

# Gridlock continues in federal courts

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Thanks to staff layoffs and a judicial vacancy, lawyers filing civil cases in Rochester's federal court can now expect to wait up to seven months to have a motion heard, and relief is nowhere in sight — together a new vacancy, the shrinking federal budget and election-year gridlock promise to make the wait even longer.

In 2011, the U.S. District Court, Western District of New York had 2,740 cases, the eighth-highest load out of a total of 94 districts in the U.S. based on court statistics. It also ranked 17th in weighted filings, a system where the court assigns a higher number depending on the complexity of the legal issues, and the time it usually takes to resolve them.

Since 2009, when U.S. District Court Judge David Larimer took senior status, the median time from filing to disposition for a criminal felony trial has climbed from 6.9 to 9.6 months. The median time for a civil case has actually decreased from 9.9 to 9.2 months, though that number can be misleading, said Michael Roemer, the district's Clerk of Court.

Roemer noted that the progress is due to the efforts of Judge Larimer and Judge Michael Telesca, who, despite being able to retire, still take on a full caseload.

Roemer said that right now both Judges Larimer and Telesca often work 10- to 12-hour days, as they try to whittle down a caseload of 457 and 210 files, respectively.

"Judge Telesca's [cases] are focused on those problems we have in our backlog ... in our harder areas like Social Security cases and habeas corpus," Roemer said. "It might only be 210 cases, but from our standpoint, those are 210 invaluable cases. If he wasn't working on them, we probably wouldn't be able to get to them."

As a result, many older cases have been able to reach a resolution, Roemer said.

The Western District currently ranks 83 out of 94 districts for its percentage of civil cases over three years old. (Criminal cases move through faster due to speedy trial rules.) Currently about 17.6 percent of the district's cases are over that age. But in comparison, two years ago the court ranked 93.

The district is supposed to have four active judges, two in Buffalo, and two in Rochester. However, Rochester has been waiting for a new federal judge since March 2009 when Judge Larimer took senior status. This December, Judge Charles Siragusa will also qualify for senior status.

Former District Attorney Michael Green was nominated for a judgeship but that proposal fell through in December. Currently, the U.S. district courts have 67 vacancies but only 30 pending nominees for those positions. And despite a Democrat-controlled Senate, many legal experts predict an even further slowdown in nominations before the next presidential election in November.

The court is also facing a reduced staff to handle the increasing caseload. Despite the recession, the court was able to maintain its full workforce until last year, when budget cuts forced the court to lay off or not fill four positions.

"We cut back because we had to, because our budget was cut back. We didn't cut back because we had less work for people to do," Roemer said. "Ultimately, especially if this continues, this means cases won't get processed as quickly."