

BANKRUPTCY COURTS

JURISDICTION AND AUTHORITY

Article 1, Section 8, of the United States Constitution authorizes Congress to establish “uniform Laws on the subject of Bankruptcies throughout the United States.”

Bankruptcy Courts are congressionally created courts and a bankruptcy court’s power is statutorily constrained. All bankruptcy cases are handled in federal courts under rules outlined in the U.S. Bankruptcy Code, found at Title 11 of the United States Code.

The Bankruptcy Code is supplemented by the Federal Rules of Bankruptcy Procedure and also by local rules, which apply to each bankruptcy court.

Bankruptcy judges are “judicial officers” that together constitute a “unit” of the district court. The United States Courts of Appeal appoint bankruptcy judges for fourteen-year terms, as opposed to district judges who are nominated by the President and confirmed by the Senate for life tenure.

There are 90 bankruptcy districts in the United States – one for each judicial district plus one in Puerto Rico. In the Districts of Guam, the Northern Mariana Islands, and the U.S. Virgin Islands, bankruptcy cases are heard by a district court judge or a visiting bankruptcy judge. Also, the Eastern and Western Districts of Arkansas share a bankruptcy court. Many bankruptcy courts in the same district have more than one location with different “divisions” or “vicinages.”

In the Western District of Pennsylvania, the Bankruptcy Court has locations in Pittsburgh, Erie and Johnstown. There are four bankruptcy judges, with three sitting in Pittsburgh and one in Erie.

The place of residence of a debtor for the 180-day period preceding a bankruptcy filing determines where (which district) a bankruptcy case must be filed. 28 U.S.C. § 1408.

Attorneys who are admitted to the Bar of the United States District Court of Western Pennsylvania are admitted to the Bar of the Bankruptcy Court. W.PA.LBR 9010-1.

BASIC PRINCIPALS AND PURPOSE

Bankruptcy helps people who can no longer pay their debts to get a fresh start by liquidating assets to pay their debts or by creating a repayment plan. Bankruptcy laws also protect financially troubled businesses. This is accomplished by providing:

- A “breathing spell” codified as the “automatic stay” under Bankruptcy Code § 362.
- A “fresh start” from burdensome debts, accomplished by means of a discharge in bankruptcy. Bankruptcy Code §§ 727, 1141, 1228 and 1328.

A bankruptcy case normally begins when the debtor files a petition with the bankruptcy court. A petition may be filed by an individual, by spouses together, or by a corporation or other entity.

TYPES OF BANKRUPTCY CASES

There are six basic types of bankruptcies, which are usually referred to by their chapter in the U.S. Bankruptcy Code – 7, 9, 11, 12, 13 and 15:

- Individuals may file Chapter 7 or Chapter 13 bankruptcy, depending on the specifics of their situation.
- Municipalities (cities, towns, villages, taxing districts, municipal utilities, and school districts) may file under Chapter 9 to reorganize.
- Businesses may file bankruptcy under Chapter 7 to liquidate or Chapter 11 to reorganize.
- Chapter 12 provides debt relief to family farmers and fishermen.
- Bankruptcy filings that involve parties from more than one country are filed under Chapter 15.

Chapter 7 – Liquidation – contemplates an orderly, court-supervised procedure by which a Trustee takes over the assets of the debtor’s estate (an entity created by operation of law under Bankruptcy Code Section 541 as of the date of the filing of the bankruptcy petition), reduces those assets to cash and thereafter makes distribution to creditors. Debtor must be eligible pursuant to “means test”. Discharge only available to individual debtors (not business entities). 11 U.S.C. § 727(a)(1).

Chapter 13 – Adjustment of Debts of Individuals With Regular Income – allows the debtor to keep designated assets, provided that the court approves a “plan” of repayment to creditors over time, usually three (3) to five (5) years. The discharge granted to Chapter 13 debtors who successfully complete a plan is somewhat broader than in a Chapter 7 case, *i.e.*, more debts are discharged/eliminated. There are limits on “non-contingent, liquidated, unsecured debts” to be eligible for Chapter 13.

Chapter 11 – Reorganization – Ordinarily utilized by commercial enterprises that desire to continue operating a business and repay creditors while operating, by means of a court-approved plan of reorganization. A Chapter 11 debtor usually has an exclusive right to file a plan of reorganization for the first 120-day period after filing the case. A Chapter 11 debtor can also terminate burdensome contracts and leases, recover assets and re-scale operations. Confirmation of a plan of reorganization discharges any type of debtor – corporation, partnership, or individual – from most types of prepetition debts. It does not, however, discharge an individual debtor from any debt made nondischargeable by section 523 of the Bankruptcy Code.

Chapter 12 – Adjustment of Debts of Family Farmer or Fisherman With Regular Annual Income – Provides debt relief to family farmers and fisherman with regular income. Very similar to a Chapter 13 case.

Chapter 9 – Adjustments of Debts of Municipality – Provides essentially for the reorganization of a municipality, much like the reorganization of a business entity or individual under Chapter 11.

Chapter 15 – Ancillary and Other Cross-Border Cases – The purpose of Chapter 15 is to provide an effective mechanism for dealing with cases of cross-border insolvency, involving entities with organizations inside and outside the United States.

DISCHARGE

A bankruptcy discharge releases the debtor from personal liability for certain specified types of debts, such that the debtor is no longer legally required to pay any debts that are discharged.

A valid lien or encumbrance against specific property, to secure a payment of a debt, and which has not been avoided as part of a bankruptcy case, remains after the bankruptcy case.

Certain liens may be avoided as part of a bankruptcy case.

Certain debts are deemed non-dischargeable. Bankruptcy Code § 523(a) specifically excepts various categories of debts from the discharge granted to an individual debtor. There are nineteen (19) categories of debt which are excepted from discharge under Chapters 7, 11 and 12, with a more limited list of exceptions applicable to Chapter 13 cases.

An individual debtor in bankruptcy is entitled to retain property that is designated as exempt under state law or under Bankruptcy Code Section 522.

The basic federal exemptions, available under Bankruptcy Code Section 522(d), consist of delineated types and amounts of property, said amounts to be readjusted every three (3) years.

Under Chapter 7, a discharge is usually granted promptly after the expiration of the time fixed for filing a complaint objecting to discharge and/or to dismiss the case under the Chapter 7 means test. In Chapter 7, this typically occurs approximately four (4) months after the debtor files a bankruptcy petition.

In cases under Chapters 12 and 13, and in individual Chapter 11 cases, the bankruptcy court generally grants a discharge as soon as practicable after completion by the debtor of all payments required under the confirmed plan.

Unless there is litigation involving objections to the discharge, the debtor will usually automatically receive a discharge. In addition to the right of creditors to object to a discharge of that creditor's particular debt, a creditor or other party in interest in a bankruptcy case can seek to obtain a denial of a debtor's discharge in a Chapter 7 case for reasons set forth in Bankruptcy Code Section 727(a). In a Chapter 12 or 13 case, a creditor does not have standing to object to a debtor's discharge. Instead, creditors must object to confirmation of the debtor's repayment plan and may also object post-confirmation if a creditor can demonstrate material changed circumstances to the debtor's financial condition.

STATISTICS AND TRENDS

According to statistics released by the Administrative Office of the U.S. Courts, annual bankruptcy filings totaled 380,634 in the year ending June 2022, compared with 462,309 cases in the previous year – a sharp drop in the twelve-month period ending June 30, 2022, falling 17.7 percent.

Bankruptcy filings have fallen almost steadily after peaking in 2010. The trend has accelerated since the pandemic began in early 2020, despite some early COVID-related disruptions to the economy.

Long-term and even short-term impacts of the pandemic and related financial assistance and other governmental programs remain to be seen.

Bankruptcy Case Filing Statistics for the Western District of Pennsylvania:

Year	7	9	11	12	13	15	TOTAL
2021	2,853	0	37	7	1,026	0	3,923
2020	3,658	0	47	4	1,313	0	5,022
2019	4,580	0	59	9	2,339	0	6,987
2018	4,577	0	73	10	2,498	1	7,159
2017	4,907	0	83	7	2,469	0	7,466
2016	4,388	0	95	6	2,440	0	6,929
2015	4,513	0	74	8	2,357	0	6,952
2014	4,980	0	79	5	2,243	0	7,307
2013	5,235	0	91	6	2,450	0	7,782
2012	6,426	0	116	10	2,522	0	9,074

U.S. Court of Federal Claims

www.uscfc.uscourts.gov/about-court



About the Court

The United States Court of Federal Claims is a court of record with national jurisdiction. The United States Court of Federal Claims was recreated in October 1982 by the Federal Courts Improvement Act pursuant to Article 1 of the United States Constitution. The court consists of sixteen judges nominated by the President and confirmed by the Senate for a term of fifteen years. After 1982, the court retained all the original jurisdiction of the Court of Claims and continues, uninterrupted, a judicial tradition more than 140 years old. The court has since been given new equitable jurisdiction in the area of bid protests, as well as jurisdiction in vaccine compensation. The Court of Federal Claims is authorized to hear primarily money claims founded upon the Constitution, federal statutes, executive regulations, or contracts, express or implied in fact, with the United States. Many cases before the court involve tax refund suits, an area in which the court exercises concurrent jurisdiction with the United States district courts. The cases generally involve complex factual and statutory construction issues in tax law. Another aspect of the court's jurisdiction involves government contracts. It was within the public contracts jurisdiction that the court was given new equitable authority in late 1996. In recent years, the court's Fifth Amendment takings jurisdiction has included many cases raising environmental and natural resources issues. Another large category of cases involves civilian and military pay claims. In addition, the court hears intellectual property, Indian tribe, and various statutory claims against the United States by individuals, domestic and foreign corporations, states and localities, Indian tribes and nations, and foreign nationals and governments. While many cases pending before the court involve claims potentially worth millions or even billions of dollars, the court also efficiently handles numerous smaller claims. Its expertise, in recent years, has been seen as its ability to efficiently handle large, complex, and often technical litigation.

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PA Board of Claims

www.boc.state.pa.us

www.boc.state.pa.us/other.htm

Board of Claims

The Board of Claims is an independent administrative board originally created in 1937. The Board has exclusive jurisdiction to hear and decide claims against the Commonwealth arising from contracts with the Commonwealth. It effectively is an administrative court of exclusive original jurisdiction over such claims. It also has concurrent jurisdiction over contract claims the Commonwealth may have against its contractors. See: Board of Claims Act, 72 P.S. §§ 4651-1 --4651-10, repealed by Act of December 3, 2002, P.L. 1147, No. 142 (current law now codified at Sections 1701-1751 of the Commonwealth Procurement Code, 62 Pa.C.S. §§ 1701-1751). Board proceedings and hearings are conducted under the Pennsylvania Rules of Civil Procedure and Pennsylvania Rules of Evidence. Decisions of the Board are final and appealable to the Commonwealth Court. The Board maintains its offices and court room in Harrisburg, Pennsylvania, Fulton Building, 200 North Third Street.

Most cases before the Board involve high-dollar public construction projects, almost exclusively under the auspices of the Department of General Services, or highway construction projects under the auspices of the Department of Transportation.

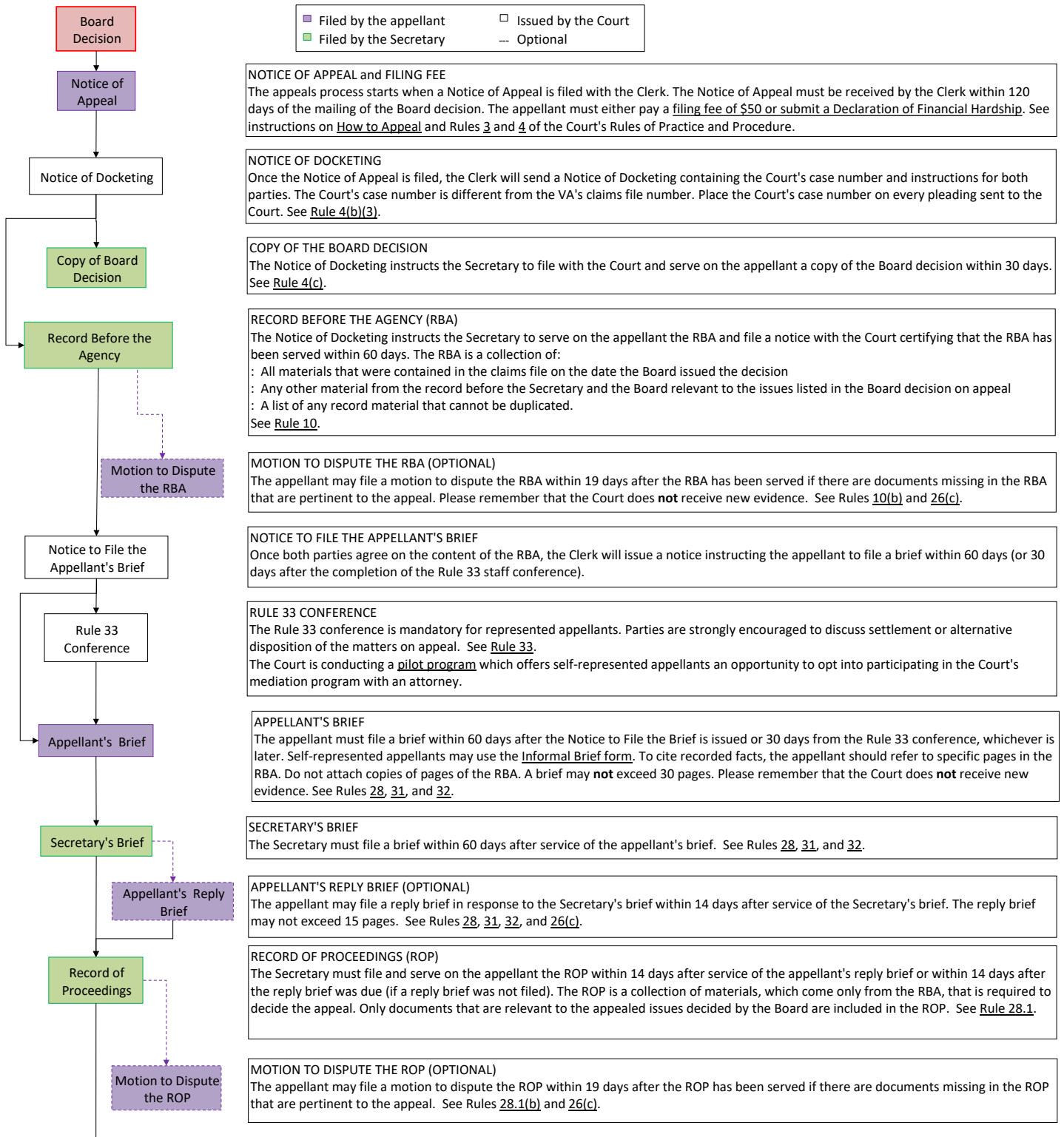
Contact Person:

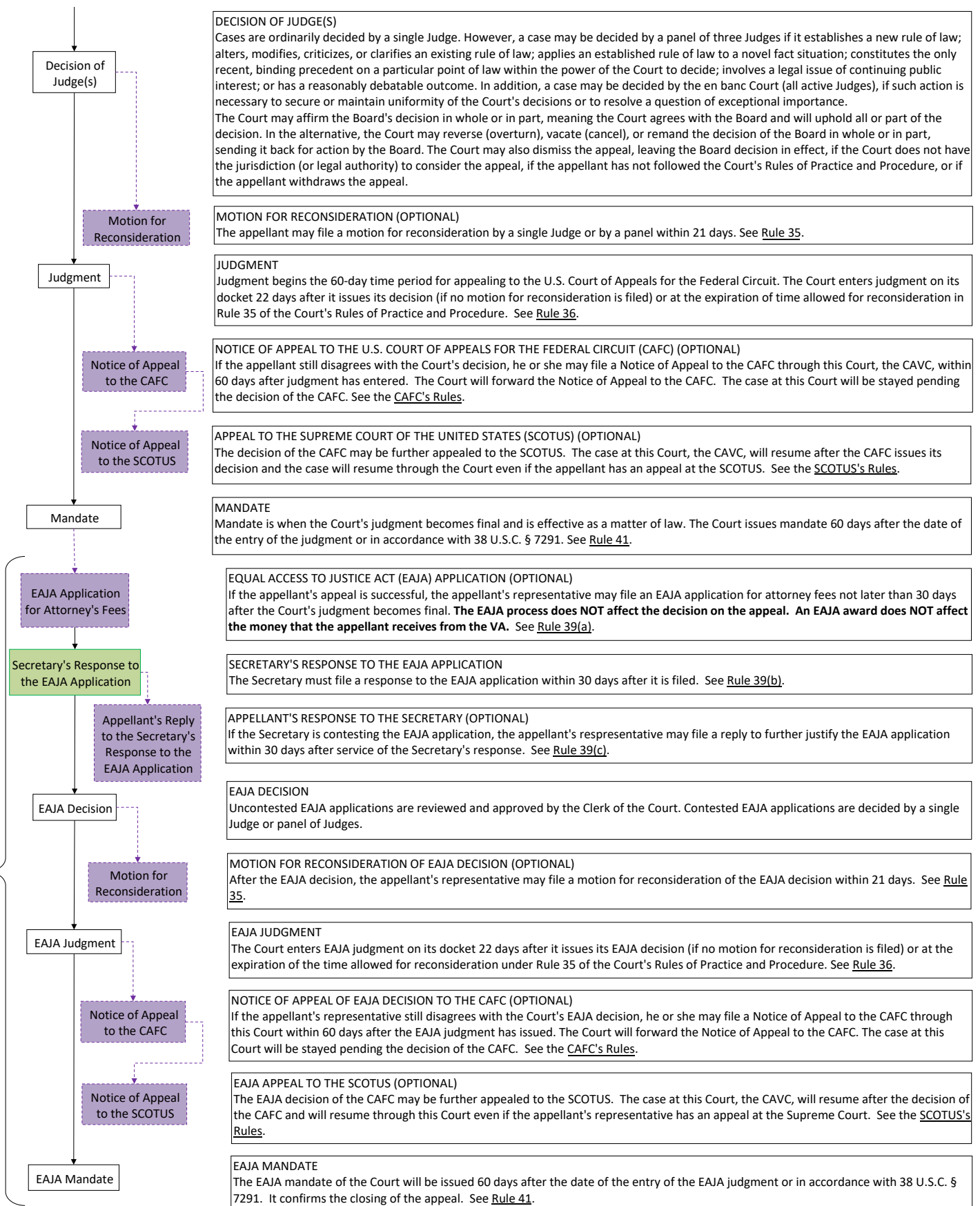
Lynn Ford
Executive Secretary
Pennsylvania Board Claims
Fulton Building, Suite 700
200 North Third Street
Harrisburg, PA 17101-1501
717 787-3325

CAVC Court Process

The U.S. Court of Appeals for Veterans Claims (CAVC) provides judicial review of final decisions by the Board of Veterans' Appeals (Board). The Court reviews the Board decision, the written record, and the briefs of the parties.

A person who files an appeal at the Court is called an "appellant." An appellant appealing a Board decision is bringing legal action against the Secretary of Veterans Affairs, who is also referred to as the "Secretary" or "appellee."





What are Veterans Treatment Courts?

Veterans Courts assist veterans who are charged with crimes and are struggling with addiction, mental illness or other co-occurring disorders. Veterans Court participants:

- 1) Appear before the judge on a regular basis
- 2) Gain support and guidance from veteran mentors
- 3) Receive supervision by specialized probation officers
- 4) Get treatment and support to address underlying problems often caused by post-traumatic stress disorder
- 5) Work closely with the VA Veterans Justice Outreach Specialists



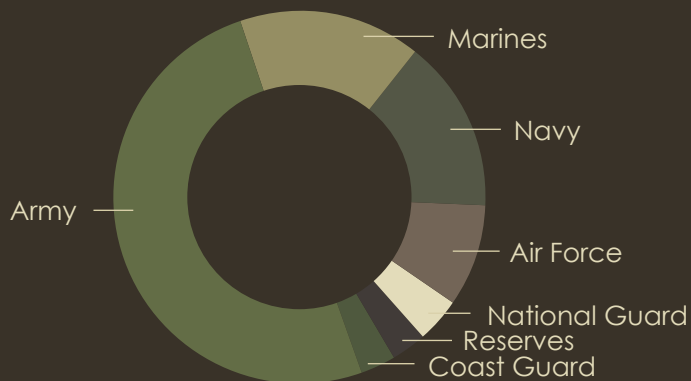
821,624
total veterans in
Pennsylvania (2021)

Pennsylvania's
veteran
population
ranks **4th**
in the
United States

The first
veterans
treatment
court
opened in
Lackawanna
County
in 2009

202 admissions
in 2021

They came from the following branches of service:



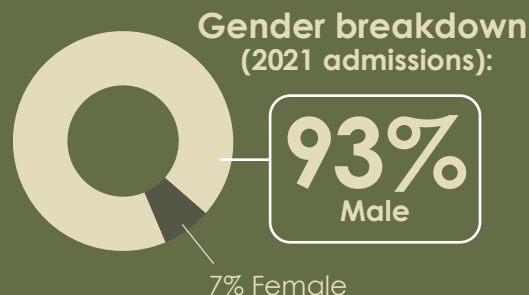
179 veterans (out of 222 participants discharged from the program) graduated in 2021

which is an **81%** successful graduation rate.

16% increase in employment among successful graduates.

25 veterans treatment courts in Pennsylvania were active in 2021. (Common Pleas)

Average age at screening was **45.**



Commonwealth of Pennsylvania

Magisterial District Court

"Veterans Diversion
Program"

Program Guidelines

June, 2011

AOPC

ADMINISTRATIVE OFFICE of PENNSYLVANIA COURTS

Over the past two years, under the leadership of Chief Justice Ronald Castille and Justice Seamus McCaffery, Pennsylvania has been working to develop programming for veterans coming into contact with our criminal justice system. The success of this work can be attributed in no small part to the support received from the Director of Veterans Integrated Service Network 4, Michael Moreland.

At the national level, Pennsylvania is viewed by many as a leader in programming for veterans. Unique to the Commonwealth is the statewide task force, co-chaired by Justice McCaffery and Director Moreland, which coordinates this programming. Pennsylvania's judiciary established some of the first Veterans Courts in the country and dedicated time and resources to training probation officers throughout the Commonwealth in the services available from the Veterans Administration to veterans trying to reintegrate into their communities. The diversion by Magisterial District Judges of veterans into treatment is a critical piece of this programming. The guidelines that follow were developed to guide that effort. Membership on the committee responsible for developing these guidelines included:

P. Karen Blackburn, Chair
Program Administrator
Administrative Office of Pennsylvania Courts

Susan Davis
Executive Director, Minor Judiciary Education Board
Administrative Office of Pennsylvania Courts

Rebecca A. Hicks
Veterans Justice Outreach Worker
Veterans Healthcare Administration

Catherine Hummel-Fried, Chair
Minor Judiciary Education Board

Michael R. Kehs, Esquire
District Court Administrator
38th Judicial District

Veterans and Pennsylvania's Criminal Justice System

MAGISTERIAL DISTRICT COURT

DIVERSION PROGRAM GUIDELINES

Introduction

Today, there are approximately 24.5 million veterans in the United States. Eighteen percent of these men and women live in the northeastern part of the country; approximately one million in Pennsylvania. An estimated 18-20% of combat veterans suffer from post-traumatic stress disorder (PTSD).¹ Fortunately, recent evidence-based psychotherapies have shown to be effective for treatment of both acute and chronic PTSD.² Unfortunately, for various reasons, veterans are reluctant to seek this treatment. Many of the symptoms of PTSD, as well as self-medication of these symptoms, can lead to a lifestyle that results in criminal behavior. According to a 2007 report released by the United States Department of Justice, approximately 11.7% of the jail population in this country is veterans and approximately 9.4% of inmates in state and federal prisons.³ Of the number of veterans in prison, 33% are first time offenders.⁴ Early intervention and diversion from the criminal justice system into treatment could save the lives of these men and women who were changed as a result of their service to this country.

Magisterial District Courts are the "grass roots" level of Pennsylvania's judiciary, the first point of contact with the court system. The more than five hundred Magisterial District Judges who preside over the courts in those districts are typically very familiar with the community, including the veterans who live there.⁵ Magisterial District Judges are therefore in a unique position to respond to veterans suffering from PTSD and traumatic brain injury by diverting these men and women at this very early point in the criminal justice system, before families are torn apart and before these veterans develop backgrounds that could have a devastating affect their entire future.

¹ "Invisible Wounds," Rand Corporation, 2008.

² "Findings on the Aftereffects of Service in Operations Enduring Freedom and Iraqi Freedom and The First 18 Months Performance of the Military Support Program."

³ "Veterans in state and federal prisons," Noonan & Mumola, 2004.

⁴ Gains, 2008.

⁵ Attached is a list of magisterial districts by county.

Establishing a Program

These program guidelines are designed to establish a coordinated approach in Pennsylvania for diversion by Magisterial District Judges (MDJ) of summary cases involving defendants who are veterans, eligible for health care benefits provided by the VA. Misdemeanor cases, where there is agreement by the Commonwealth and the victim(s) to proceed on a summary charge, may also be considered for the program.⁶ Attachment (1) is a visual representation of the flow of a case in this program.

Approval to start a Veteran Diversion Program in a Magisterial District Court must come from the President Judge of the judicial district and ideally, once approved, all MDJs within that judicial district would participate.⁷ The Problem Solving Court Program Office of the Administrative Office of Pennsylvania Courts (AOPC) is to be notified when a district is considering implementation of such a program.⁸

Participation by the defendant in the program will be voluntary.

Protocol for Diversion

- I. The attached colloquy (Attachment 2) has been drafted by the AOPC for use throughout the Commonwealth by MDJs operating one of these programs.
- II. Admission to Program
 - A. Preliminary identification of a defendant as a veteran will be made by the police and/or the MDJ. Research indicates a significant number of veterans are not aware of their veteran status, particularly if they have not served in a combat theater. Based on the recommendation of the National GAINS Center, prior to the time the defendant appears before the MDJ for arraignment, police should ask the defendant: "Have you ever served in the military?"⁹ The MDJ should confirm this self-report at the time of the summary trial.

⁶ If there is no summary charge associated with the case, the misdemeanor should be withdrawn, a summary filed and the case should proceed on the summary.

⁷ The President Judge of the district may elect to pilot the program with one MDJ before deciding to adopt the program district-wide.

⁸ Notification should be by email to karen.blackburn@pacourts.us or by phone at 215-560-6300, ext. 6338.

⁹ -----, August, 2008; "Responding to the Needs of Justice-Involved Veterans with Service Related Trauma and Mental Health Conditions," GAINS Samsha

- B. If the defendant responds affirmatively, the summons, citation or complaint to be filed will be "held." The police will be asked by the MDJ to advise the victim (if there is one) of possible diversion and note same in the police report. If there is an objection by the victim, the MDJ will be notified in a timely manner by law enforcement.
- C. Using the colloquy mentioned in Section II A, the program will be explained to the defendant by the MDJ. If the defendant wishes to be considered for this diversion program, his/her signature will be obtained on a referral form, a template of which is available from the AOPC, which will include the VA's Veterans Justice Outreach Specialist (VJO) ¹⁰ contact information, and the "Department of Veterans Affairs Request for and Authorization to Release Medical Records or Health Information." The MDJ will note on the referral form the next hearing date, which will be within three weeks of the initial hearing. The referral form and the release of information form must be faxed by the MDJ to the VJO as soon as possible on the day of the referral.
- D. The defendant will be instructed by the MDJ to make contact with the VA/Veterans Justice Outreach Worker (VJO) within three days of receiving the referral. If the defendant does not make contact with the VJO within the designated three day period, the MDJ will either reschedule the hearing with the defendant to the earliest date possible or issue a warrant.¹¹
- E. Upon contact by the defendant, the VJO will verify the defendant's eligibility for VA benefits and schedule an appointment for an assessment. The initial assessment will be completed either in person or via telephone and must be scheduled and completed within the two weeks following the initial contact with the VJO.
- F. Using an email contact list that includes all MDJs in their region, every business day the VJO will distribute an email that identifies:

¹⁰ As part of the VA's five year plan to end homelessness among veterans, a position of Veterans Justice Outreach specialist (VJO) was established in each VA hospital. The VJO acts as the point of contact within the VA for criminal justice system programming. VJO's are licensed clinical social workers, qualified to do clinical assessments, develop treatment plans, and coordinate treatment for eligible veterans.

¹¹ The MDJ will be alerted to the fact a defendant has not made contact with the VA if his/her name is not listed on the daily email generated by the VJO (section F).

- (1) all defendants who have made contact with the VJO to determine eligibility for benefits,
- (2) all defendants who have been assessed and whether the assessment determined that the defendant was a appropriate candidate for treatment.¹²

In order to insure compliance with confidentiality and HIPPA regulations, defendants will be identified using the first letter of the last name, followed by the last four digits of his/her social security number.

After a program has commenced in a judicial district, the VJO will generate an email daily, even if it is to report no activity only.

It will be the responsibility of the MDJ to insure the email is reviewed, defendants referred by their court are identified, the court records are updated, and appropriate action is taken.

- G. Defendants will be instructed by the MDJ at the initial hearing and again by the VJO that they **must** report to the next scheduled hearing, regardless of their status in treatment. If a defendant fails to appear, the MDJ may reschedule the next hearing to the earliest date possible or issue a warrant .
- H. At the second hearing, the MDJ will:
 1. Advise the defendant of his or her eligibility for this diversion program. A defendant will be deemed eligible if he/she is eligible for VA healthcare benefits and if the assessment by the VJO has determined the defendant is in need of behavioral health care and treatment.
 2. Cases of veteran defendants not eligible for the program or cases of veteran defendants who choose not to participate in the program will proceed as a traditional summary case, according to the Rules of Criminal Procedure.
 3. Eligible defendants who elect to participate in the program will be formally diverted, effective the date of this second hearing, which will be considered admission date to the program. Diverted defendants will be advised by the MDJ that if they have not

¹² Emails will be generated daily and they will report contact by defendants over the past twenty-four hours. Contacts made on Friday will be reported via email on Monday.

already done so, they are to begin compliance with the treatment plan, as instructed by VJO, and conditions of the program.

4. At this hearing, the MDJ will schedule the defendant for a status hearing in sixty (60) days.
5. On the same day, the MDJ will immediately notify the VJO, via email, of admission of the participant into the program.

Compliance with Treatment

- III. At the status hearing, which will be held sixty (60) days after the participant is diverted into the program, the MDJ will review the participant's progress in the program, based on consultation with the VJO. Participants who are complying with the requirements of the program will be congratulated and advised they are to continue with the program and the treatment plan developed by the VJO. They will be scheduled for a final hearing in approximately four months.
- IV. If at any point during the six months of the program the defendant is not compliant with the treatment plan, the VJO is to notify the court immediately.
 - A. When contact is made by the VJO to report non-compliance, the MDJ will schedule the participant for a hearing on the first available date.
 - B. The VJO will be notified of the hearing date and asked to attend this hearing. MDJs are reminded, as a matter of VA policy, VJOs are prohibited from testifying under oath in court.
 - C. If during this hearing an acceptable reason as to why the defendant has not been compliant is presented, the court can use its discretion to determine how the case will proceed (possibly another chance at treatment, termination, an alternative program, etc.)
 - D. If at this hearing a defendant is terminated from the program because of non-compliance, his/her plea will be "accepted" and he/she will be required to pay fines and costs.
- V. Six months after formal admission into the program, defendants who have complied with the treatment plan and have had no further contact with the criminal justice system will again appear before the court.
 - A. Charges will be dismissed and the case will be closed.

- B. The victim will be notified of this hearing and will be afforded the opportunity to speak about changes, continuing issues, etc.
- C. The criminal record of this case will be expunged.
- D. Although restitution must be paid, the President Judge can use his/her discretion in developing a policy for collection of costs.

Data Collection

- VI. District Court Administrators will be asked to collect basic data on program operation for each magisterial district court. Data should include, at a minimum:
 - A. number of veterans referred to the VA for assessment
 - 1. number of veterans deemed not eligible for services
 - 2. number of veterans assessed not in need of treatment
 - B. number of veterans admitted into the program
 - C. number of veterans who are offered the program but decline to participate
 - D. number of veterans who complete the program
 - E. number of veterans who are terminated
 - F. reason for termination
 - 1. non compliance with treatment
 - 2. new criminal charges
 - G. if possible, the nature of the original charges

These data are to be reported to the Problem Solving Court Program Office in the AOPC on a quarterly basis.

Conclusion

Wounds of war are not always visible. As our soldiers return, they deserve all of the support this country can provide as they "battle the demons that followed them home."¹³

"On these august occasions, I always like to take a brief moment to remember the service to our Nation of the men and women who have worn the uniform of our nation's military services and who go into harm's way in order to preserve the liberties that we sometimes take for granted. Even as we sit in this historic courtroom, American men and women are serving in far-flung, and

¹³ Obama Barrack, Speech of June 21, 2011

often hostile, dysfunctional and failed states, much as I served in 1967 in the U.S. Marine Corps in Vietnam. While some may disagree with our involvement in some or all of these hostilities, we must still honor those Americans who serve in the Army, Navy, Marines, Air Force and Coast Guard - for they are the very forces who protect our liberties and ensure our Nation's security, even to the point of sacrifice of life and limb. We owe them all a debt of gratitude."

*Chief Justice Ronald D. Castille
Supreme court of Pennsylvania
Installation Speech from January 14, 2*



MILITARY PERSONNEL PRO BONO PROJECT

A Project of the Allegheny County Bar Association/Foundation

Offers legal advice, referrals, and/or representation to military personnel and their immediate family members who are Allegheny County residents who have been called to active duty as a result of war and/or military action, and veterans and their families.

Public Contact:

Timothy O'Brien, Esq.
412-232-4400
tpob@obrien-law.net

Practice Areas:

Military and Veterans

Type of service:

Offers legal advice, referrals, and/or representation to military personnel and their immediate family members who are Allegheny County residents who have been called to active duty as a result of war and/or military action, and veterans and their families.

How to volunteer:

This project is managed by Timothy O'Brien, Esq. Interested attorneys should contact Mr. O'Brien for more information.
Timothy O'Brien, Esq.
412-232-4400
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436 Seventh Avenue, 400 Koppers Building, Pittsburgh, PA 15219 - Pro Bono Center: 412-402-6677

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**Allegheny County
5th Judicial District of Pennsylvania
Court of Common Pleas**

**Adult Probation
Drug Court
Participant Handbook**

Mission Statement:

The Allegheny County Adult Drug Court offers substance abuse treatment as an alternative to incarceration for nonviolent qualified addicted drug offenders. The Allegheny County Adult Drug Court emerged out of the realization that criminal behavior among drug dependant offenders often results from having to support a drug addiction, not from deep-seated criminality. By offering intensive court-monitored treatment, the Allegheny County Adult Drug Court aims to break the damaging and costly cycle of addiction, crime, and incarceration. The Allegheny County Adult Drug Court thereby aims to improve the quality of life of its participants and to decrease the prevalence of drug addiction and drug related crime.

What is Drug Court?

A "Drug Court" as defined by the National Association of Drug Court Professionals is "a special court given the responsibility to handle cases involving drug-addicted offenders through an extensive supervision and treatment program." Drug courts represent a non-traditional approach to prosecute offenders who are addicted to drugs. Rather than focusing only on the crimes they commit and the punishments they receive, drug courts attempt to solve some of their underlying problems.

Drug courts are built upon a partnership between the criminal justice system and the treatment community. This collaboration results in a drug court team that structures treatment, community supervision, and intervention in order to break the cycle of drug abuse and associated criminal activity. Drug court participants undergo long-term treatment and counseling, sanctions, incentives, random testing for drugs and alcohol and frequent court appearances. Although drug courts vary from one jurisdiction to another in terms of structure, scope, and target populations, they all usually share three primary goals: (1) to reduce recidivism, (2) to reduce substance abuse among participants, and (3) to rehabilitate participants.

How does the Drug Court process begin?

The Drug Court assessment process is a team-oriented approach designed to take place on the front end of the court system. An offender wishing to participate in the Allegheny County Drug Court program should through, his or her attorney discuss the option with the ADA Trial Attorney for a referral to Drug Court. The Office of the District Attorney can also identify cases suitable for Drug Court disposition at the pre-trial screening stage of the criminal proceedings. In addition, Probation Officers can also refer defendants by contacting the Probation Drug Court Coordinator.

What is the next step?

There is a multi-step screening process for a candidate to be accepted into Drug Court. First, the trial District Attorney will review the sentencing guidelines to make sure the candidate meets the eligibility requirements as required by law. In addition, the Office of the District Attorney will assess your prior criminal record, your current charges and geographical information prior to scheduling a plea date. Once the Office of the District Attorney schedules a plea date your information will be forwarded to the Drug Court Probation Team. Next you will be required to undergo an Electronic Monitoring/Drug Court screening (including review of rules and regulations) as well as a widely accepted assessment tool known as the Pennsylvania Client Placement Criteria (PCPC). This assessment will assist the Drug Court Team in identifying your risk/needs giving the Drug Court Team the ability to make sound decisions regarding drug and alcohol counseling, cognitive behavioral therapy and an overall supervision strategy. After these assessments are completed the Drug Court Team will be able to:

- **Make appropriate referrals to contracted providers**
- **Assist participant in supplemental services**
- **Input all data into computer system**
- **Arrange any services indicated by the PCPC**

Do I have to enter a Plea before beginning the Drug Court Program?

Yes. The Allegheny County Drug Court is a post-disposition program. By entering a plea prior to Drug Court participation you are accepting responsibility and accountability for your actions. You will also receive information needed to overcome patterns of substance abuse or addiction that has caused you to become involved with the criminal court system rather than a punitive sentence of incarceration.

How long will I be in Drug Court?

All Drug Court participants will be under court supervision for up to 2 ½ years through a possible combination of incarceration, parole, intermediate punishment with electronic monitoring, and intensive probation. However, sentences can be extended, if needed, to complete the program. Incentives exist to reduce the period of supervision.

PROGRAM PHASES

Phase #1

- **Intensive supervision on electronic monitoring or inpatient treatment, depending on level of care deemed necessary by PCPC**
- **Attend progress hearings one time per month or as directed by the Drug Court Team**
- **Weekly contact with supervising Probation Officer (office and home contacts)**

- Attend drug/alcohol treatment sessions
- Submit to random weekly drug/alcohol testing
- Secure full-time employment or part-time if attending school (as possible with regards to level of care of treatment)
- Begin to make monthly payments on restitution, costs, fines and/or fees
- Attend a minimum of three Alcoholics Anonymous or Narcotics Anonymous (AA/NA) meetings per week
- Obtain home group or sponsor

Phase #2

- Electronic monitoring less intensive (outings expanded)
- Attend progress hearings one time per month or as directed by the Drug Court Team
- Weekly contact with supervising Probation Officer
- Random weekly drug/alcohol testing
- Continue to attend drug/alcohol treatment (Partial Hospitalization/Intensive Outpatient)
- Three Alcoholics Anonymous or Narcotics Anonymous meetings per week
- Maintain employment or attend employment development programs
- Enroll in GED studies if not a high school graduate
- Continue to pay restitution, costs, fines and/or fees

Phase #3

- Electronic supervision less restrictive (curfew imposed – 11PM through 7AM unless work related or permission from Judge or Probation Officer)
- Attend progress hearings one time per month or as directed by the Drug Court Team
- Bi-weekly contact with supervising Probation Officer
- Random bi-weekly drug/alcohol testing
- Continue to attend drug/alcohol treatment (outpatient level of care)
- Three Alcoholics Anonymous or Narcotics Anonymous meetings per week
- Maintain employment/volunteer work
- Obtain GED
- Enroll in Cognitive Behavioral Therapy
- Continue to pay restitution, costs, etc.
- Set up community service hours through Day Reporting Center

Phase #4

- Removal from electronic monitoring and the start of intensive 12-month probation
- Curfew lifted
- Attend monthly progress hearing one time per month or as directed by the Drug Court Team

- Bi-weekly contact with Probation Officer
- Random bi-weekly drug/alcohol testing
- Attend drug/alcohol aftercare program as directed
- Three Alcoholics Anonymous or Narcotics Anonymous meetings per week
- Maintain employment
- Remain drug/alcohol and crime free for a minimum of 6 months to graduate
- Complete payments on costs, restitution, fines, and/or fees prior to graduation
- Complete community service hours

**Components of phases may change based on participants needs, severity of chemical dependency, relapse and evolving problems. In addition, participants may only move to the next phase upon agreement of the Drug Court Team.*

What do I need to complete/accomplish in order to graduate from Drug Court?

GRADUATION REQUIREMENTS

- Successful completion of all recommended treatment
- Minimum of 6 months sobriety
- Completion of all phases
- Obtain gainful, consistent employment or involvement in vocation/academic training program
- Maintain a living environment that is conducive to staying clean and sober
- Complete all payments towards electronic monitoring fees and restitution. Make consistent payments towards court costs and fines and have a payment plan set up through the Department of Court Records

Can I be terminated from the Drug Court Program, and if so what could happen?

Participants who do not successfully complete the program or who opt out before successful completion may be sentenced to the mandatory sentence under the law and will be subject to probation violation proceedings.

SANCTIONS & INCENTIVES

Participants who fail to comply with the rules and regulations may be subject to a sanction(s) including but not limited to:

- Verbal admonishment
- Increased reporting requirements
- Increased drug and alcohol testing
- Increased community service hours

- **Increased review hearings**
- **Electronic Monitoring restriction**
- **TAD**
- **Afternoon incarceration in the courthouse holding facility**
- **Immediate short-term incarceration**
- **Weekend incarceration**

Participants who make continuous efforts to comply and reach milestones within the program are rewarded through the courts. Examples of rewards include but are not limited to:

- **Acknowledgement from the Drug Court Team**
- **Increased curfew times**
- **Bi-monthly court hearings**
- **Phase advancement**
- **Early termination of probation**
- **Graduation ceremony**

Who is the Core Drug Court Team?

The Drug Court Team is comprised of a Court of Common Pleas Judge, Assistant District Attorney, Assistant Public Defender, Adult Probation Drug Court Coordinator, three Probation Officers, JRS Specialty Court Supervisor and three Justice Related Drug Court specialists.

What should I expect when I have contact with my Probation Officer?

- **Your Probation Officer will be monitoring your progress at home, work, school and treatment**
- **Your Probation Officer will make regular field visits to your home, work, school and treatment**
- **Your officer will make referrals for job development and community service**
- **Your Probation Officer will conduct frequent and random drug and alcohol tests**
- **Your Probation Officer will notify the Drug Court Team of any and all positive or negative behaviors related to your supervision.**

You should expect your Probation Officer to:

- **Treat you with respect and dignity**
- **Be fair and impartial**
- **Be available to you by phone or person within reason**
- **Discuss your activities and progress**
- **Communicate the appropriate information to the Court regarding your supervision progression**

Role of your Drug Court Specialist:

- Recommend the best level of care for treatment available based on the Pennsylvania Client Placement Criteria (PCPC) drug and alcohol evaluation
- Assist and support you through the referral, admission and any aftercare recommendations throughout your Drug Court phases
- Help connect you with any eligible benefits (i.e. medical assistance, social security or veteran's affairs) support groups, housing, treatment, transportation, vocational training, GED and other community based resources
- Whenever possible refer you to an agency that can meet your treatment needs and allow you to continue working. However, Treatment Comes First !
- Provide accurate and timely progress reports to the Drug Court Team and provide support and/or recommend steps to correct issues or problems

What does Drug Court expect from me?

- Be open and honest to the Drug Court Team at all times
- Remain clean and sober at all times
- Refrain from the use of any and all drugs and or alcohol as outlined by the prescription drug policy. In addition you will refrain from the use of any and all, legal or illegal, synthetic drugs, including but not limited to K-2, Spice and Bath Salts
- Pay costs, fines and fees to the best of my ability
- Maintain employment after the treatment component is finished or attend Employment Development Program
- Attend AA or NA meetings as outlined by the phases
- Attend court review hearings as directed and on time
- Comply with the rules of probation
- Treat the Drug Court staff and peers with respect and dignity

CONTACT INFORMATION

Adult Drug Court Supervisor:	(412) 350-0400	FAX (412) 350-0408
Electronic Monitoring:	(412) 350-0400	FAX (412) 350-0408
Specialty Court Treatment Supervisor:	(412) 350-3332	FAX (412) 350-4395

Evans, Sandy

From: Nadzam,Cassandra
Sent: Thursday, October 20, 2022 10:09 AM
To: Evans, Sandy
Subject: RE: contact

Here you go—let me know if you need anything else

Cassie Nadzam, MSW, LSW
Pronouns: She, her, hers [What's This?](#)
Problem Solving Court Coordinator
Fifth Judicial District of Pennsylvania
Allegheny County Adult Probation
Manor Building, 564 Forbes Ave-12th Floor
Pittsburgh, PA 15219
Office: 412-350-2322
Cell: 412-459-3466
Fax: 412-350-2316
cnadzam@alleghenycourts.us

From: Evans, Sandy <Sandy.Evans@alleghenycourts.us>
Sent: Thursday, October 20, 2022 9:15 AM
To: Nadzam,Cassandra <CNadzam@alleghenycourts.us>
Subject: contact

Good Morning, do you have a business card or can you provide me your contact info please. Thanks

Sandy (Evans) Cephas
ARD Minute Clerk
436 Grant Street Room 306
Pittsburgh Pa 15219
(412) 350-3979

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE UNIFIED JUDICIAL SYSTEM OF
PENNSYLVANIA,

Defendant,

CIVIL NO.

COMPLAINT

Plaintiff, United States of America, respectfully alleges:

1. The United States brings this suit against Defendant, the Unified Judicial System of Pennsylvania (UJS), to enforce Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§12131-34, as amended, and its implementing regulation, 28 C.F.R. Part 35. The UJS has unlawfully discriminated against individuals with Opioid Use Disorder in its court supervision programs, in violation of Title II of the ADA, by prohibiting or otherwise limiting the use of medication prescribed to treat their disability.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under Title II of the ADA, 42 U.S.C. § 12133, and 28 U.S.C. §§ 1331 and 1345.

3. The Court may grant the relief sought in this action pursuant to 28 U.S.C. §§ 2201-2202 and 42 U.S.C. § 12133.

4. The United States has authority to seek a remedy for violations of Title II of the ADA. 42 U.S.C. § 12133; 28 C.F.R. pt. 35, Subpart F.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391, because a substantial part of the events giving rise to this action occurred in this judicial district.

PARTIES

6. Plaintiff is the United States of America.

7. Defendant UJS is established by the Constitution of Pennsylvania and consists of all of the state courts and judges in the Commonwealth of Pennsylvania including “the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal courts in the City of Philadelphia, [and] such other courts as may be provided by law and justices of the peace.” P.A. CONST. art. V, §1. As the state court system of Pennsylvania, the UJS is a “public entity” within the meaning of 42 U.S.C. § 12131(1) and 28 C.F.R. § 35.104 and is therefore subject to Title II of the ADA and its implementing regulation. The Supreme Court is “the highest court in the Commonwealth of Pennsylvania,” and exercises “general supervisory and administrative authority” over the entire UJS. P.A. CONST. art. V, §§ 2, 10(a).

8. Complainants A, B, and C are qualified individuals with disabilities who are protected by Title II of the ADA because of their Opioid Use Disorder (OUD). OUD is a form of drug addiction, which causes clinically significant impairment and distress, including health problems, social problems, and a failure to fulfill obligations at work, school, or home. Complainants’ OUD is a physical or mental impairment that substantially limits one or more major life activities. 42 U.S.C. § 12102(1)(A); 28 C.F.R. § 35.108(b)(2) (listing “drug addiction” among other physical and mental impairments). Complainants are not currently engaging in the illegal use of drugs. 42 U.S.C. § 12210; 28 C.F.R. § 35.131.

FACTS

A. Medication for OUD

9. Methadone, naltrexone, and buprenorphine (including brand names Subutex and Suboxone) are medications approved by the Food and Drug Administration to treat OUD. These medications may be prescribed as part of a comprehensive treatment plan that includes counseling and other behavioral therapies.

10. Methadone and buprenorphine help diminish the effects of physical dependency to opioids, such as withdrawal symptoms and cravings, by activating the same opioid receptors in the brain targeted by prescription or illicit opioids without producing euphoria. Naltrexone, meanwhile, treats OUD by blocking opioid receptors and thereby preventing any opioid from producing rewarding effects such as euphoria or pain relief.

11. How long a patient receives OUD medication is tailored to the needs of each patient, and in some cases, treatment can be indefinite. According to the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA): “OUD medication can be taken on a short- or long-term basis, including as part of medically supervised withdrawal and as maintenance treatment.” SAMHSA, *Treatment Improvement Protocol 63: Medications for Opioid Use Disorder* at ES-3 (July 2021). The best results, according to SAMHSA, “occur when a patient receives medication for as long as it provides a benefit,” an approach referred to as “maintenance treatment.” *Id.* at 1-8.

12. SAMHSA cautions that “patients who discontinue OUD medication generally return to illicit opioid use.” *Id.* This is because addiction to opioids “is more than physical dependence” and actually “changes the reward circuitry of the brain, affecting cognition, emotions, and behavior.” *Id.* If a patient plans to stop use of OUD medication, SAMHSA

advises that they and their providers base decisions “on knowledge of the evidence base for the use of these medications, individualized assessments, and an individualized treatment plan they collaboratively develop and agree upon. Arbitrary time limits on the duration of treatment with OUD medication are inadvisable.” *Id.*

B. The Jefferson County Court of Common Pleas

13. The Jefferson County Court of Common Pleas is a component court of the UJS.

14. The Honorable John Foradora is the presiding—and only—judge for the Jefferson County Court of Common Pleas.

15. On August 3, 2018, Judge Foradora issued an administrative order (below) requiring all individuals under the court’s supervision to be “completely clean” of any “opiate based treatment medication regardless of whether or not these drugs are prescribed,” within 30 days of being sentenced. This included individuals sentenced to the court’s Accelerated Rehabilitative Disposition, Probation, Parole, Intermediate Punishment, and Drug Court

ORDER OF COURT

AND NOW, this 3rd day of August, 2018, this Court and its probation department dealing with opiate abuse by probationers, and this Court finding that the vast majority (well in excess of 80%) of individuals prescribed with Suboxone, Methadone, Subutex and other opiate based treatment programs, abuse those drugs with regularity; and further that it makes these probationers ineffective and nearly impossible to manage; and finally, it does not appear to help the patients in any way to become productive members of society. It should be noted that among the thousands of individuals who have been on probation while prescribed these drugs, there have been less than 15 people who have successfully completed treatment and been completely weaned off of these drugs.

IT IS HEREBY ORDERED AND DECREED that effective immediately but beginning with this Court’s sentencing on August 15, 2018, no individual who is sentenced to ARD, Probation, Parole, Intermediate Punishment or Drug Court shall be permitted to take Suboxone, Subutex, Methadone or any other opiate based treatment medication regardless of whether not these drugs are prescribed, they will be completely clean of the substance within 30 days of the date of their sentence or face probation revocation.

IT IS FURTHER ORDERED AND DECREED that the only exception shall be pregnant probationers (who are pregnant upon commencement of probation) during pregnancy and with the permission of their obstetrician/gynecologist. These probationers shall be off opiates and free of the substance within 30 days of the end of their pregnancy.

programs. The only individuals exempted from the court's prohibition of use of OUD medication were pregnant probationers during their pregnancy.

16. Judge Foradora's administrative order remained in effect for over four and a half months.

17. While it was in place, the administrative order caused individuals under the court's supervision, including Complainants A and B, significant harm.

C. Complainant A

18. Complainant A is an individual with a disability within the meaning of 42 U.S.C. § 12102 because she has OUD, a physical or mental impairment that substantially limits one or more major life activities. 28 C.F.R. § 35.108(b)(2).

19. In 2018, while under state probation supervision, Complainant A began treatment with physician-prescribed buprenorphine, and views that treatment as essential to her recovery.

20. In November 2018, the state transferred Complainant A's probation supervision to Jefferson County.

21. Complainant A's Jefferson County probation officer advised her that she was subject to Judge Foradora's administrative order and that she had 30 days—until December 30, 2018—to stop taking her prescribed OUD medication. If she failed to do so, she would be considered in violation of her probation and sent to jail.

22. Complainant A met with her doctor and—after discussing the risks associated with tapering off her medication, including relapse and death—she attempted to comply with the court's administrative order.

23. Complainant A's attempts to wean caused her significant physical and emotional distress. Complainant A felt nauseous and achy, had trouble getting out of bed, had a reduced

appetite, and experienced mood swings that severely strained her personal relationships.

24. After Judge Foradora rescinded his administrative order on December 21, 2018, Complainant A's physician immediately returned her to her previous dosage. At her next medical appointment, she reported feeling "much improved" with no cravings or withdrawal symptoms.

D. Complainant B

25. Complainant B is an individual with a disability within the meaning of 42 U.S.C. § 12102 because she has OUD, a physical or mental impairment that substantially limits one or more major life activities. 28 C.F.R. § 35.108(b)(2).

26. Complainant B was prescribed buprenorphine in 2018 as part of her treatment for OUD, which she says allows her to be a functioning homeowner, parent, and responsible member of society.

27. In September 2018, facing criminal charges, Complainant B entered the Jefferson County Court's Accelerated Rehabilitative Disposition program, which is designed to keep first time offenders out of jail.

28. As with Complainant A, Complainant B's Jefferson County probation officer told her that, pursuant to Judge Foradora's order, she had to stop using her OUD medication.

29. Complainant B attempted to comply with the court's administrative order, which caused her significant emotional distress and significant withdrawal symptoms, including insomnia, cramps, abdominal pain, nausea, and vomiting.

30. Complainant B required emergency treatment as a result of her withdrawal symptoms on at least one occasion.

31. When Complainant B's initial efforts to taper were unsuccessful, Jefferson

County probation referred her to an inpatient residential treatment program for the express purpose of detoxing her off her OUD medication. She spent more than a month at the facility but was ultimately unable to fully taper.

32. After Judge Foradora rescinded his administrative order on December 21, 2018, Complainant B returned to being treated by a physician with OUD medication and has continued with such treatment.

E. The Northumberland County Court of Common Pleas Drug Court Program

33. The Northumberland County Court of Common Pleas is a component court of the UJS.

34. The Northumberland County Drug Court program, administered by the Northumberland County Court of Common Pleas, provides an alternative to incarceration for individuals with substantial but non-violent and non-sexual criminal histories and “current addiction issues.”

35. Participants must comply with various program requirements. These include submitting to frequent drug testing, engaging in treatment, and reporting regularly to the drug court and to their probation officer.

36. To graduate from the program, participants must complete three sequential phases, structured to last 18 months.

37. The Honorable Paige Rosini of the Northumberland County Court of Common Pleas oversees the drug court program with the assistance of a treatment court team (hereafter, “Treatment Court Team” or “Team”). The Team includes representatives from Northumberland County’s Adult Probation and Drug & Alcohol Departments and a representative from a private provider of treatment services.

38. Judge Rosini bears ultimate responsibility for determining who is admitted to the drug court and whether they advance or graduate.

F. Complainant C

39. Complainant C is an individual with a disability within the meaning of 42 U.S.C. § 12102 because she has OUD, a physical or mental impairment that substantially limits one or more major life activities. 28 C.F.R. § 35.108(b)(2).

40. Since at least 2016, Complainant C has been prescribed buprenorphine by a physician as part of her OUD treatment plan. Buprenorphine has helped her stay stable, enabling her to buy a house, start a small business, and be a better parent to her young child.

41. Complainant C was admitted to the Northumberland County Drug Court on or about October 2016 after pleading guilty to driving under the influence.

42. Judge Rosini and the Treatment Court Team were concerned about Complainant C's use of buprenorphine and informed her that to continue or advance in the program she would need to stop taking her prescribed medication. The Team then took various steps to achieve this end.

43. The Team sent Complainant C to an in-patient treatment rehabilitation facility to be detoxed from buprenorphine.

44. The Team referred Complainant C to an abstinence-based intensive outpatient treatment provider that restricted her participation because of her OUD medication.

45. The Team delayed Complainant C's progression through the successive phases of drug court because of her failure to taper off her medication, despite the fact that she otherwise satisfied the criteria for advancement and graduation.

46. For more than two years, the Team repeatedly directed Complainant C to stop

using her medication despite being informed by her doctor that Complainant C was doing well on buprenorphine and that tapering her off of it “could put her at increased risk of relapse, overdose, and death.”

47. Complainant C made multiple attempts to comply with the Team’s directives and experienced significant emotional distress and severe side effects as a result, including loss of appetite and energy, body aches, soreness, backpain, diarrhea, depression, and anxiety.

48. Ultimately, Complainant C stopped trying to taper when her symptoms and opioid cravings increased to the point that she feared she would relapse.

49. Complainant C was finally permitted to graduate from drug court in October 2020, after spending four years in what is typically a less-than-two-year program.

50. Complainant C had spent more time in drug court than any other participant in the program’s history.

G. Other Pennsylvania Treatment Court Programs

51. The United States alleges that other UJS courts have or had policies that prohibit or otherwise limit the use of OUD medication by individuals in “treatment court” programs providing court supervision. These treatment court programs, which include drug treatment, mental health, and veterans courts, are also referred to as “problem-solving courts” in Pennsylvania.

52. Some of these policies explicitly ban specific forms of OUD medication. Others are inconsistent in how they address OUD medication and its use.

53. The Allegheny County Court of Common Pleas’ Mental Health Court requires court approval for OUD medication, and cautions that permission to use OUD medication is granted “only on rare occasions” and that “[i]f a regularly prescribing physician feels that a client

needs to be on any prohibited prescription continuously to sustain a certain quality of life, then the client may not be acceptable to participate in the Mental Health Court Program.”

54. The Blair County Court of Common Pleas prohibits participants in its treatment courts who have OUD from taking any OUD medication other than Vivitrol (i.e., naltrexone). It does not allow the use of other commonly prescribed medications such as methadone or buprenorphine.

55. The Butler County Court of Common Pleas’ Drug Treatment Court, until June 2021, stated in its publicly-available policy manual that it did not allow the use of methadone or suboxone while in the program.

56. The Clinton County Court of Common Pleas’ three treatment courts all restrict participants from getting OUD medication outside of that small rural county.

57. The Delaware County Court of Common Pleas’ policies for its three treatment courts on its website all prohibit use of “[m]aintenance drugs in any form such as Vivitrol, Subutex, Suboxone, Methadone, Buprenorphine, and Naltrexone....”

58. The York County Court of Common Pleas’ policies for its DUI and Mental Health Courts on its website ban the use of methadone and suboxone.

CAUSE OF ACTION
Violation of Title II of the Americans with Disabilities Act
(42 U.S.C. §§ 12131-12134)

59. The foregoing paragraphs are incorporated herein.

60. All conditions precedent to the filing of this Complaint have occurred or been performed. *See* 28 C.F.R. Part 35, Subpart F.

61. Defendant UJS, through the acts and omissions of its component courts, has directly, or through contractual, licensing, or other arrangements, violated Title II of the ADA,

42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, by discriminating on the basis of disability, including by:

a) denying qualified individuals with disabilities, including the individuals identified herein, an equal opportunity to participate in or benefit from its services, programs, or activities—including probationary and treatment court supervision—in violation of 28 C.F.R. § 35.130(a)-(b);

b) imposing or applying unnecessary eligibility criteria that screen out or tend to screen out an individual with a disability, including the individuals identified herein, or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity. 28 C.F.R. § 35.130(b)(8).

c) utilizing criteria or methods of administration that (i) have the effect of subjecting qualified individuals with disabilities, including the individuals identified herein, to discrimination on the basis of disability; and (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of Defendant's programs in which such individuals are participating. 28 C.F.R. § 35.130(b)(3).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff United States prays that the Court:

A. Grant judgment in favor of the United States and declare that Defendant UJS has violated Title II of the ADA, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35;

B. Enjoin Defendant and its agencies, agents, employees, instrumentalities, successors, and all persons in active concert or participation with it from engaging in discriminatory policies and practices against individuals with disabilities or otherwise violating

Title II of the ADA and its implementing regulation;

C. Require Defendant to adopt or revise its policies to explicitly state that no court within the UJS may discriminate against, exclude from participation, or deny the benefits of their services, programs, or activities—including county court proceedings, probationary programs, and treatment courts—to qualified individuals with disabilities because they take prescribed OUD medication;

D. Order Defendant to identify one or more employees responsible for monitoring the compliance of courts within the UJS with the ADA, training court staff, and overseeing investigations and resolutions of ADA complaints or grievances;

E. Order Defendant to update its complaint process as needed, to ensure that ADA-related complaints filed against any court in the UJS are promptly reviewed, investigated, and equitably resolved in compliance with 28 C.F.R. § 35.107;

F. Order Defendant to train and educate all court staff about OUD and the nondiscrimination requirements of Title II of the ADA;

G. Award compensatory damages to the Complainants and other aggrieved individuals for injuries caused by the ADA violations alleged in this Complaint;

H. Order such other appropriate relief as the interests of justice may require.

DEMAND FOR JURY TRIAL

Plaintff demands a trial by jury as to all issues, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Electronically filed on: February 24, 2022

Respectfully submitted,

/s/ Jennifer Arbittier Williams

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