

## Lawyer Insights

### After A Brief Hiccup, The 'Rocket Docket' Soars Back To No. 1

By Robert M. 'Bob' Tata  
Published in Law360 | June 25, 2024



The U.S. District Court for the Eastern District of Virginia,<sup>1</sup> known by many as the original rocket docket, is back on top.

For 14 straight years the EDVA was the nation's fastest or second-fastest civil trial court of the 94 U.S. district courts, before falling to 18th in 2022 due to an aberration.

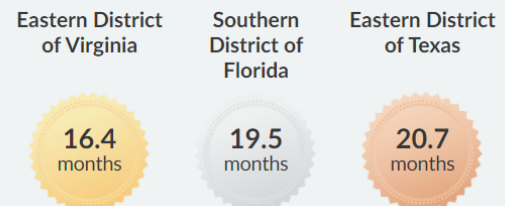
In 2023, the EDVA — with divisions in Alexandria, Richmond, Newport News and Norfolk — was once again the fastest rocket docket of all district courts across the country.

Recently available data from the U.S. Courts' Caseload Statistics Data Table C-5 reveals that, in 2023, the EDVA won the gold medal for fastest civil trials, with a median time to civil trial of 16.4 months. The U.S. District Court for the Southern District of Florida won the silver medal, at 19.5 months. And the U.S. District Court for the Eastern District of Texas took the bronze, with 20.7 months.

As a benchmark, the U.S. District Court for the District of Montana was fastest in 2022, at 18.3 months to civil trial.

Meanwhile, the slowest pokes in the country in 2023 were the U.S. District Court for the Eastern District of New York at a stunning 71.3 median months to civil trial — almost six years; the U.S. District Court for the Northern District of Illinois (51.7 months to trial); and the U.S. District Court for the District of Columbia (50.2 months to trial).

#### Speediest Resolution of Civil Trials



#### Slowest Duration of Civil Trials

Eastern District of New York	71.3 months
Northern District of Illinois	51.7 months
District of Columbia	50.2 months

Of course, the longer it takes to try a federal case, the more likely it is to cost more — likely much more.

This is our twelfth year writing for Law360 regarding the EDVA rocket docket. In the past, in addition to reporting on the speed to trial, we have highlighted the EDVA's local rules (2013), the factors that continue to fuel the EDVA's rocket docket (2017), some national comparisons (2019), and, last year, the EDVA's one-year precipitous fall in the speed rankings (2023).<sup>2</sup>

This year, in preparing this article, we spoke with the EDVA's chief judge and chief deputy clerk to discuss their reaction to the latest rankings and recent developments in the court.

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For historical context, when I first wrote on this topic in 2013 regarding 2012 statistics, the median time to civil trial in the EDVA was 11.3 months. This year it is 16.4 months. That computes to a 45% increase in the amount of time to civil trial in the EDVA over 11 years.

### **The Judiciary Data and Analysis Office's Tables**

When we started this series of articles over 11 years ago, we focused on the Judiciary Data and Analysis Office's Table C-5 as the best proxy for speed. Table C-5 is labeled "Median Time Intervals from Filing to Disposition of Civil Cases Terminated."<sup>3</sup>

We look under the last column header "Median Time Interval in Months" for termination "During Trial." We have used that chart every year since because it appears to be a good proxy for speed to resolution at trial.

### **The EDVA Yesterday and Today**

The EDVA has 11 active judges located in Alexandria, Richmond and Norfolk, and 7 dedicated senior judges. In approximately the last three years, the EDVA has experienced a turnover of more than a third of its active judges. And if the period is extended back to 2019, the turnover extends to 7 of 11 active judges — almost two-thirds of the active bench.

We recently spoke with the EDVA's Chief U.S. District Judge Mark S. Davis and Chief Deputy Clerk Laura Griffin about the EDVA's return to the top spot in the civil speed-to-trial rankings and some other topics.

Judge Davis had several explanations as to why the EDVA is routinely ranked as the fastest or one of the fastest districts in the country — even despite the recent significant turnover in judges.

The rocket docket was created and embedded in the EDVA eight decades ago by Judges Walter E. Hoffman and Albert V. Bryan Sr. Both are legendary.

For instance, Judge Hoffman, a renowned workhorse, sometimes scheduled trials on weekends, holidays and reportedly once on Christmas Day — that one settled.

Today's chief judge, Judge Davis, noted a "fealty to history that continues a rich inheritance" regarding trial speed from Judges Hoffman and Bryan. And a general belief that "justice delayed is justice denied" is a motivating factor behind the EDVA bench's consistently fast time to trial, despite recent changes in the bench, according to Judge Davis.

While Judge Davis believes this dedication to speedy justice is "ingrained in the fabric" of the court's operations, he is quick to point out that the "expectations of the [EDVA] bar" also help the court keep its foot on the gas.

Moreover, the rich experience of the judges before becoming EDVA judges is a factor: Many are former federal district or circuit court clerks, assistant U.S. attorneys, U.S. magistrate judges, and federal public defenders, and are "steeped in the tradition of the EDVA."

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It is worth noting that, due to the EDVA's Norfolk to Northern Virginia geographic crescent, it includes an extraordinary number of federal installations. At the southern tip of the EDVA are 15 federal installations in Hampton Roads, including Norfolk Naval Base, the world's largest naval base. Sweeping up through Newport News, Richmond and to Arlington, there are many more federal installations, including the headquarters of the U.S. Department of Defense, the Pentagon.

The presence of so many federal installations gives the EDVA's caseload a unique character, including numerous complex cases involving national security.

Additionally, because the EDVA is a popular patent case destination due to its proximity to Washington and trial speed, the EDVA sees more than its share of complex cases. This makes its ranking as No. 1 out of 94 district courts in terms of civil trial speed all the more impressive.

The judges do meet from time to time. There is a Judicial Conference of the Fourth Circuit every other year, and the EDVA judges also have an annual meeting that may include U.S. marshals, U.S. attorneys, federal public defenders, bankruptcy judges and others. Topics such as policies, procedures, statistics and efficient docket management are often discussed.

### **How Often Cases Go to Trial**

It is an old adage that of all the cases filed, only 5% get tried. Actually, it is less.

Looking again at Table C-5, 2,288 civil cases were filed in the EDVA last year. And 23 of those were tried. So just 1% of the civil cases were tried in the EDVA last year.

Sound low? Last year, 244,347 civil cases were listed nationwide. A mere 1,638 of those were tried. That math reveals just 0.67% of civil cases were tried last year.

The conclusion: Last year, the EDVA was the fastest civil trial docket in the country while also trying almost twice as many cases, proportionally, as the national average.

Drilling down a bit, how is the number of trials trending overall? Here is a compilation of publicly available information in Table T-1 for EDVA Civil and Criminal Trials Completed. Trials overall appear to be trending relatively flat, if not slightly down, aside from the dip due to the COVID-19 pandemic.

But it appears that there are about four times as many criminal cases tried as civil cases — and there does appear to be a trend downward in both civil and criminal jury trials.

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Table T-1 (compilation).  
U.S. District Courts—Civil and Criminal Trials Completed, by District, During the 12-Month Period Ending Dec. 31

YEAR	TOTAL	CIVIL <sup>1</sup>			CRIMINAL		
	ALL TRIALS	TOTAL	NONJURY	JURY	TOTAL	NONJURY	JURY
2015	219	46	31	15	173	144	29
2016	258	59	43	16	199	159	40
2017	224	53	41	12	171	140	31
2018	257	53	40	13	204	175	29
2019	241	64	52	12	177	144	33
2020	139	26	23	3	113	96	17
2021	196	38	27	11	158	125	33
2022	201	35	22	13	166	134	32
2023	171	25	16	9	146	122	24

Note: This table includes trials conducted by district and appellate judges only; all trials conducted by magistrate judges are excluded. This table excludes sentencing hearings.

<sup>1</sup> Includes trials of miscellaneous cases.

### Conclusion

The EDVA rocket docket is back on top, trying civil cases faster than any other of the 94 U.S. districts courts. And it's trying a higher percentage of cases than the national average as well.

The rocket continues to soar!

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### Notes

1. <https://www.vaed.uscourts.gov/>.
2. More information can be found on Hunton Andrews Kurth's "Rocket Docket Practice" webpage. <https://www.huntonak.com/en/practices/litigation/rocket-docket-practice-us-district-court-for-the-eastern-district-of-virginia.html>.
3. <https://www.uscourts.gov/statistics/table/c-5/statistical-tables-federal-judiciary/2023/12/31>

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