civil rights; one asset forfeiture; one breach of contract; and one employment discrimination). The average trial length was 5.42 days, while the most common trial length was five days. For the eight cases tried to a Magistrate Judge, the average trial length was also five days. The total cases at each trial length were as follows: twelve days (1), ten days (2), nine days (1), eight days (1), seven days (4), six days (0), five days (10), four days (5), and three days (7). These figures are represented in the chart below:



## G. Nature of Claims

The jury trials conducted in 2019 fall into the following categories:<sup>7</sup>

<b>Category</b>	<b>Number of Cases</b>	<b>Percent of Cases Tried</b>
Asset Forfeiture	1	3.23%
Breach of Contract (Insurance coverage)	4	12.90%
Breach of Contract	3	9.68%
Common Law Torts	5	16.13%
Civil Rights	8	25.81%
Intellectual Property	1	3.23%
Employment	7	22.58%
Fraud	1	3.23%
Condemnation	1	3.23%

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<sup>7</sup>All racial discrimination on the job, ADEA, ADA, wage claim issues, etc. have been included in the “employment” category.

### **1. Breach of Contract (Non-insurance)**

We had three breach of contract trials in 2019, which is tied with the number in 2018 but lower than the previous years; 2017 (eight), 2016 (six), 2015 (eleven), and 2014 (eight). During the last eighteen years, there have been 114 jury trials alleging breach of contract, an average of 6.3 per year. Of those, the plaintiffs prevailed in seventy cases and the defendants prevailed in forty cases, and there were four split verdicts.

In 2019, plaintiffs prevailed in all three of the breach of contract cases. The plaintiffs were awarded \$110,600, \$500,000, and costs, respectively. These trials lasted from five to ten days, with the average being nine days. Notably, there was only one plaintiff verdict in non-insurance breach of contract claims in 2018 and the plaintiff was awarded \$74,900. Further, the average trial for these types of cases was only 5.3 days in 2018 compared to nine days in 2019.

### **2. Breach of Insurance Contract**

We had four jury trials for breach of contract regarding insurance coverage. The defendants prevailed in all four trials. In contrast, in 2018, three of the nine jury trials for breach of contract regarding insurance coverage resulted in a plaintiff's verdict.

### **3. Employment**

The District's employment cases decreased from fourteen cases in 2018 to seven cases in 2019. The number of employment cases returned to the number of cases in 2017 (seven). The plaintiffs prevailed in five (71.43%) of the cases whereas the defendants prevailed in two (28.57%) of the cases. The results by nature of the alleged discrimination are reported below:

<b>Nature of Claim</b>	<b>Prevailing Party</b>	<b>Verdict</b>
Gender	D P	\$631,000
Disability	D	

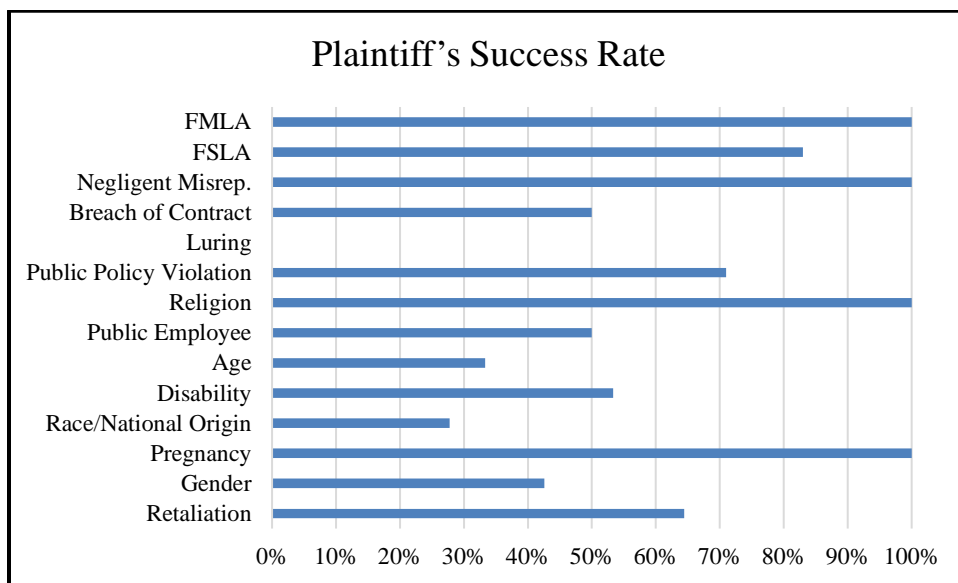
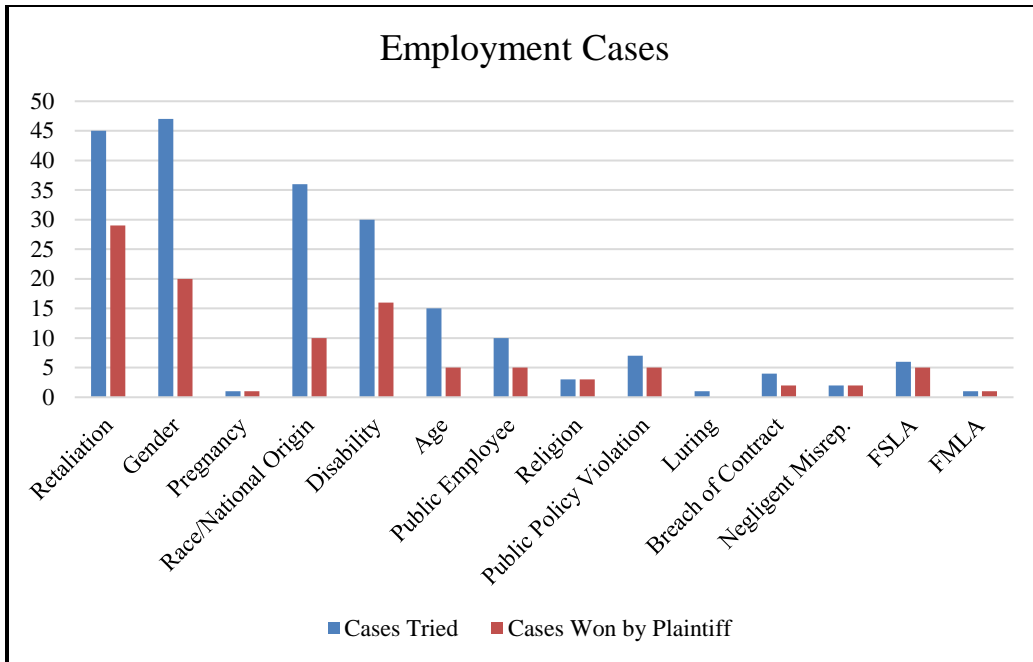
Race/National Origin	P	\$50,000
	P	\$680,000
Retaliation	P	\$1,043,000
	P	\$1,050,000

In the last eighteen years, 208 employment cases have been tried to verdict. The employment claims most frequently tried are gender (forty-seven) and retaliation (forty-five). The plaintiffs have prevailed in ninety-eight employment cases (49%), and the defendants have prevailed in one hundred and two cases (51%). Historical verdicts rendered by nature of the claim asserted during the past seventeen years are as follows:

Nature of Claim	Cases Tried	Cases Won by Plaintiff	Plaintiff's Success Rate
Retaliation	45	29	64.44%
Gender <sup>8</sup>	47	20	42.55%
Pregnancy	1	1	100%
Race/National Origin	36	10	27.78%
Disability	30	16	53.33%
Age	15	5	33.33%
Public Employee	10	5	50%
Religion	3	3	100%
Public Policy Violation	7	5	71%
Luring	1	0	0%
Breach of Contract	4	2	50%
Negligent Misrep.	2	2	100%
FSLA	6	5	83%
FMLA	1	1	100%
<b>Total</b>	<b>208</b>	<b>104</b>	<b>50%</b>

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<sup>8</sup> One of the gender discrimination cases involved a public employee. However, since the main claim was for sex discrimination the case has been categorized under gender rather than public employee.



#### 4. Common Law Torts

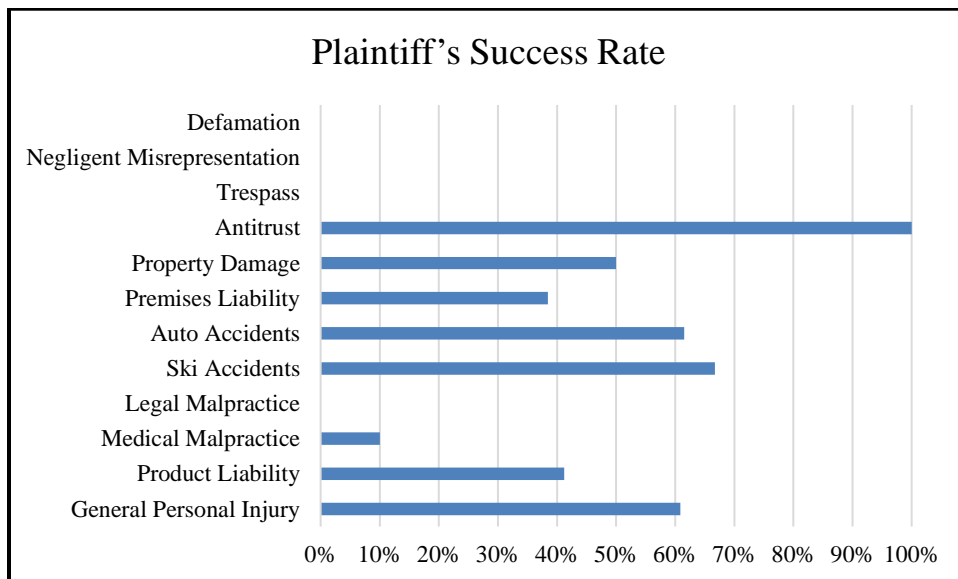
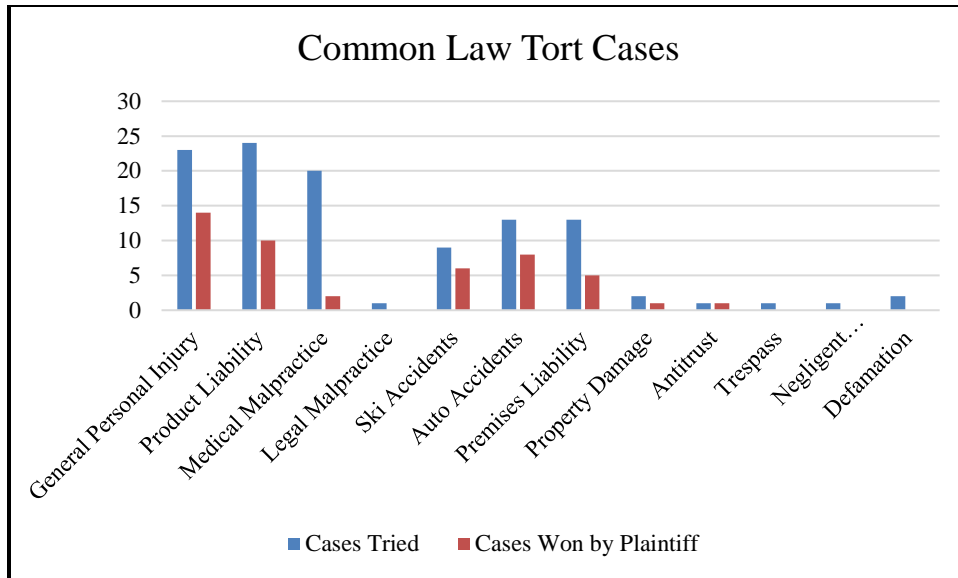
Common law torts dropped to five jury trials in 2019 from ten in 2018. These cases made up 16.12% of all civil cases tried to a jury in 2019. The plaintiff prevailed two times, and the largest verdict awarded was \$30,000 in a medical malpractice case. This is a significant decrease from 2019 in which a medical malpractice case resulting in a plaintiff's verdict of \$383,500,000 split between three plaintiffs. The results by nature of the claim are below.



<b>Nature of Claim</b>	<b>Prevailing Party</b>	<b>Verdict</b>
Medical Malpractice	D	
Personal Injury/Failure to Warn	D	
Auto Accident	P	\$6,000
Premises Liability	D P	\$30,000

In the last eighteen years, litigants have tried 110 tort claims to verdicts. Plaintiffs have prevailed forty-seven times (42.73%), and defendants have won sixty-three times (57.27%). The total amount of damages awarded to plaintiffs in tort cases in the last eighteen years is \$456,340,360.00 for an average of \$9,709,369.36 per plaintiff's verdict. However, eliminating the significant award of \$383,500,000 won last year, the average is \$1,549,794.89 per plaintiff's verdict. In 2018, for the first time in seventeen years, plaintiffs prevailed on two medical malpractice cases. Prior to that year medical malpractice claims had only resulted in defense verdicts. In 2019, the one medical malpractice case also resulted in a defense verdict.

<b>Nature of Claim</b>	<b>Cases Tried</b>	<b>Cases Won by Plaintiff</b>	<b>Plaintiff's Success Rate</b>
General Personal Injury	23	14	60.86%
Product Liability	24	10	41.2%
Medical Malpractice	20	2	10%
Legal Malpractice	1	0	0%
Ski Accidents	9	6	66.7%
Auto Accidents	13	8	61.53%
Premises Liability	13	5	38.46%
Property Damage	2	1	50%
Antitrust	1	1	100%
Trespass	1	0	0%
Negligent Misrepresentation	1	0	0%
Defamation	2	0	0%
<b>Total</b>	<b>110</b>	<b>47</b>	<b>42.73%</b>



## 5. Civil Rights

The number of civil rights cases decreased from nine to eight this year. In 2019, there were three excessive force trials, two First Amendment trials, one Fourteenth Amendment trial, one deliberate indifference trial, and one unlawful arrest trial. Plaintiffs prevailed in three of the cases.

Nature of Claim	Prevailing Party	Verdict
Excessive Force	D D D	

First Amendment	P	\$ 180,002
	P	\$ 12,000
Fourteenth Amendment	D	
Deliberate Indifference	D	
Unlawful Arrest	P	\$ 2,995,004

In the last eighteen years, 123 civil rights cases have been tried to verdict. The plaintiffs won thirty-three cases (26.83%), and the defendants prevailed in ninety cases (74.17%). Historically, the largest civil rights verdict in the last eighteen years was a deliberate indifference claim resulting in an \$11,399,936.00 verdict. In contrast, juries have returned \$1.00 verdict three separate times. Plaintiffs' verdicts over the last eighteen years are reported below:

<b>Nature of Claim</b>	<b>Amount of Verdict</b>
Deliberate Indifference	\$ 11,399,936.00
Prisoner Rights	Jmt Vacated: \$ 6,000,000.00
Excessive Force	\$ 4,650,000.00
Disability Discrimination	\$ 2,200,000.00
Unlawful Arrest	\$ 1,790,000.00
Taking/Due Process/Defamation	\$ 1,669,177.56
Unlawful Arrest	\$ 1,000,000.00
Retaliation: First Amendment	\$ 779,590.00
First Amendment Employment	\$ 650,000.00

Excessive Force	\$ 400,000.00
Excessive Force/Unlawful Seizure	\$ 300,000.00
Unreasonable Search and Seizure	\$ 267,250.00
False Arrest and Excessive Force	\$ 190,000.00
4 <sup>th</sup> and 14 <sup>th</sup> Amendment Violations	\$ 130,000.00
Excessive Force	\$ 72,583.00
Excessive Force	\$ 50,000.00
Excessive Force	\$ 45,000.00
Cruel and Unusual	\$ 40,000.00
Excessive Force	\$ 32,002.00
Unlawful Arrest	\$ 10,000.00
Unreasonable Search	\$ 10,000.00
Unlawful Arrest	\$ 6,500.00
Cruel and Unusual	\$ 5,000.00
Retaliation: 1 <sup>st</sup> Amendment	\$ 2,000.00
Retaliation	\$ 1,791.00
Equal Protection	\$ 1,500.00

Prisoner Rights	\$ 630.00
Unlawful Arrest	\$ 250.00
Excessive Force	\$ 1.00
Unreasonable Search	\$ 1.00
Unlawful Arrest	\$ 2,995,004
First Amendment	\$ 180,002
First Amendment	\$ 12,000
<b>Average</b>	<b>\$1,057,279.32</b>
<b>Total</b>	<b>\$ 35,454,420.19<sup>9</sup></b>

The average verdict in civil rights cases is \$1,057,279.32. After excluding the anomalous \$11 million verdict from 2014, the average is \$734,071.30.

## 6. Intellectual Property

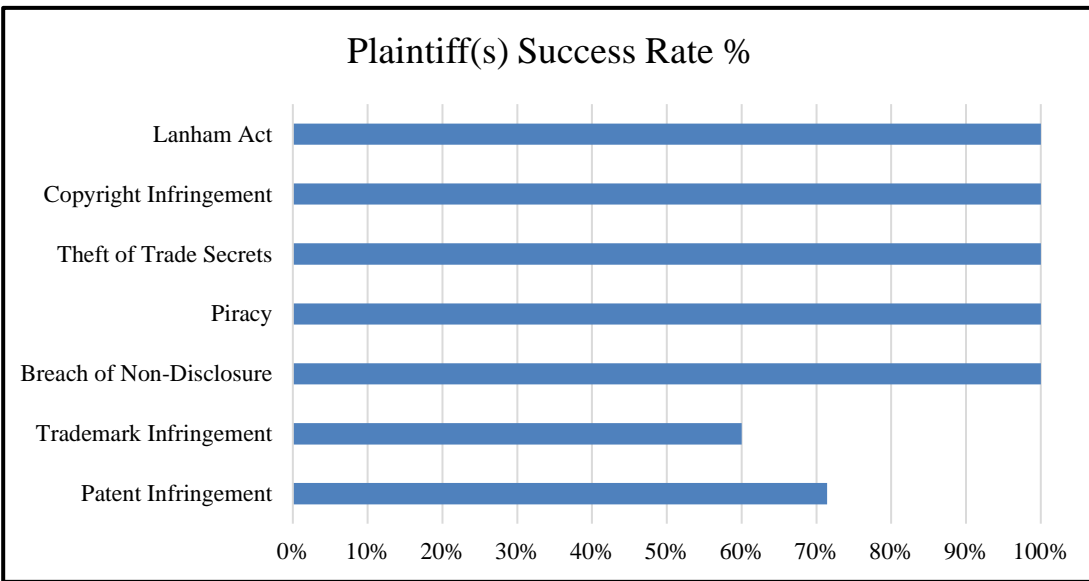
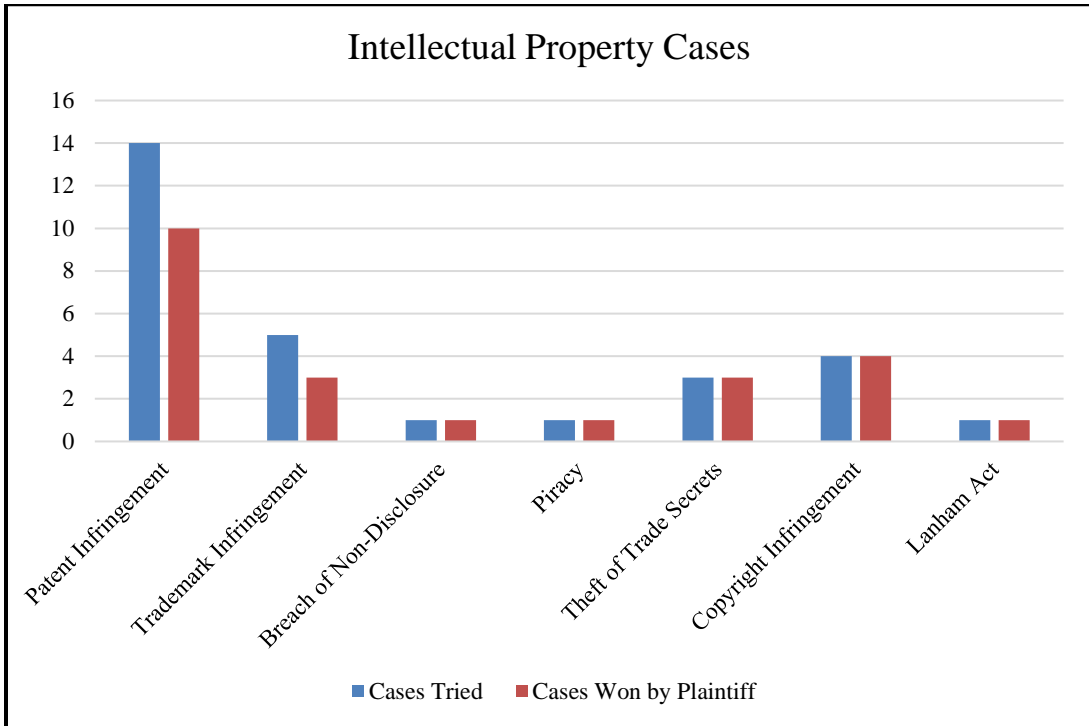
The District had just one intellectual property jury trial in 2019, a patent infringement case. The plaintiff prevailed and was awarded \$475,000.

Historically, plaintiffs have fared well in intellectual property cases in this District. In the last eighteen years, twenty-nine intellectual property cases have been tried to verdict, and the plaintiff prevailed in twenty-three of them (79.31%).

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<sup>9</sup> Note: These numbers include the \$6,000,000 verdict in the vacated judgment. Without including this case the sum is \$29,454,420.19 and the average is \$902,819.30.

The results over the last eighteen years are reported below:



### III. CIVIL BENCH TRIALS

Judges in this District held six civil bench trials in 2019.<sup>10</sup> This compares with fifteen civil bench trials in 2018. The plaintiff prevailed in one of the 2019 cases: an auto accident case. The defendant prevailed in five cases: a premises liability case, an Equal Pay Act case, a negligence case, and ADA failure to accommodate/retaliation case, and a sex discrimination employment case. Last year, in 2018, there was a remarkable 83% plaintiff success rate in civil bench trials. This year, that success rate dropped to 16.6%. It is notable, though, that the number of bench trials was significantly lower than the previous two years (nine in 2017 and fifteen in 2018) providing a statistically small sample of verdicts to analyze.

The average time from filing to trial for bench trials in 2019 was 36.2 months, which is longer than the 30.97 months for jury trials. The average time to issue a ruling following the trial was 82 days; however, that average is somewhat skewed by two bench trials that took seven and eight months respectively to issue a ruling. The bench trials took 1, 11, 14, 22, 204, and 241 days respectively to issue a ruling. The average length of a bench trial was 3 days. The one plaintiff's verdict provided a recovery of \$46,235.

The nature of the bench trials and their outcomes are reported below.

<b>Judge</b>	<b>Type of Case</b>	<b>Time to Judgment (mos.)<sup>11</sup></b>	<b>Prevailing Party</b>	<b>Award</b>
KLM	Premises Liability	56	Defendant	
NRN	Auto Accident	16	Plaintiff	\$46,235
REB	Disability	30	Defendant	
RPM	Negligence	41	Defendant	

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<sup>10</sup> This number does not include a civil bench trial that settled the morning of trial.

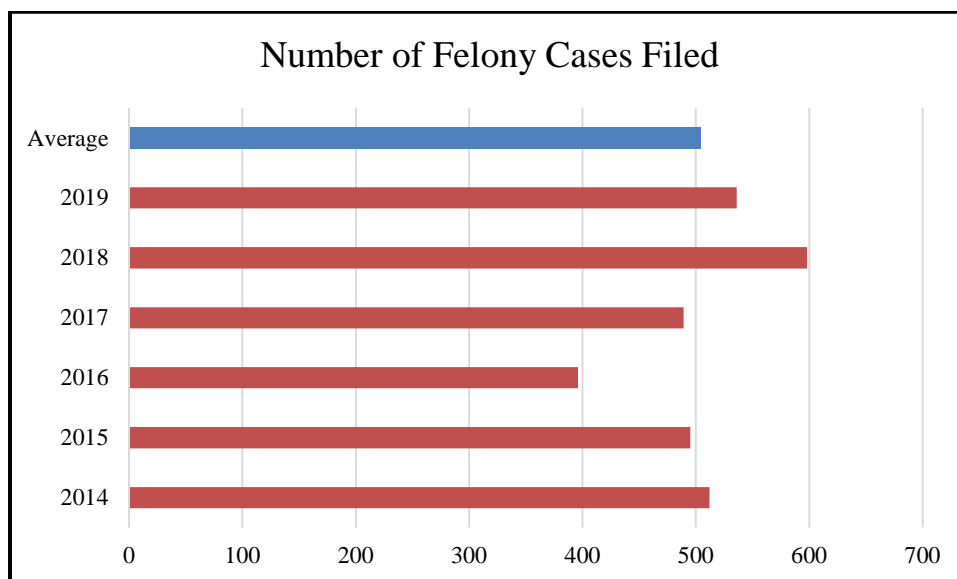
<sup>11</sup> These numbers have been rounded to the nearest whole number.

SKC	Equal Pay Act	72	Defendant	
STV	Employment Discrimination	19	Defendant	

#### IV. CRIMINAL TRIALS

##### A. Felony Trials

There were 536 felony cases filed in 2019. Comparatively, there were 598 filed in 2018; 489 in 2017; 396 in 2016; 495 in 2015; and 512 in 2014. These figures are charted below:



In 2019, twenty-seven felony cases proceeded to jury trial.<sup>12</sup> This represents a 5.35% trial rate, based on an annual average of 504 cases filed between 2014 and 2019. This is a significant increase from last year's 2.38% rate using the same 504 average case total. This is especially notable since, in 2019, the trial rate for civil jury trials decreased (0.93% civil jury trial rate), yet the trial rate for criminal jury trials increased. The average over the past six years is 3.07% cases tried versus the average 504 cases filed in a year.

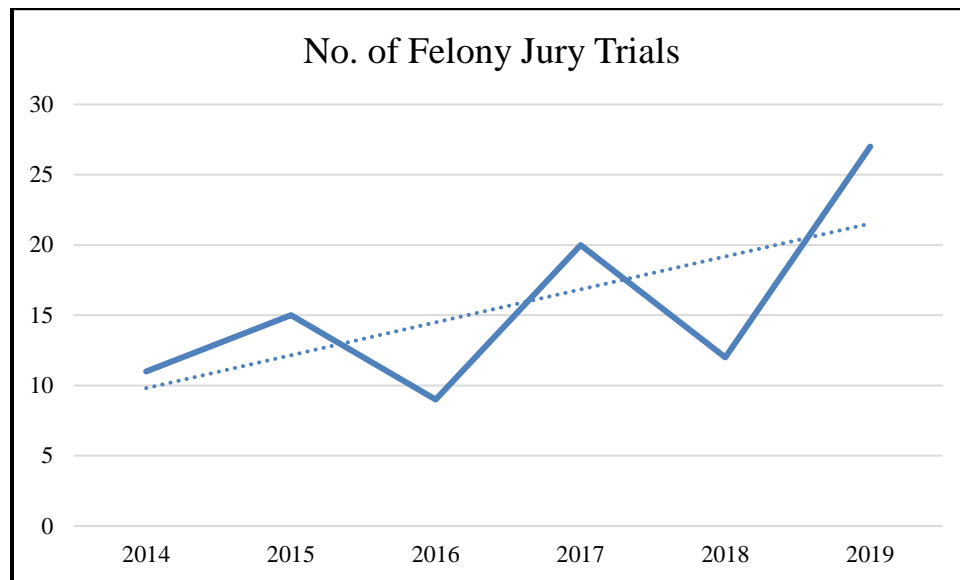
<sup>12</sup> This number includes one criminal trial that resulted in a hung jury and one trial that was set for re-trial before the jury reached a verdict.



The number of felony jury trials that reached verdict in each of the last six years is reported below:

<u>Year</u>	<u>No. of Cases Filed</u>	<u>No. of Felony Jury Trials</u>	<u>Rate of Trials (%)</u>
2019	536	27	5.03
2018	598	12	2.01
2017	489	20	4.09
2016	396	9	2.27
2015	495	15	3.03
2014	512	11	2.15
<b>Average</b>	<b>504.33</b>	<b>15.67</b>	<b>3.07</b>

A visual of the number of felony jury trials per year for the last six years is presented below:



The government achieved convictions in twenty-four of the twenty-seven total felony trials, with one jury trial resulting in a verdict for the defendant. Removing the two trials that did not reach a verdict including one that resulted in a hung jury and one that was set for a re-trial, the government achieved convictions in twenty-four of twenty-five trials. There were no criminal bench trials. The defendants have been sentenced in all cases that found in favor of the government.

The most severe sentence imposed was 360 months for aggravated sexual assault. The least severe sentence was 0 months for embezzlement and health care fraud. The defendant in that case was sentenced to two years of probation and \$14,940.54 in restitution.

The felony prosecutions in 2019 are reported below:

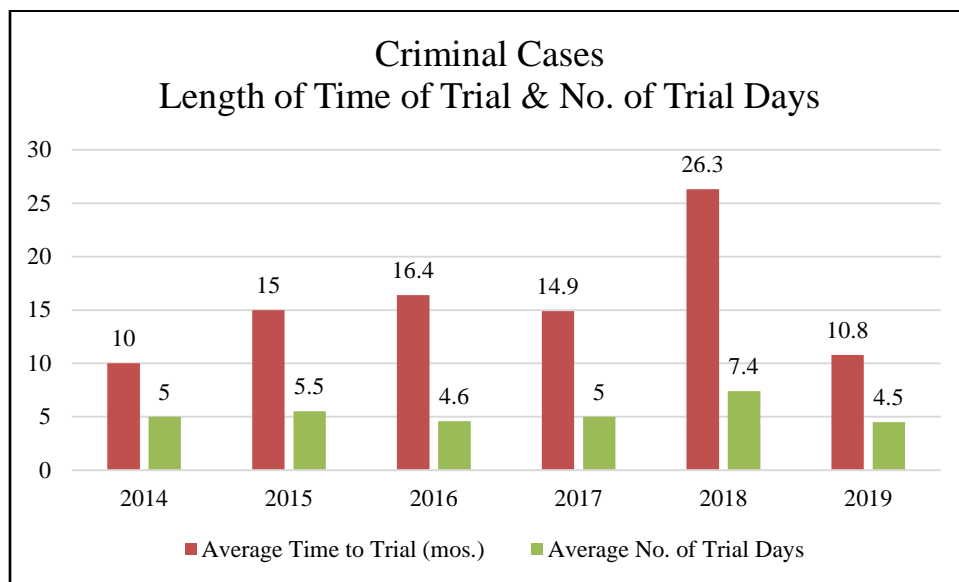
<u>Judge</u>	<u>Crime Charged</u>	<u>Verdict</u>	<u>Sentence (mos.)</u>
CMA	Possession of Firearm/Drug Distribution	Convicted	51
	Tax Evasion	Convicted	78
	Aggravated Sexual Assault	Convicted	60
	Drug Distribution	Acquitted	
MSK	Property Depradation	Convicted	13
PAB	Money Laundering/Conspiracy to Defraud	Convicted	83
	Drug Distribution	Convicted	113
	Drug Distribution/Possession of Firearm	Convicted	228
	Drug Distribution	Convicted	281
	Prostitution	Convicted	21
	Possession of Firearm	Convicted	36
	Drug Distribution	Convicted	105
	Possession of Firearm	Convicted	120
RBJ	Embezzlement	Convicted	0
	Mail Fraud	Convicted	51
	Stalking	Convicted	60
REB	Aggravated Sexual Assault	Convicted	360
	Tax Evasion	Convicted	60
	Sexual Assault	Convicted	200
RM	Possession of Firearm	Convicted	96
	Possession of Firearm/Drug Distribution	Convicted	280
	Drug Distribution	Convicted	30
WJM	Money Laundering/Conspiracy/Wire Fraud	Convicted	84
	Drug Distribution	Convicted	150

Possession of Firearm	Convicted	90
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Collectively, 112 days were spent trying these twelve jury cases, for an average of 4.5 days per trial. The longest jury trial lasted twelve days (money laundering, conspiracy, and wire fraud). The shortest jury trial lasted two days (drug distribution). This is significantly lower than the 7.4-day average from 2018. However, when removing an outlier twenty-five-day trial in 2018, the average was five days which is only slightly higher than the 2019 average of 4.5 days.

The average time from a defendant’s initial appearance to trial in 2019 was 10.8 months. This is substantially shorter than the 2018 average of 26.3 months. It is also shorter than the 2017 average of 14.9 months and the 2014-2019 average of 15.56 months. The longest case from initial appearance to trial was thirty-nine months (property depredation). On the other end, a stalking case was brought to trial within three months of filing.

The average time to trial and days per trial for the last six years are presented in the chart below:



### **B. Misdemeanor Jury Trials**

There were no misdemeanor trials in 2019. The last time there was a misdemeanor jury trial was in 2017.

### **C. Petty Offense Bench Trials**

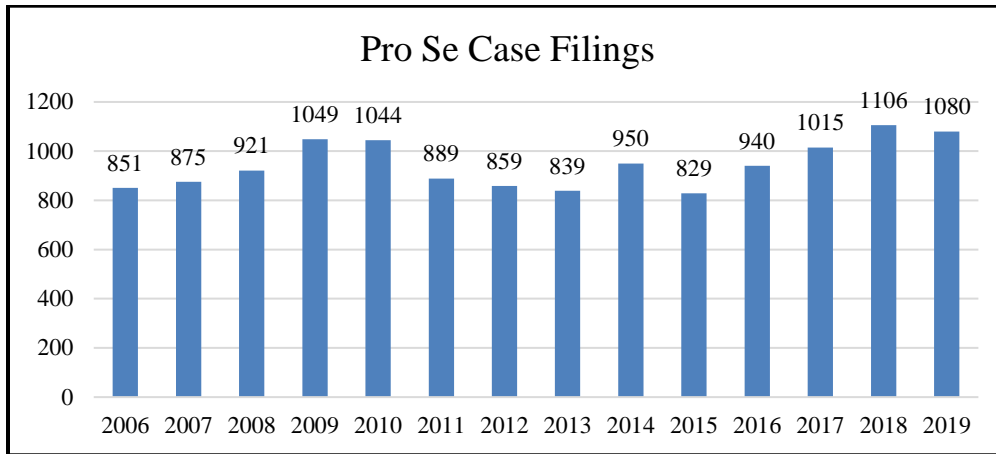
There were no petty offense bench trials this year. While there was one petty offense bench trial in 2018, there were no petty offense bench trials in 2017. From 2013-2018, the District averaged 2.3 petty offense bench trials per year.

## OTHER RELEVANT DISTRICT INFORMATION

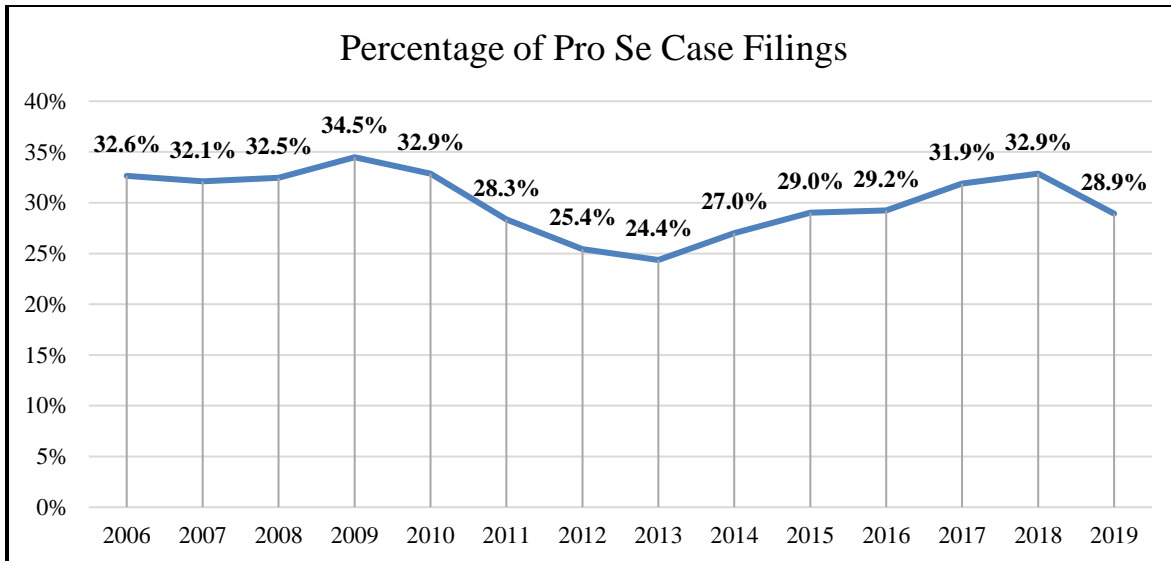
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### V. PRO SE

Over the last fourteen years, a total of 13,247 cases have been filed by pro se litigants for an average of 946 cases per year. The number of pro se cases filed each year are outlined in the chart below:



Over the past fourteen years, pro se case filings have averaged around 30% of the total number of civil cases filed per year. The year 2013 saw a significant drop in the percentage of pro se case filings to 24.4%; however, since 2013 that percentage increased steadily to 34.9% in 2018. In 2019, the court saw the first decrease in the percentage since 2013, when the percentage dropped to 28.9%. These figures are shown in the chart below:



In 2019, a total of five civil cases that went to trial began with pro se litigants. The cases were a First Amendment claim, a premises liability claim, a Fourteenth Amendment claim, an Equal Pay Act claim, and an employment discrimination claim based on sex. Out of those five cases, the court was involved in appointing pro bono counsel in four of the cases. Three of the cases were tried to a jury and two were bench trials. Only one of the trials resulted in a plaintiff's verdict. That trial was a First Amendment claim in which pro bono counsel was appointed. The remaining trials resulted in defense verdicts.

## VI. CONSENT

In February 2014, the District initiated a Pilot Project on Consent, utilizing the full-time Magistrate Judges in the drawing of civil lawsuits. Under this project and the subsequent Local Rule arising therefrom, the Magistrate Judges are given an equal draw of civil cases with the active District Judges.

Through December 2019, under the direct assignment of cases, the Magistrate Judges received collectively 5,663 cases in seventy months, so about 11.5 cases per full-time Magistrate Judge per month. In those 5,663 cases, a consent decision was made in 4,307, with 1,581

consenting and 2,726 not consenting, for a consent success rate of 36.7%, continuing a slight downward trend from last year’s inception-to-date average of 36.9% and 2017’s average of 38.7%.<sup>13</sup> For the other 1,356 cases in which no consent decision had been made, 263 were awaiting a consent decision, 1,034 were terminated prior to a consent decision, and the remaining fifty-nine cases were re-drawn due to the assigned judicial officer recusing or transferring the case.

As of December 31, 2018, the Magistrate Judges had 865 consent cases among them, for an average (per full-time Magistrate Judge) of 123. In December 2013 (the year prior to the Pilot Project), the Magistrate Judges had thirty-seven such cases, or six each. Obviously, this has been a substantial change in the District.

By way of comparison, as of December 31, 2013, the active District Judges in Colorado averaged 224 civil cases, while as of December 31, 2019, they averaged 238, up from 229 last year. The Senior District Judges averaged 161 cases in December 2013 and 163 in December 2018, which is somewhat misleading as an average. The busiest Senior Judge had 261 cases while the remaining judges averaged 130 civil cases. Even the lowest case load carried by a Senior Judge of 114 cases is higher than the average number of civil cases that Senior Judges had in 2018 of 103. This represents a significant increase in the case load of Senior Judges in 2019. A Senior District Judge has the prerogative of determining the number of cases he/she will carry.

A table showing the year-by-year comparison of the consent rate is provided below:

<b>YEAR</b>	<b>CONSENT DECISIONS</b>	<b>ACHIEVED</b>	<b>DECLINED</b>	<b>SUCCESS RATE</b>
2014	556	222	334	40.0%

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<sup>13</sup> This appears to compare very favorably with other districts which utilize our system of direct assignment with early decision making on consent. There are districts in which parties have both a direct draw and may engage in traditional consent until the time of trial and, indeed, are encouraged to do so by both District Judges and Magistrate Judges. Such districts experience a higher rate of consent.

2015	552	272	278	49.3%
2016	619	261	360	42.2%
2017	876	253	623	28.9%
2018	758	231	527	30.5%
2019	946	342	604	36.2%
<b>TOTALS</b>	4,307	1,581	2,726	37.85%

## VII. ALTERNATIVE DISPUTE RESOLUTION

In November 2011, the District instituted a new paradigm concerning ADR, offering an Early Neutral Evaluation (“ENE”) as the presumptive process, with settlement conferences occurring only on motion to the presiding judicial officer. In 2009, the first full year with six full-time Magistrate Judges, the District had 717 settlement conferences. In 2011, the last (essentially) full year of Magistrate Judges conducting settlement conferences on a regular basis, the District held 486 settlement conferences.

Since 2012, the District has experienced the following ADR activity:

2012:	166 settlement conferences	18 ENEs
2013:	116 settlement conferences	15 ENEs
2014:	122 settlement conferences	8 ENEs
2015:	79 settlement conferences	15 ENEs
2016:	114 settlement conferences	8 ENEs
2017:	115 settlement conferences	2 ENEs
2018:	103 settlement conferences	None known
2019:	129 settlement conferences	None known
<b>Totals:</b>	<b>944 settlement conferences</b>	<b>66+ ENEs</b>

The ENE is a virtually ignored (and unknown) procedure. In fact, as of January 2018, the



Clerk's Office of the District of Colorado ceased monthly reporting on ENEs. In 2019, the process appears to have gone out of use entirely.