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December 29, 2023

The Honorable John S. Edwards
Co-Chair, Judiciary Committee
Senate of Virginia
P.O. Box 1179
Roanoke, Virginia 24006-1179

The Honorable R. Creigh Deeds
Co-Chair, Judiciary Committee
Senate of Virginia
P.O. Box 5462
Charlottesville, Virginia 22905-5462

The Honorable Terry G. Kilgore
Chair, Courts of Justice Committee
Virginia House of Delegates
2309 Finch Court
Charlottesville, VA 22911

Re: Chapter 489, Enactment Clause 5 Report

Dear Chairs Edwards, Deeds, and Kilgore:

Chapter 489, Enactment Clause 5, of the Virginia Acts of Assembly (Special Session I, 2021) requires the Office of the Executive Secretary of the Supreme Court of Virginia to report to the House Committee for Courts of Justice and the Senate Committee on the Judiciary on the expanded workload of the Court of Appeals of Virginia each year for three years, with the first report to be made by January 1, 2023. Please find attached the second report from the Court of Appeals detailing the Court of Appeals' complete case filing and processing data for 2022, and the first nine months of data collected in 2023.

If you have any questions, please do not hesitate to contact me.

With best wishes, I am

Very truly yours,



Karl R. Hade

KRH:awp

Attachment

cc: The Honorable Richard L. Saslaw
The Honorable Thomas K. Norment, Jr.
The Honorable L. Louise Lucas
The Honorable Mark D. Obenshain
The Honorable Ryan T. McDougale
The Honorable Richard H. Stuart
The Honorable William M. Stanley, Jr.
The Honorable J. Chapman Petersen
The Honorable Scott A. Surovell
The Honorable Jennifer B. Boysko
The Honorable Joseph D. Morrissey
The Honorable Mark J. Peake
The Honorable James A. Leftwich Jr.
The Honorable Margaret B. Ransone
The Honorable Nicholas J. Freitas
The Honorable Jason S. Ballard
The Honorable Wren M. Williams
The Honorable Ellen H. Campbell
The Honorable Vivian E. Watts
The Honorable Charniele L. Herring
The Honorable Patrick A. Hope
The Honorable Jeffrey M. Bourne
The Honorable Marcus B. Simon
The Honorable Richard C. Sullivan Jr.
The Honorable Karrie K. Delaney
The Honorable Don L. Scott Jr.
The Honorable Michelle Lopes Maldonado
Division of Legislative Automated Systems



Report to the House Committee for Courts of Justice
and the Senate Committee on the Judiciary
Expanded Workload of the Court of Appeals of Virginia
2023





THE COURT OF APPEALS OF VIRGINIA

2023



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EXECUTIVE SUMMARY:

This second annual report details the Court of Appeals' complete case filing and processing data for 2022, and the first nine months of data collected in 2023. As discussed in this Report, key points regarding the Court's workload and processes include the following:

- The Court's case management system hinders its ability to work efficiently and accurately track case information from an appeal's beginning to end. An updated case management system that allows for integrated electronic filing and public access would enhance the Court's ability to better serve the Commonwealth and provide the General Assembly with more accurate data.
- The Court anticipates approximately 2,225 new case filings in 2023, which exceeds pre-pandemic levels. The Court anticipates new case filings will continue to rise as the circuit courts conclude cases stalled by the pandemic. The Court expects that appellate filings will normalize sometime after 2025, likely in 2026.
- The number of motions filed on appeal continues to increase. The Court will receive well over 4,000 motions in 2023. The increase in the number and type of motions being filed has intensified the workload for the Clerk's Office, Chief Staff Attorney's Office, and Judicial Chambers.
- The increased case life of the Court's cases is attributable to four main factors: (1) docket crowding; (2) the complications associated with increased pro se litigation; (3) the increase in motions filed with the Court; and (4) the complexity of legal issues as well as more concurrences and dissents in opinions. However, the Court continues to improve its processes and the resulting improved efficiency will decrease the time it takes to resolve cases.
- In 2023, the Court added more oral argument panels to process more cases in a timely manner. The Court has also re-routed cases with procedural issues or those that are authoritatively decided or wholly without merit to standing panels, which has added to efficiently resolving more cases. The Court's overall clearance rate this year was at 76% on September 30, 2023. By adding oral argument panels and by more effectively utilizing panels, the Court expects that the clearance rate will reach 80% by the end of 2023. As the Court continues to adjust internal procedures it expects more improvement in this metric in 2024.

Report to the House Committee for Courts of Justice and the Senate Committee on the Judiciary on the Expanded Workload of the Court of Appeals of Virginia for 2023

I. Introduction:

The Court of Appeals delivers this report to the General Assembly’s House Committee for Courts of Justice and the Senate Committee on the Judiciary pursuant to Enactment Clause 5 of the 2021 Va. Acts, Sp. Sess. I, c. 489. This second annual report provides a final overview for 2022 and analyzes the data available for the first nine months of 2023. This report also provides an updated explanation of the Court’s current organization and case processing procedures.¹



¹ Producing this report has involved the efforts of several offices and departments. The Court’s sincerest appreciation goes to Clerk of Court John Vollino, Chief Staff Attorney Alice Armstrong, and their hard-working teams. Special recognition also goes to Director Meredith Farrar-Owens and Research Associate Marc Leslie of the Virginia Criminal Sentencing Commission for their assistance in analyzing data from the Court’s case management system. Finally, the Court is grateful for the efforts of Robert Blosser, Administrative Staff Attorney, for tracking data, identifying trends, and compiling this report.

II. Court Jurisdiction:

The Court of Appeals of Virginia hears appeals as a matter of right from any final:

- judgment, order, or decree of a circuit court;
- order of conviction in criminal or traffic matters;
- decision of the Virginia Workers' Compensation Commission;
- decision of a circuit court on appeal from an administrative agency decision;
- decision of a circuit court on an application for a concealed weapons permit;
- order of a circuit court involving involuntary treatment of prisoners; and
- order for declaratory or injunctive relief addressing whether a person's free exercise of religion has been burdened by the Commonwealth or local government.

The Court may grant petitions from:

- certain preliminary rulings in felony cases when requested by the Commonwealth;
- certain interlocutory orders when certified by the trial court; and
- any order of consolidation or joinder in a case brought under the Multiple Claimants Litigation Act.

The Court has original jurisdiction to:

- consider petitions for a writ of actual innocence based on nonbiological evidence;
- consider petitions for a writ of mandamus, writ of prohibition, or, in limited instances, a writ of habeas corpus; and
- exercise contempt power.

III. Court Structure:

A. Court Leadership

Chief Judge:

- Marla Graff Decker, Henrico County

Judges:

- Robert J. Humphreys, City of Virginia Beach (Retiring January 1, 2024)
- Randolph A. Beales, Mecklenburg County & Henrico County
- Glen A. Huff, City of Virginia Beach
- Mary Grace O'Brien, Prince William County
- Richard Y. AtLee, Jr., York County
- Mary Bennett Malveaux, Henrico County
- Clifford L. Athey, Jr., Town of Front Royal
- Junius P. Fulton, III, City of Norfolk
- Daniel E. Ortiz, Fairfax County
- Doris Henderson Causey, Henrico County
- Frank K. Friedman, City of Roanoke
- Vernida R. Chaney, City of Alexandria
- Stuart A. Raphael, Arlington County
- Lisa M. Lorish, City of Charlottesville
- Dominique A. Callins, Warren County
- Kimberley Slayton White, Halifax County

Senior Judges:

- Rosemarie Annunziata, Fairfax County
- Jean Harrison Clements, Town of Leesburg
- James W. Haley, Jr., Stafford County
- William G. Petty, City of Lynchburg

Retired Judge:

- Robert P. Frank, City of Newport News

Clerk of Court:

- A. John Vollino

Chief Staff Attorney:

- Alice T. Armstrong

Reporters of Decisions:

- Professor Ronald J. Bacigal, Criminal Opinions
- Professor James Y. Stern, Civil Opinions

B. Court Operations: The Clerk’s Office and Chief Staff Attorney’s Office

The Court of Appeals of Virginia currently employs 127 full-time employees, including seventeen judges. This is an increase from 78 full-time employees in 2019. With six new judgeships added in 2021, the Court also added eighteen full-time positions to the Court’s judicial staff. Additionally, since July 2021, the Chief Staff Attorney’s Office has added thirteen new positions and the Clerk’s office has added fourteen new positions.

The Court continues to evaluate its staffing needs considering its growing workload and the complexity of the cases. As the circuit courts have been addressing their COVID-19 pandemic-related backlogs, the appeals before the Court now involve more complex issues. Further, increased case-related filings, typically in the form of motions, require personnel across the Clerk’s Office, Chief Staff Attorney’s Office and the Court to ensure timely review and disposition of those filings.

Court of Appeals Case flow overview:



1. Clerk’s Office Key Functions and Organization

Led by John Vollino, the Clerk’s Office restructured its staff to accommodate the Court’s new jurisdiction and workflow. The Clerk’s office employs professionals who work across six different teams:

- The **Case Administration Team** is the public-facing staff of the Court and routinely answers questions and receives filings. When any pleading or brief is filed through the Virginia Appellate Courts Electronic System, the Case Administration Team must manually download the filing, review it for compliance, and upload it to the Court’s internal case management system. This team similarly manages paper filings and Court mail. It also reviews briefs and original jurisdiction petitions for rule compliance and ensures that they are ready for Court review.

- The **Records Team** coordinates with the lower tribunals to collect the case record after an appeal is initiated and notifies litigants when a record or record addendum is received. When the Court receives an electronic record, the Records Team downloads each component of the record, saves it locally and then uploads it to the case management system. Additionally, this team compiles the documents into a secure, cloud-based storage system and provides parties with a link to the record. When the Court receives a paper record, the Records Team reviews it for completeness and makes it available for review in the Clerk's office during regular business hours. This team also prepares and sends records to the Supreme Court of Virginia for those decisions of the Court that are appealed to that Court and returns records to the lower tribunals once an appeal has ended.
- The **Motions Team** handles preliminary motions related to the record, briefing, and bonds. The Motions Team also reviews and routes substantive, procedural, and dispositive motions to the Chief Staff Attorney's Office for preliminary review or directly to a panel for review and consideration. Additionally, the Motions Team reviews and processes procedurally defaulted cases. It also evaluates appeals that present unusual procedural issues to determine the proper route for resolution.
- The **Dockets Team** assigns cases to panels for oral argument. Once a case is fully briefed the Dockets Team assigns it to the next available panel in the region where the case originated. The Dockets Team manages the scheduling and logistics for argument panels held throughout the Commonwealth and manages motions and other filings once a case has been assigned to a panel.
- The **Dispositions & Actual Innocence Team** reviews the Court's opinions and orders for formatting and any necessary corrections before releasing them to the parties and the public. The Dispositions & Actual Innocence Team drafts and issues mandates for the Court's decisions. This team also reviews and issues interlocutory and dispositional orders regarding actual innocence filings.
- The **Court Operations Team** supports the Court and its employees with a wide range of issues, from leasing office space and event planning, to troubleshooting technology glitches and improving the functionality of our case management system. This team is also responsible for health and safety protocols, supplies, and logistical matters.

Clerk's Office of the Court of Appeals of Virginia

A. John Vollino, Clerk of Court

1 Executive Assistant to the Clerk
1 Clerk's Assistant

Dockets

1 Senior Deputy Clerk
4 Deputy Clerks

Motions

1 Chief Deputy Clerk
2 Deputy Clerks

Dispositions & Actual Innocence

1 Senior Deputy Clerk
6 Deputy Clerks
1 Senior Clerk's Assistant

Case Administration

2 Deputy Clerks
1 Senior Clerk's Assistant
3 Clerk's Assistants

Court Operations

1 Managing Deputy Clerk
1 Logistics Coordinator

Records Administration

1 Deputy Clerk
1 Senior Clerk's Assistant
4 Clerk's Assistants
1 Part-time Clerk's Assistant

Total Staffing:

1 Clerk of Court	15 Deputy Clerks*	8 Clerk's Assistants
1 Chief Deputy Clerk	1 Logistics Coordinator	1 Executive Assistant to the Clerk
1 Managing Deputy Clerk	3 Senior Clerk's Assistants	1 Part-time Clerk's Assistant
2 Senior Deputy Clerks		

***Note: The Virginia Code requires a designation of "deputy clerk" for that employee to process Court documents and to sign and issue orders on behalf of the Court.**

2. Chief Staff Attorney's Office Key Functions and Organization

The Office of the Chief Staff Attorney (CSA) conducts preliminary reviews of motions, appeals, and original jurisdiction petitions. The staff attorneys check for compliance with all procedural rules, conduct legal research, and provide the Court with an initial analysis of the legal and procedural issues presented in each filing. The CSA also provides staff support to the Court's Senior Judges, including assistance with researching and drafting opinions because the Senior Judges do not have their own law clerks.

Although each staff attorney is expected to work on any case assigned, the CSA currently is organized into six teams with primary focus areas to maximize efficiency through specialization. The six teams are the Actual Innocence/Original Jurisdiction Team, the Civil Team, Criminal Teams A and B, the Senior Judge/Utility Team, and the Motions and Procedural Review Team. Each team is led by a Senior Staff Attorney who reports to the Chief Staff Attorney.

Chief Staff Attorney's Office of the Court of Appeals of Virginia

**Alice T. Armstrong,
Chief Staff Attorney**
1 Deputy Chief Staff Attorney
1 Administrative Assistant
1 Administrative Staff Attorney
2 Paralegals

Civil Team
1 Senior Staff Attorney
5 Staff Attorneys

**Actual Innocence &
Original Jurisdiction Team**
1 Senior Staff Attorney
2 Staff Attorneys

Criminal Team A
1 Senior Staff Attorney
2 Staff Attorneys

Criminal Team B
1 Senior Staff Attorney
2 Staff Attorneys

Senior Judge/Utility Team
1 Senior Staff Attorney
1 Staff Attorney
2 Law Clerks to Senior Judges

**Motions and Procedural
Review Team**
1 Senior Staff Attorney

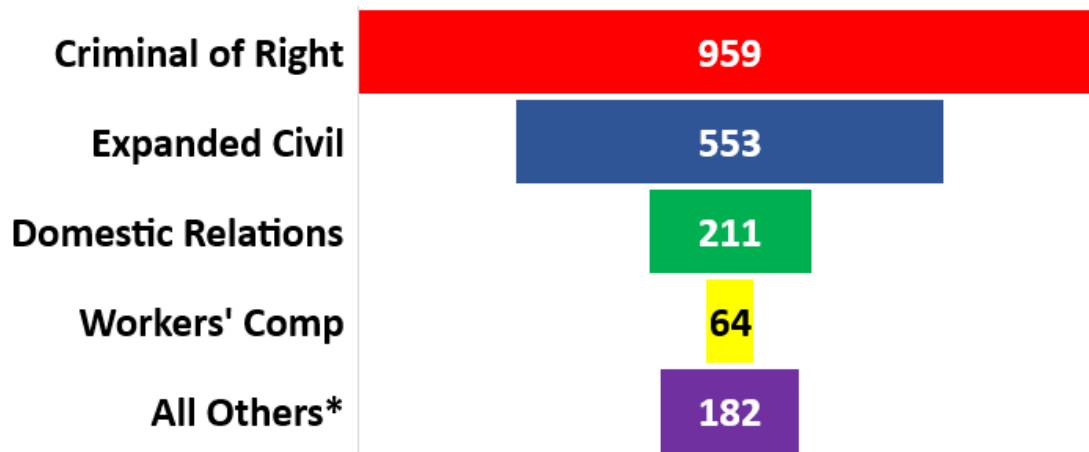
Total Staffing:
1 Chief Staff Attorney
6 Senior Staff Attorneys
2 Law Clerks to Sr. Judges
1 Administrative Assistant
1 Deputy Chief Staff Attorney
12 Staff Attorneys
1 Administrative Staff Attorney
2 Paralegals

IV. Expanded Jurisdiction: Final 2022 Data Summary

The Court of Appeals' *2022 Report to the House Committee for Courts of Justice and the Senate Committee on the Judiciary: Expanded Workload of the Court of Appeals of Virginia*, detailed the trends observed in the first nine months after the Court's expanded jurisdiction. Before analyzing the 2023 data in this second annual report, this section completes the review of the 2022 data.

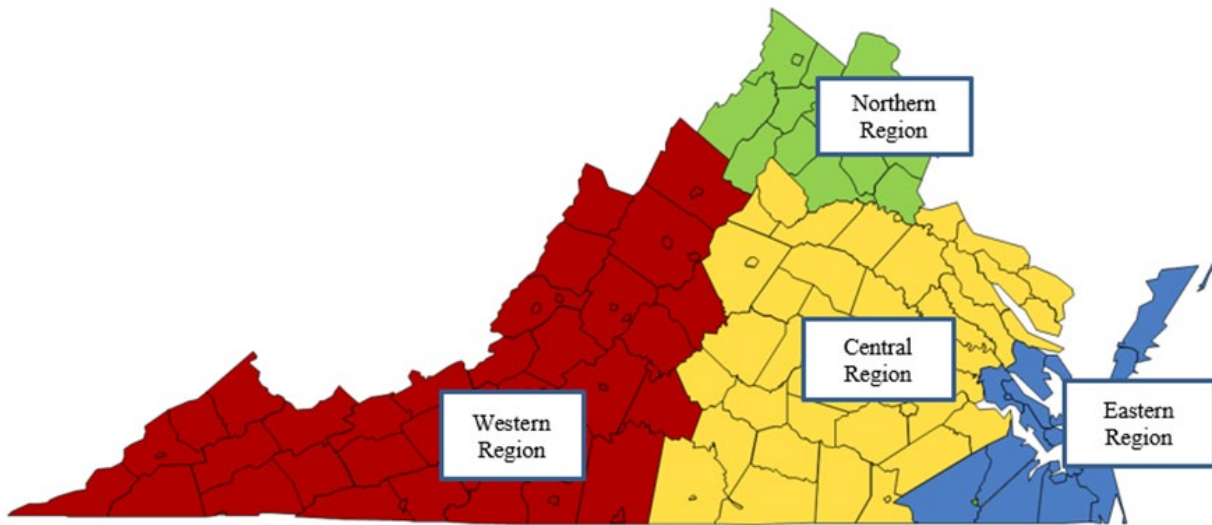
In 2022, the Court received 1,969 new cases (appeals and petitions), an increase over the previous two COVID-19 pandemic affected years. Criminal appeals continued to lag compared to pre-pandemic numbers, however, with 959 criminal appeals filed with the Court. Civil case filings increased over the course of the year, with 553 civil appeals filed under the new, expanded jurisdiction. New cases in these two categories accounted for almost 77% of the total new cases in 2022 (1,512 of 1,969 total cases).

Court of Appeals: New Cases Filed by Category - 2022



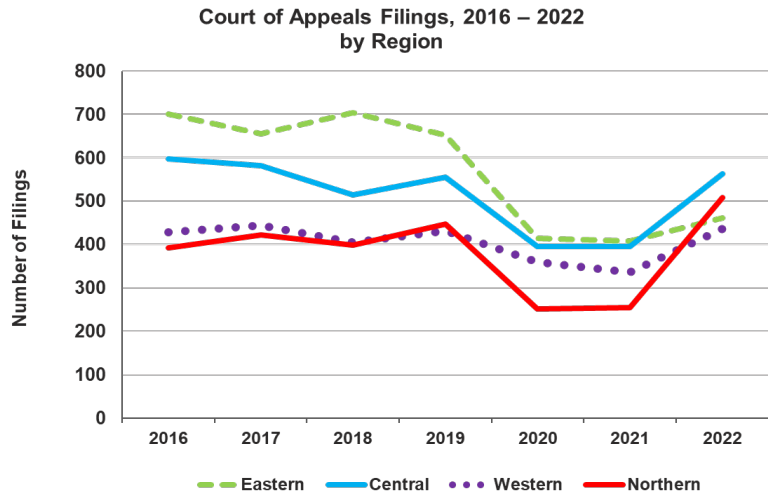
* "All Others" includes but is not limited to: Actual Innocence Petitions, Administrative Agency appeals, Commonwealth Pre-trial Appeals, Concealed Weapons, Interlocutory- Certifications, Mandamus and Prohibitions, and Sexually Violent Predator Appeals, among others.

The Court divides the cases among the following regions:

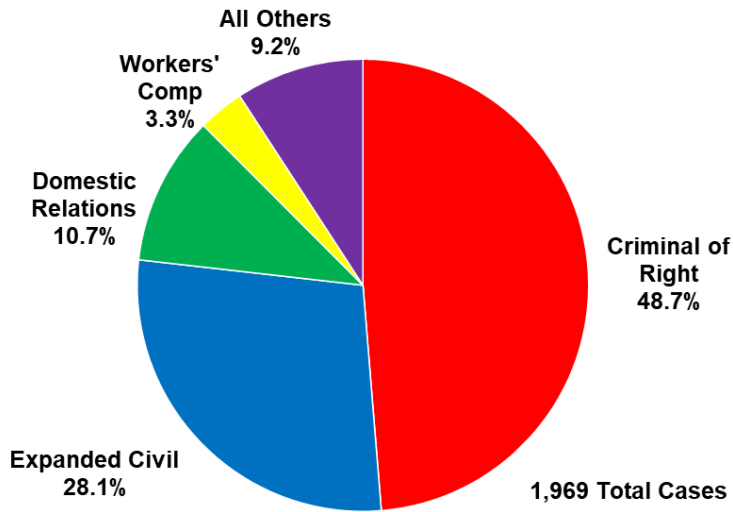


2022

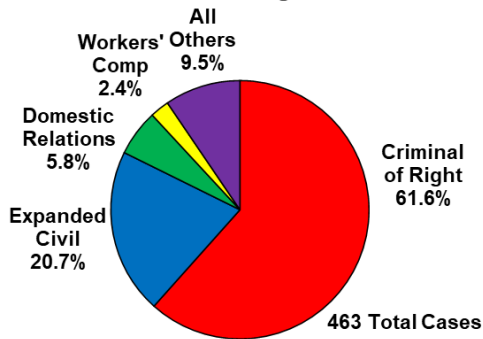
The Eastern Region case intake did not return to pre-pandemic levels. The Central and Western Regions, however, have approached or slightly surpassed the pre-pandemic levels. The Northern Region, because of new civil filings, substantially surpassed pre-pandemic levels.



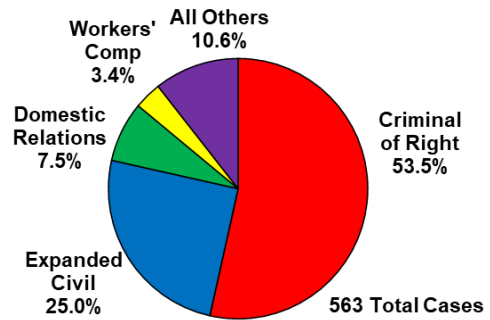
**Court of Appeals New Cases Filed, 2022
by Case Category
STATEWIDE**



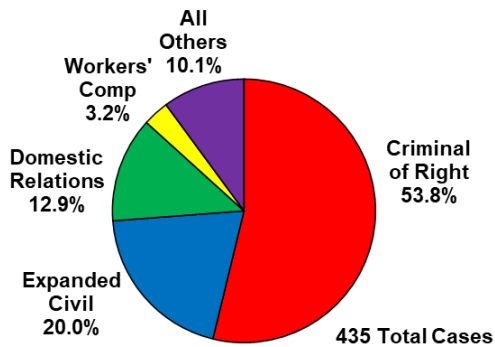
Eastern Region



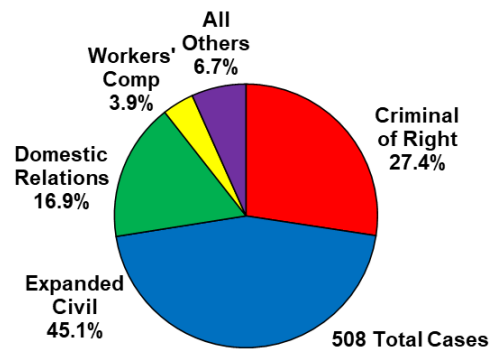
Central Region



Western Region



Northern Region



The changes to the Court’s jurisdiction required new procedures for appeals of right for most case types. At the end of 2021, the Court began converting the pending criminal petitions for appeal into appeals of right. The conversion essentially reset the briefing schedules for those cases, extending the average life of those appeals. Consequently, the Court’s clearance rate,² which had been near 100% from 2016 until 2021, dropped to roughly 68% in 2022. Nevertheless, the overall clearance rate improved throughout the year as the case life normalized for appeals of right. Over the last six months of 2022, the clearance rate was 75.8%.

Month	Filings Received	Dispositions Released	Clearance Rate	Quarterly Clearance Rate
Jan-22	145	51	35.2%	46.9%
Feb-22	173	77	44.5%	
Mar-22	172	102	59.3%	
Apr-22	151	109	72.2%	72.7%
May-22	156	117	75.0%	
Jun-22	165	117	70.9%	
Jul-22	140	119	85.0%	77.5%
Aug-22	190	150	78.9%	
Sep-22	177	124	70.0%	
Oct-22	171	119	69.6%	74.0%
Nov-22	162	131	80.9%	
Dec-22	167	120	71.9%	
Total 2022	1969	1336	67.9%	

The Court released a total of 669 opinions in 2022. Overall, the Court affirmed the decision of the lower tribunal in 599 cases (89.5%). The Court affirmed the lower tribunal in part in 23 cases (3.4%). The Court reversed the lower tribunal’s decision in 47 cases (7.1%).

The Court published 80 of its opinions in 2022.³ In the 80 published opinions the Court affirmed the lower tribunal in 51 cases (63.8%), while 10 opinions affirmed the lower tribunal in part (12.4%). The Court reversed or vacated the lower tribunal in 19 published opinions (23.8%). Criminal appeals accounted for the greatest number of published opinions (55 of the 80).

² The clearance rate is the number of appeals that the Court has finalized over the course of the year compared to the number of cases that have been initiated during the same year. The clearance rate indicates whether the Court’s case inventory has expanded during the year.

³ “Published” cases generally are those that set legal precedent and establish, modify, or clarify a rule of law; call attention to existing or overlooked areas of law; or involve a legal or factual issue of unique interest or substantial public importance.

Published Opinions 2022					
Case Type	Total Cases	Aff'd	Aff'd in Part	Reversed	Vacated
Criminal	55	39	7	9	0
Expanded Civil	10	4	0	5	1
Domestic	7	3	3	1	0
Workers Comp	2	2	0	0	0
Agency	3	1	0	2	0
Grievance	2	1	0	1	0
Bond Appeal	1	1	0	0	0
All	80	51	10	18	1

Note: For clarity the dispositions on this chart are delineated as “Affirmed,” “Affirmed in Part,” “Reversed” and “Vacated.” See the appendix for a more detailed itemization of dispositions.

Finally, the Court received a total of 3,091 motions (more than 255 per month). In contrast, the Court received 2,110 motions in 2019 (roughly 175 per month). Although, the Court’s expanded civil cases added to the increased motions practice, criminal appeals also generated significantly more motions in 2022 than in 2019.

Motions Totals: 2019 - 2022

Year	Yearly Total	Monthly Avg.
2022	3091	257.6
2021	1718	143.2
2020	2023	168.6
2019	2110	175.8

Year	Total Motions	Criminal Total	Expanded Civil Total
2022	3091	1890*	598
2019	2110	1323	NA

* “Criminal Total” in 2022 includes motions in both “Criminal Appeals” and “Criminal of Right” cases.

Frequently Received Motions in 2022

Motion Type	Number
Extension of Time	1,491
Miscellaneous	251
Withdraw/Settle Prelim. Review Case	170
Withdraw as Counsel	151
Dismiss Case	147

V. Expanded Jurisdiction: Year to Date 2023 Data Analysis⁴

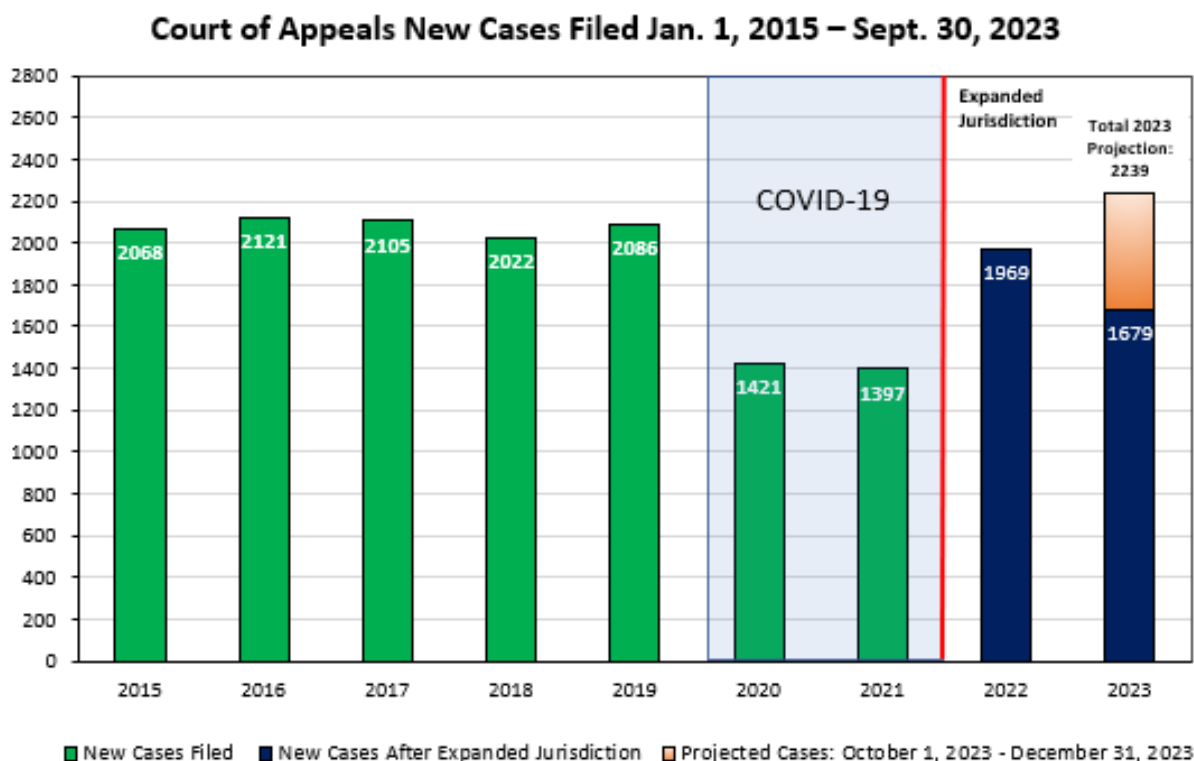
A. Introduction

The changes to the Court’s jurisdiction increased its workload not only quantitatively but also qualitatively. As expected, the Court’s workload has continued to increase in 2023 as the appellate cycle normalizes following the pandemic. While the Judicial State of Emergency expired in June 2022, many jurisdictions continue to work through cases delayed by the pandemic and new upticks of COVID-19. Thus, the pandemic’s lingering effects continue to impact the Court’s workload as cases are resolved in the lower tribunal.

B. Data from Case Life Stages

1. Intake of new cases in 2023

The Court has received 1,679 new cases, a significant jump from the 1,470 reported for the same period in 2022. The current monthly average suggests that the total number of new cases filed in 2023 will exceed pre-pandemic filings. In the five years preceding 2020, the Court averaged just over 2,080 new appeals per year. The Court anticipates receiving just over 2,225 new cases in 2023 and for the upward trend to continue in 2024.

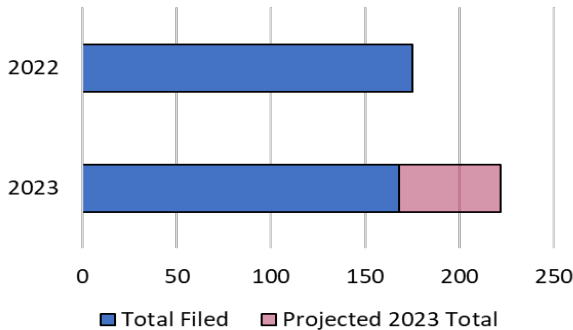


Note: The reported filings for 1985-2022 reflect the years’ complete data

⁴ Unless otherwise specified, all case data reported for 2023 reflects the period from January 1 through September 30, 2023.

In addition to the 1,679 new cases, the Court routinely considers many pre-case matters that are not assigned a case record number. These matters include, but are not limited to, pre-trial bond appeals and motions for delayed appeals. The total number of pre-case matters is difficult to track as many eventually ripen into a case and then receive a record number. The limited information that the case management system collects indicates that there has been an increase in these pre-case matters in 2023. The Court received 168 pre-case matters to date compared to 178 of such in 2022.⁵

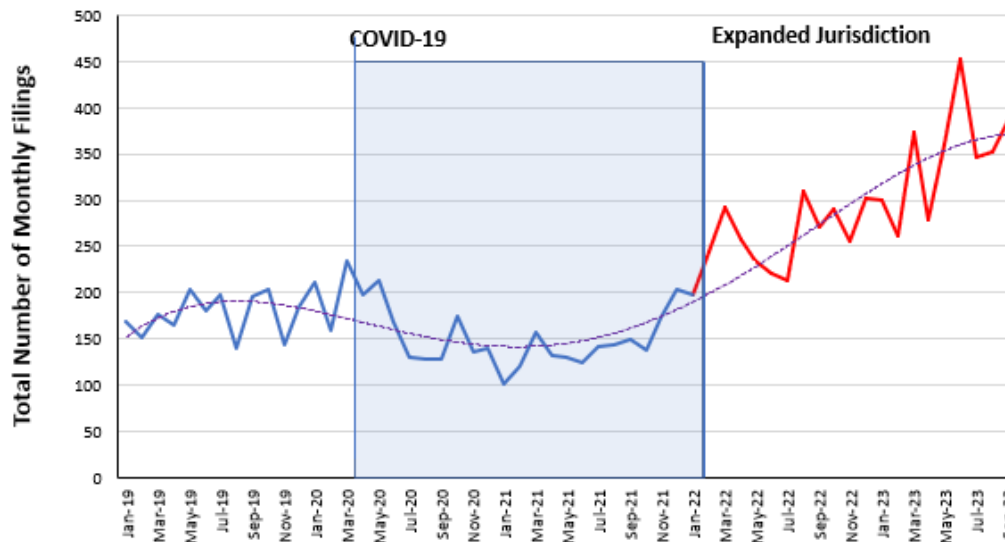
Total Pre-Case Matters Filed by Year



2. Motions in 2023

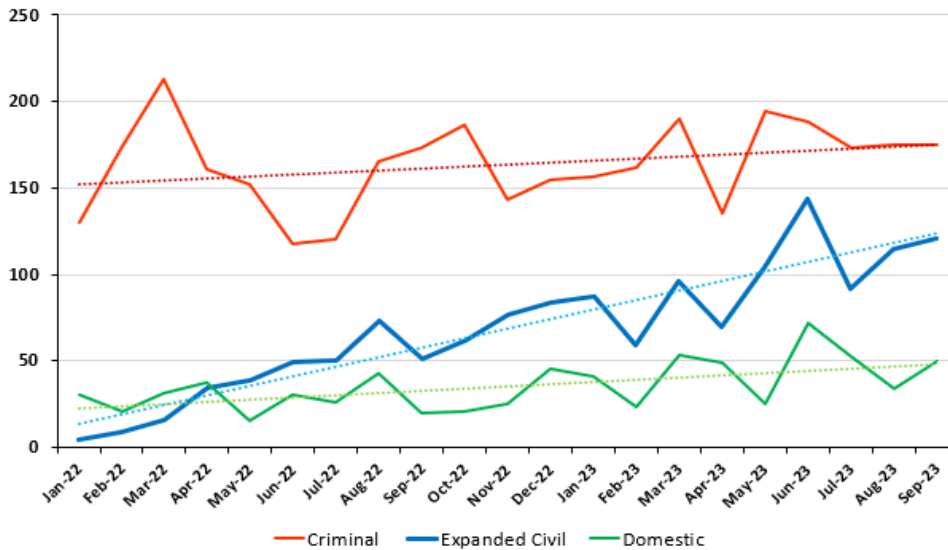
The Court has received 3,111 motions, up from the 3,091 motions filed in 2022. The Court anticipates that motions filings will continue to rise in conjunction with the growing number of appeals. As noted for the 2022 trends, many of these motions are filed in civil cases, but motions in criminal cases are also increasing.

Motions Filings Between Jan 1, 2019 – September 30, 2023



⁵ Records indicate 122 of those pre-case matters were filed between January 1, 2022, and September 30, 2022.

**Motions by Case Category Jan. 2022 – Sept. 30, 2023
(Top Three Categories)**



The total number of motions filed in criminal appeals remained relatively stable between 2016 and 2019, averaging 1,336.5 motions per year. Thus, the average was fewer than one motion filed per case in those years. In contrast, criminal cases are currently generating almost two motions per case.

Year	Criminal Cases Filed	Total Criminal Motions	Average Motions/Case
2016	1530	1294	0.85 /case
2017	1501	1396	0.93 /case
2018	1470	1333	0.91 /case
2019	1493	1323	0.89 /case
2022	959	1890	1.97 /case
2023 (to 9/30)	827	1547	1.87 /case

The increase in criminal motions has occurred despite a large drop in the number of *Anders* motions⁶ filed in criminal matters. Even after the Court addressed the 300 converted appeals, criminal appeals of right have generated a significant increase in motions for extension of time. Although most such motions are not difficult for the Clerk’s office to process, they still require staff time and extend the case life of the Court’s inventory of criminal cases.

⁶ In *Anders v. California*, 386 U.S. 738 (1967), the Supreme Court of the United States announced the procedure attorneys and reviewing courts must follow when an attorney concludes that the client’s appeal is frivolous. The attorney must file a brief explaining any arguably meritorious issues, along with a motion for an extension of time for the client to raise any issues, and a motion to withdraw from the representation. The Court of Appeals grants the *Anders* motion for an extension of time for the appellant to file a supplemental brief when the *Anders* appeal is filed; the number reflected above includes the special extension of time for a client to independently raise issues with the Court.

Year	Criminal Motions Filed	Motions for Ext. of Time in Criminal Cases	% of Ext. of Time/ Total Criminal Motions
2016	1294	515	39.8%
2017	1396	528	37.8%
2018	1333	574	43.1%
2019	1323	524	39.6%
2022	1890	1064	56.3%
2023 (to 9/30)	1547	879	56.8%

The number of motions filed in the Court’s expanded civil cases increased quickly. As with criminal cases, many are motions for extension of time. The most significant trend with these civil filings is the steadily increasing volume of “Miscellaneous”⁷ and “Dismiss Case” motions in 2022 and 2023. Whereas “Miscellaneous” and “Dismiss Case” motions did not make the top five most frequently filed motions before the Court’s expanded jurisdiction, they now occupy the second and third positions, respectively.

**Top 5 Most Frequent Motion Types
by Year**

2019

Motion Type	Number
Extension of Time	787
Anders	243
Withdraw 3-Judge Writ Panel Case	113
Delayed Appeal	101
Unseal Record	101

2022

Motion Type	Number
Extension of Time	1,491
Miscellaneous	251
Withdraw/Settle Prelim. Review Case	170
Withdraw as Counsel	151
Dismiss Case	147

2023 (through September)

Motion Type	Number
Extension of Time	1,429
Miscellaneous	235
Dismiss Case	176
Withdraw as Counsel	126
Withdraw/Settle Prelim. Review Case	120

⁷ “Miscellaneous” motions and motions requesting a “writ of certiorari” often concern problems with the record on appeal, which sometimes require remands to the lower tribunals to resolve. Such remands also significantly increase the case life of an appeal.

2022 Selected Motions - "Miscellaneous" and "Dismiss Case"							
	Total Number	From Civil	Percent of Total	From Criminal	Percent of Total	From Domestic	Percent of Total
"Miscellaneous"	251	78	31.1%	105	41.8%	40	15.9%
"Dismiss Case"	147	57	38.8%	31	21.1%	27	18.4%

2023 Selected Motions - "Miscellaneous" and "Dismiss Case"							
	Total Number	From Civil	Percent of Total	From Criminal	Percent of Total	From Domestic	Percent of Total
"Miscellaneous"	236	84	35.6%	75	31.8%	56	23.7%
"Dismiss Case"	176	103	58.5%	27	15.3%	24	13.6%

This trend is noteworthy because such motions are substantive in nature and cannot be resolved quickly. Consequently, a panel of judges must consider each such motion before a case may proceed. The overall impact of the additional substantive motion filings causes significant work for the Clerk’s Office, Chief Staff Attorney’s Office, and Judicial Chambers. Furthermore, these motions often increase total case processing times because the Court must rule on a pending motion before the case is ripe for a final disposition.

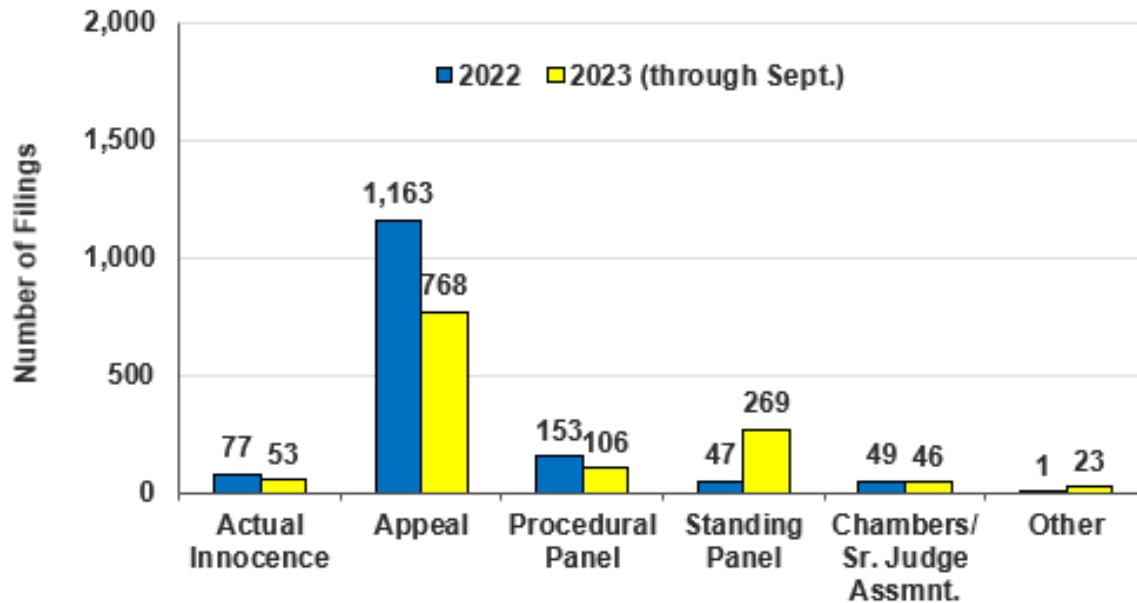
Current data, showing significant increases in the average monthly intake over the course of 2023, suggest that the number of motions filed with the Court will continue to grow. Additionally, the types and number of motions being filed will greatly affect the Court’s productivity.

3. *Chief Staff Attorney’s Office Case Processing*

The Chief Staff Attorney’s (CSA) Office evaluates the cases as they ripen on the Court’s docket. The CSA review includes checking for compliance with the Rules of Court and providing an initial analysis of the case for the Court. The Court’s case management system cannot capture the full extent of the CSA’s work; however, the office’s internal records, along with a review of work the case management system does track, shows that the staff attorneys received 1,265 assignments⁸ between January 2023 and September 2023 (during the 2022 calendar year, CSA attorneys received 1,490 assignments). At the current rate the Court expects that a total of 1,687 assignments will be made through the end of the year.

⁸ In addition to reviewing briefs and petitions (including original jurisdiction filings) as they ripen on the docket, CSA also reviews and researches substantive motions, motions for delayed appeals, assists Senior Judges with their opinions, and assists with other ancillary matters that are not tracked separately in the Court’s case management system. “Assignments” includes all the matters CSA reviews for the Court.

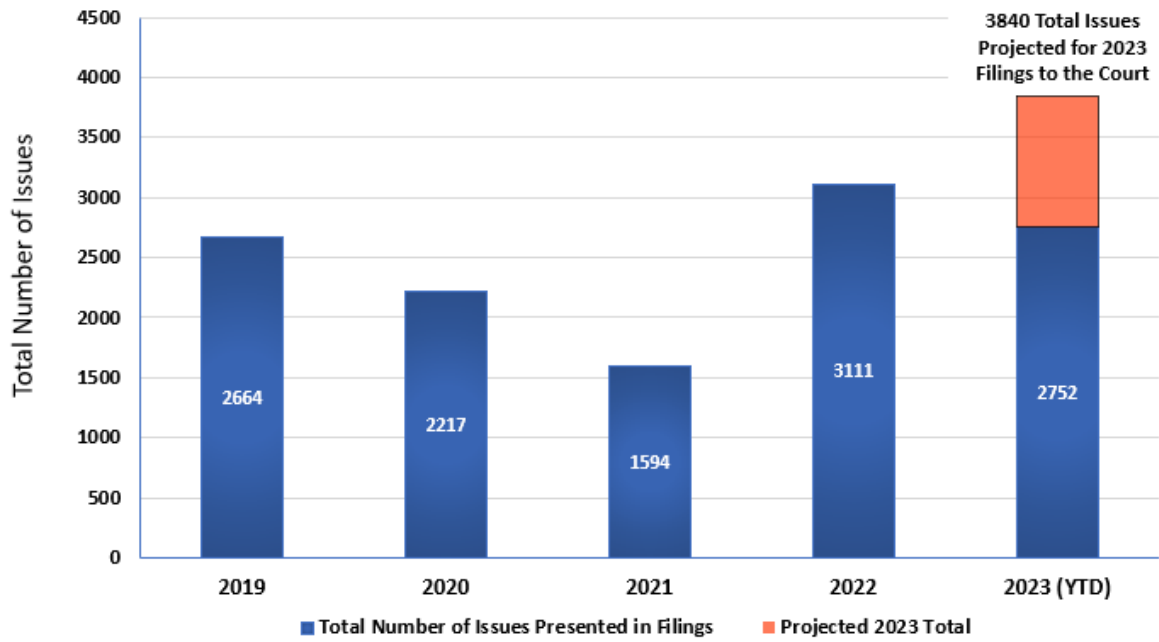
**Number of Filings Referred to CSA, 2022 – 2023
by Classification**



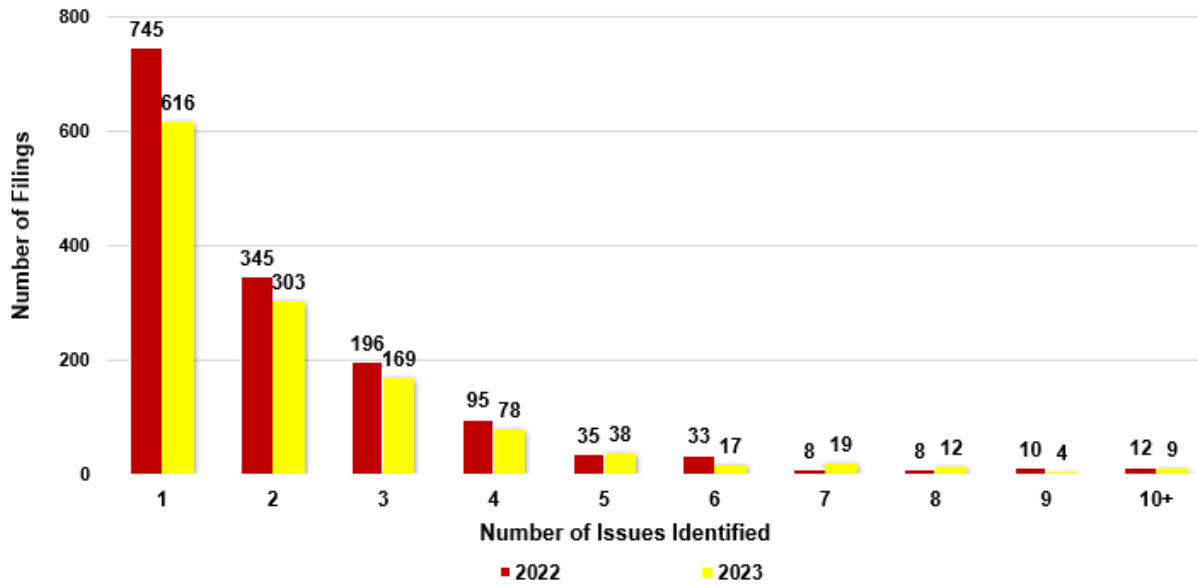
Not only has the number of assignments grown, the number of issues presented within those individual case assignments has also increased this year. Internal records indicate that 3,111 issues were raised in appeals in 2022. For 2023, there have been 2,752 issues raised in filings the CSA reviewed. Forecasting to the end of the year, the Court expects approximately 3,840 issues to be presented through the filings sent to CSA.

Just as the motions practice with the Court has become more complex, so too have the filings the CSA must triage. Those filings include motions, but also involve work for the Court’s Senior Judges, new judges who do not have law clerks, and any Judicial Chamber that may have a temporary staff vacancy. The CSA’s work for standing panels has also increased significantly in 2023, as the Court has directed more procedural matters to those special panels.

Total Number of Issues Presented in Filings From 2019 - 2023

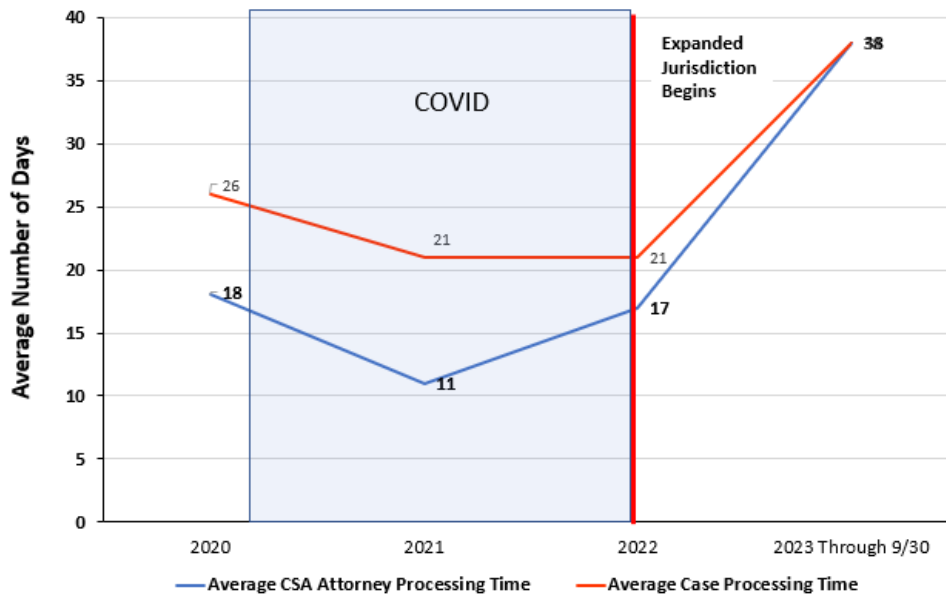


Number of Issues Presented to CSA, 2022 – 2023 by Number of Issues Identified



The increase in filings and the number and complexity of issues raised on appeal extends the average time that filings spend in CSA. Given the increases, it is unsurprising that the average number of days to generate high-quality work product has increased since expanded jurisdiction.

Average Days of an Assignment Spent in CSA



Note: “Average CSA Attorney Processing Time” means the time the case is with the assigned attorney for review and analysis. “Average Case Processing Time” means the total time the case is assigned to CSA, which includes peer review, proof-reading, and formatting work-product sent to the Chambers.

4. Case Docketing to Panels

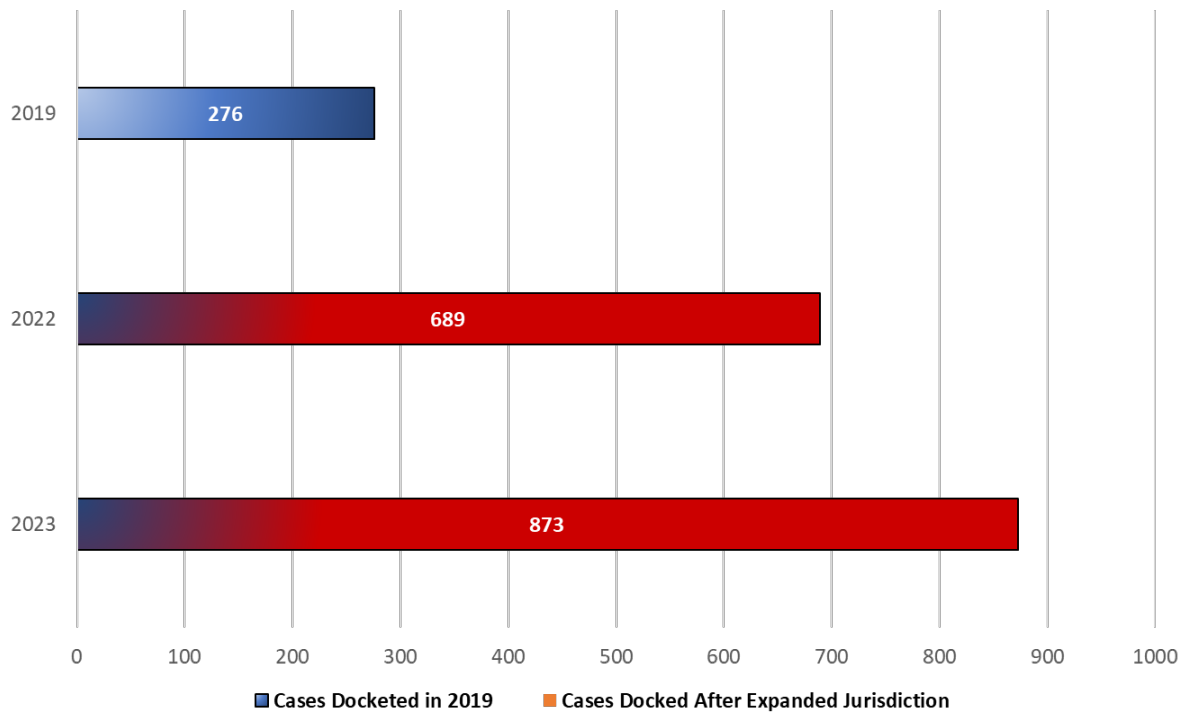
Before 2022, most cases that were docketed to regional panels received oral argument. Now, appeals of right in virtually all cases has resulted in panel hearings in cases even where issues were not raised at trial or have been authoritatively decided. Additionally, many civil cases settle after being docketed but before oral argument. Accordingly, not all of the cases docketed for argument are actually argued.

After holding 44 panels and hearing arguments in 689 cases in 2022, the Court scheduled 48 panels in 2023. The Court filled all the 2023 panels’ argument dockets. Anticipating that each panel would consider 18 cases, the Court planned for 864 cases to be argued in 2023. The Court slightly exceeded the goal, as 869 cases were docketed to the 48 oral argument panels. Further, the Court convened one Special Panel to hear argument in four consolidated cases in November. Thus, a total of 873 cases were docketed for argument in 2023. Overall, the panels were slightly over 100% capacity because of consolidated and companion cases. Additionally, the Court had ten cases docketed for the five en banc sessions in 2023.

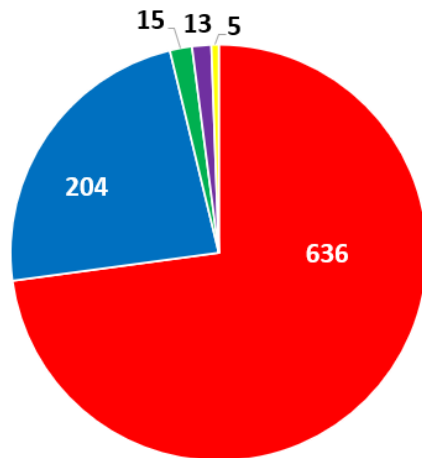
2023 Total Panel Assignments by Region				
Region	Panels	Total Panel Openings	Total Cases Docketed	% of Panel Filled
Eastern	12	216	217	100.5%
Central	12	216	218	100.9%
Western	12	216	219	101.4%
Northern	12	214	215	100.5%
Special	1	4	4	100.0%
All	49	866	873	100.8%

Note: One 2023 Northern Panel was adjusted to have 16 assignments to account for a case assignment with a voluminous case record.

Cases Assigned to Argument Panel 2019, 2022, and 2023



Panel Assignment Outcomes – Calendar Year 2023



Total Panel Assignments – 873

Oral Argument – 636 (72.9%)

No Oral Argument Total – 237 (27.1%)

Code §17.1-403(ii) No Oral – 204 (23.3%)

Parties Waived Argument – 15 (1.7%)

Withdrawn After Scheduled – 13 (1.5%)

Dismissed by Panel – 5 (0.6%)

- Oral Argument
- Code §17.1-403(ii) No Oral
- Parties Waived Argument
- Appeal Withdrawn After Argument Scheduled
- Dismissed by Panel

Although there was an increase in the absolute number of oral arguments heard in 2023, the percentage of cases that received oral arguments dipped slightly from 2022 to 2023 (from 76.9% to 72.8%).

The change suggests that it is attributable to the limited availability of summary dispositions. Under Code § 17.1-403, the Court may only dispense with oral argument if the parties affirmatively waive argument, or if the panel unanimously holds that the case is wholly without merit or the issue(s) presented have been authoritatively decided and the controlling precedent is unchallenged. Consequently, by the second half of 2022, the Court was placing all cases on the arguments dockets for the panels to consider, only to have approximately one third of those cases resolved without argument after the assigned panel had the opportunity to evaluate the case.

In March 2023, the Court modified its procedures and began assigning to standing panels cases that had clear procedural bars, were wholly without merit, or presented only issues that have been authoritatively decided without the appellant challenging the existing precedent. Since the change, the Court has heard oral argument in 486 of 649 docketed cases (74.9%). Assigning cases not appropriate for oral argument to standing panels has improved case processing times and restored the percentage of cases being considered by panels. This process expedited review of more than 160 pending cases.

	Total	Panel Unanimously Agreed No Oral Argument was Necessary
2023 Standing Panel No Oral Assignments	168	163

Note: Standing Panel assignments are distributed in batches when cases are ready for review and can be addressed immediately. Accordingly, these numbers reflect standing panel assignments from March 2023 through September 30, 2023.

5. In-Person Argument Panels

The Court continued conducting in-person arguments for panels; however, it has retained the use of video arguments for some cases, including to facilitate timely argument in time-sensitive matters and for incarcerated litigants. As noted, the Court scheduled a total of 48 argument panels in 2023. The Court has held five en banc sessions.

In 2023, the Court held argument panels in the following locations:

Region 1 (Eastern Region)

- City of Norfolk
- City of Virginia Beach
- City of Williamsburg

Region 2 (Central Region)

- City of Richmond

Region 3 (Western Region)

- Rockbridge County (Lexington)
- Roanoke County (Salem)
- Montgomery County (Christiansburg)

Region 4 (Northern Region)

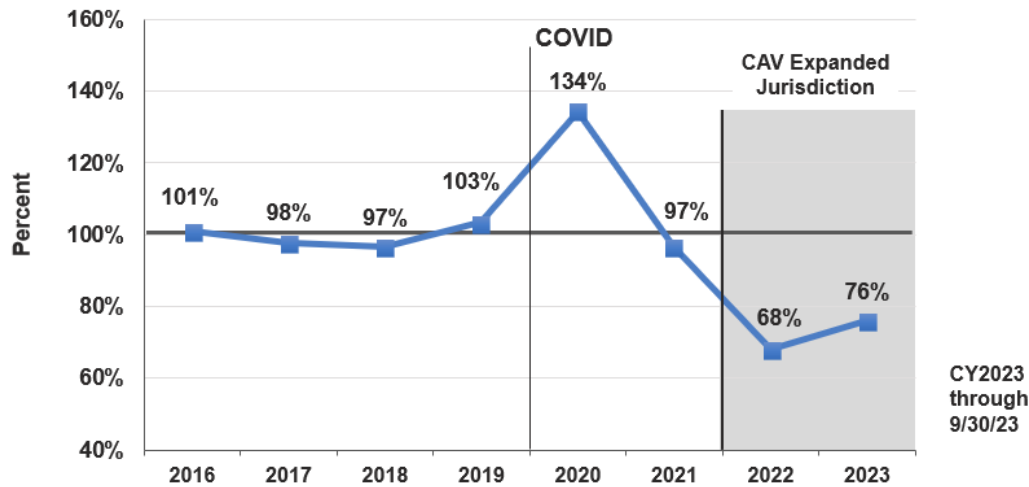
- City of Alexandria
- Arlington County
- Fairfax County
- City of Fredericksburg
- Loudoun County (Leesburg)

The Court continues to be flexible regarding panel locations within the respective regions and is thankful to the circuit courts and law school hosts.

6. Release of Opinions and Orders

A case disposition is the final resolution of the case, which may be by opinion or order. The Court strives to release opinions and case-dispositive orders as expeditiously as possible. To this end the Court regularly monitors the year-over clearance rate to determine whether cases are remaining in the inventory of appeals. Generally, the Court endeavors to release as many opinions and case dispositive orders over the year as are filed in that year. A high clearance rate indicates that a court's processes are moving cases along efficiently. It should be noted that many variables impact a case's time pending before the Court.

**Court of Appeals Clearance Rate,
Jan 2016 – Sep 2023**



Before the statutory changes, the Court’s year-over clearance rate regularly settled at approximately 100% (in 2020, due to the COVID outbreak and the closure of the lower courts, there was an increase in the clearance rate as it hit 134%). In 2022, the clearance rate for the year fell to 68%. This drop is understandable given the statutory changes in the appellate process and the onboarding of eight new judges. It also was partly attributable to the paucity of appeals that were ripe for argument in the first quarter of 2022, delaying the number of opinions ready for release. Once oral argument panels filled, dispositions rose, and the clearance rate settled above 75% during the second half of 2022 (75.8%).

Month	Filings Received	Dispositions Released	Clearance Rate	Quarterly Clearance Rate
Jan-22	145	51	35.2%	46.9%
Feb-22	173	77	44.5%	
Mar-22	172	102	59.3%	
Apr-22	151	109	72.2%	72.7%
May-22	156	117	75.0%	
Jun-22	165	117	70.9%	
Jul-22	140	119	85.0%	77.5%
Aug-22	190	150	78.9%	
Sep-22	177	124	70.0%	
Oct-22	171	119	69.6%	74.0%
Nov-22	162	131	80.9%	
Dec-22	167	120	71.9%	
Total 2022	1969	1336	67.9%	

In 2023, the Court has increased its average number of dispositions released per month (141.7 finalized dispositions per month compared to 127.2 finalized dispositions per month in the second half of 2022). Despite the increased output, the rising number of appeals has blunted the effect of the increase in released dispositions. Consequently, the clearance rate for the first nine months of 2023 rose only slightly to 75.9%. The Court’s year-over clearance rate increased to nearly 80% for the third quarter.

2023 Month by Month Final Dispositions

Month	Filings Received	Dispositions Released	Clearance Rate	Quarterly Clearance Rate
Jan-23	184	137	74.5%	71.8%
Feb-23	178	135	75.8%	
Mar-23	198	130	65.7%	
Apr-23	159	133	83.6%	77.1%
May-23	210	142	67.6%	
Jun-23	195	160	82.1%	
Jul-23	160	129	80.6%	79.3%
Aug-23	193	145	75.1%	
Sep-23	178	147	82.6%	
Total 2023	1679	1275	75.9%	

The increased monthly disposition releases in 2023 is the result of the Court's greater familiarity with its new jurisdiction and refinements to case processing systems.

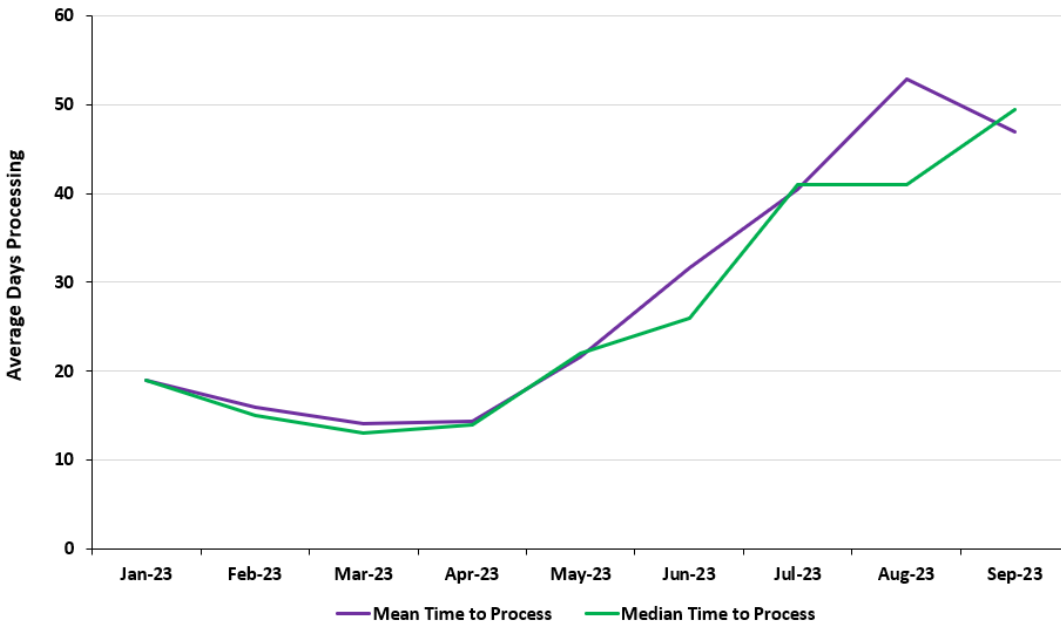
Number of Dispositions Pre-COVID (2017-19) Compared to Expanded Jurisdiction (2022-23)

Time Period in Review	Total Dispositions	Monthly Average
Full Year- 2017	2059	171.6
Full Year- 2018	1958	163.2
Full Year- 2019	2159	179.9
Full Year- 2022	1336	111.3
Jan-Sep 2023	1275	141.7

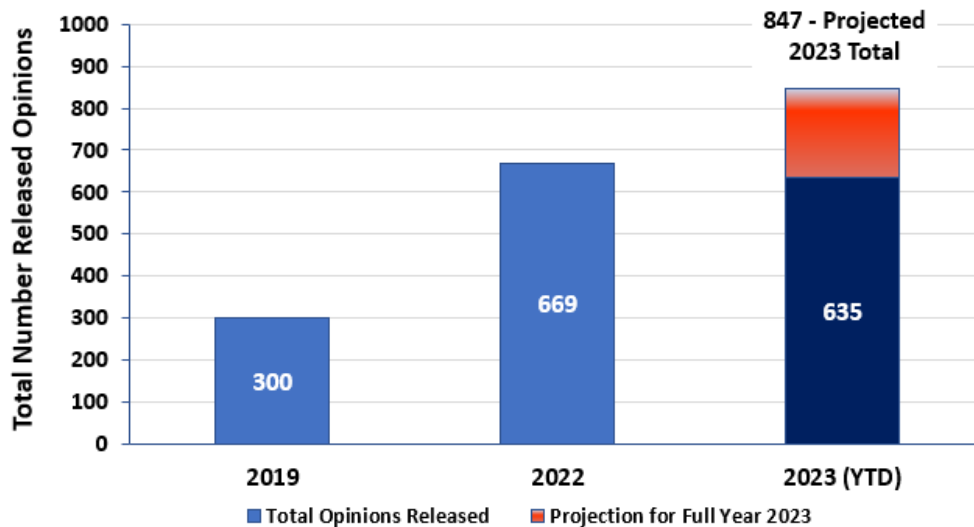
Notably, both total dispositions and opinions are increasing. The Court is also releasing far more opinions than it did before expanded jurisdiction. To date in 2023, the Court has released 635 opinions. Comparatively, the Court released 669 opinions in 2022, and 300 in 2019. Based on the monthly average to date, the Court expects to release almost 850 opinions this year.

Additionally, as the Court generates more complex opinions, the Dispositions Team requires additional time to prepare these decisions for release to the parties and public. The Dispositions Team's work is highly specialized and detail oriented. Among other things, they verify the information and documents contained in the trial court record and double check citations to case law, and ensure that the holding of each decision matches the procedural posture of the case before the decision is released. The Dispositions Team must also draft and issue the mandate for each opinion (the mandate is a separate order that formally notifies the lower tribunal of the Court's decision). The Dispositions Team also prepares a summary of each opinion as required by Code § 17.1-413.

Average Processing Time With Dispositions Team in 2023



Dispositions Performance: Released Opinions



The Court has released 635 opinions this year. In those opinions, the Court affirmed the decision of the lower tribunal in 567 cases (89.3%). In total, the Court affirmed the lower tribunal in part in 20 of the opinions (3.1%). The Court reversed the lower tribunal’s decision in 48 cases (7.6%). The Court’s overall affirmance rate in 2023 is slightly lower than its affirmance rate in 2022.

The Court published 83 of its opinions this year. Based on this average the Court anticipates publishing 110 opinions in 2023. In comparison the Court published 80 opinions in 2022, and 77 opinions in 2019. Among the published opinions, the Court affirmed the lower

tribunal in 59 cases (71.1%), while 10 opinions affirmed the lower tribunal in part (12%). The Court reversed the lower tribunal’s decision in 14 cases (16.9%). Most of the published opinions addressed criminal or expanded jurisdiction civil appeals (66 of the 83 total). The affirmance rate was slightly higher for criminal than for civil appeals (76.9% for criminal cases compared to 70.4% for civil cases).

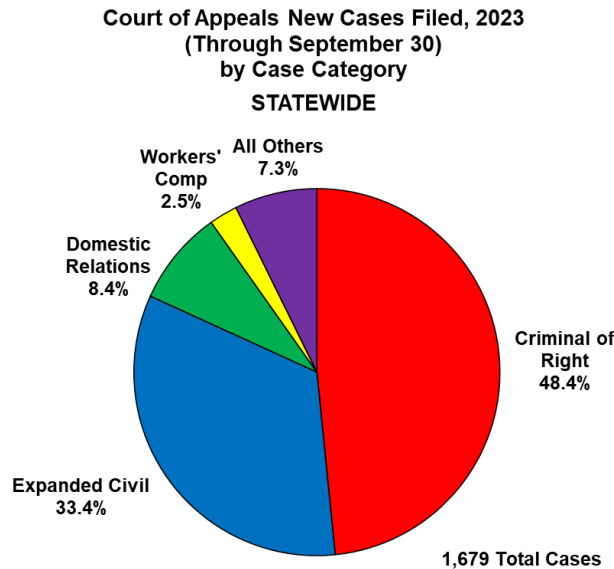
2023 Published Opinions: Jan. 1 through Sept. 30				
Case Type	Total Cases	Affirmed	Affirmed in Part	Reversed
Criminal	39	30	5	4
Expanded Civil	27	19	3	5
Domestic	6	3	2	1
Workers Comp	2	1	0	1
Agency	4	3	0	1
Certification	3	2	0	1
Immunity	1	1	0	0
Crim. Contempt	1	0	0	1
All	83	59	10	14

Note: For clarity the dispositions on this chart are categorized as “Affirmed,” “Affirmed in Part,” and “Reversed.” See the appendix for a more detailed itemization of dispositions.

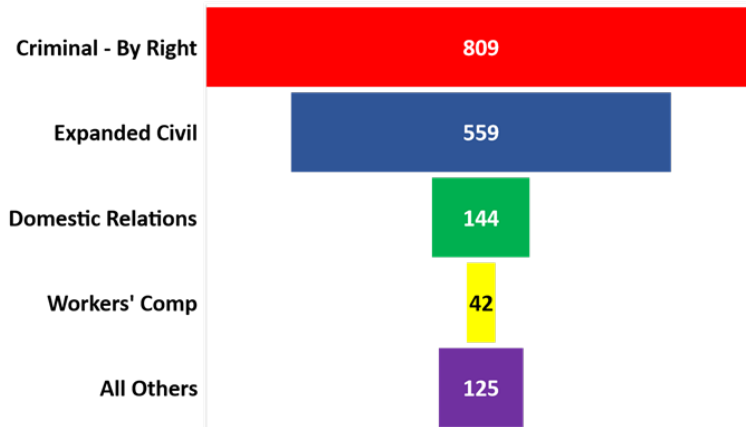
C. Data from Case Numbers

1. New Case Filings – Total

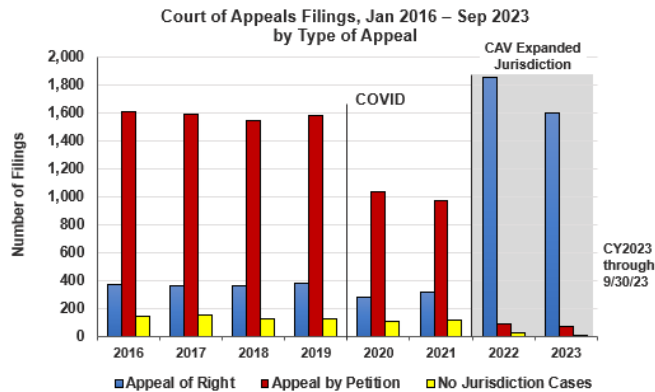
There have been 1,679 cases filed in 2023. Criminal cases comprised nearly half of new case filings; however, expanded-jurisdiction civil cases came in an overwhelming second.



Court of Appeals New Case Filed by Category; January 1, 2023 to September 30, 2023

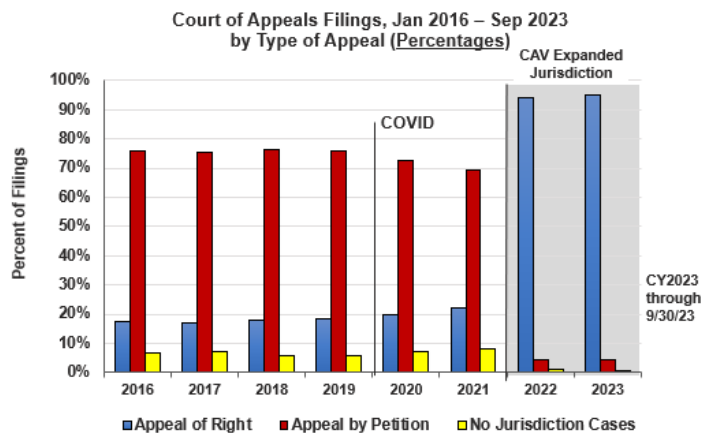


If the filing rate remains steady through the end of 2023, the Court is on target to receive approximately 2,225 total filings in 2023, outpacing the five-year pre-pandemic average.⁹ The Court expects that about 2,100 of these filings will be “Appeal of Right” cases (a significant shift from years prior to expanded jurisdiction when appeals by petition accounted for most new cases).



Through September 30, 2023, 1598 of the 1,679 total new case filings were “Appeal of Right.”

Over 95% of appeals are now “Appeals of Right.” In comparison less than 20% of appeals were “Appeals of Right” in 2016 – 2019.

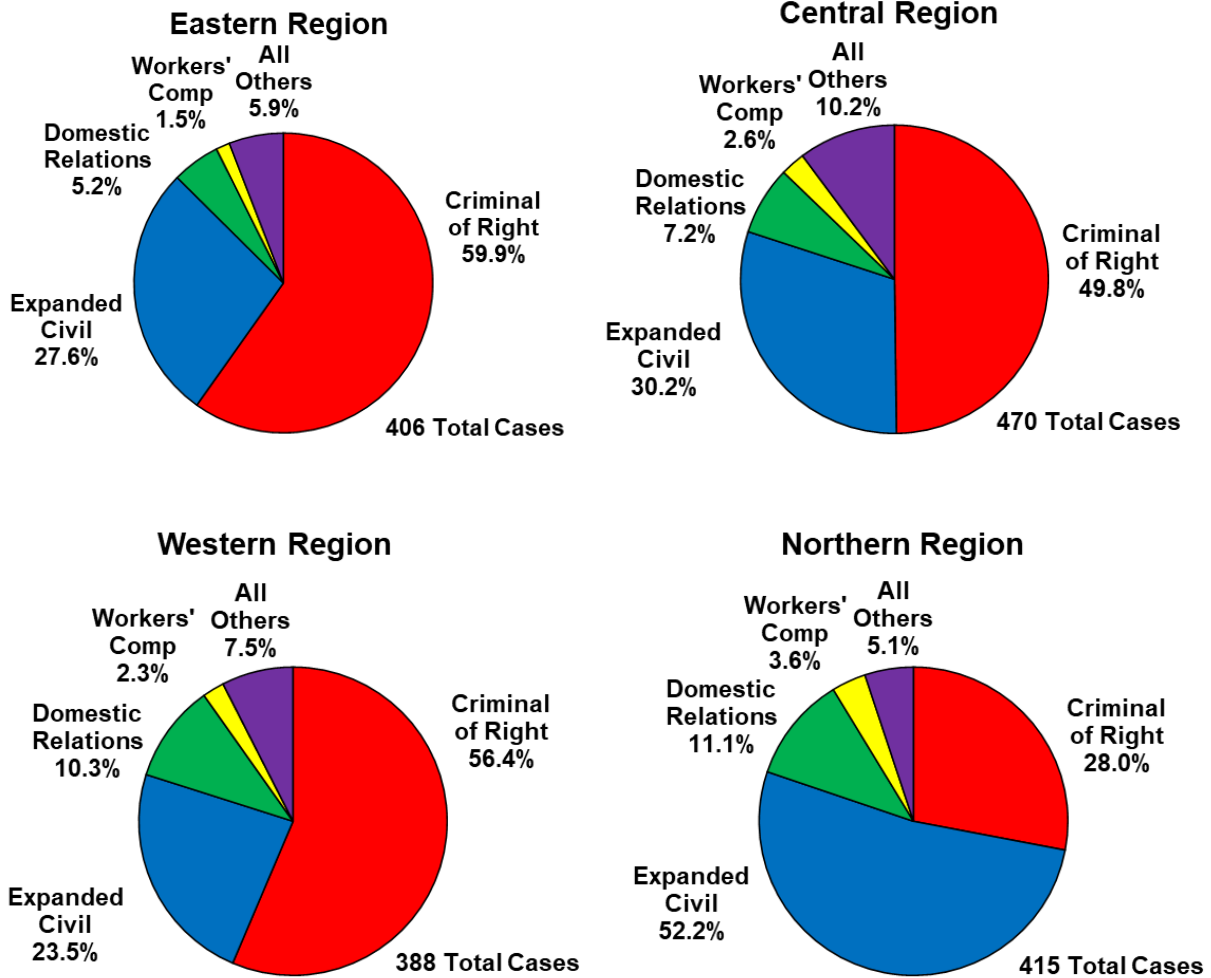


⁹ From 2015 through 2019 the average intake of new appeals was 2,080.4 per year.

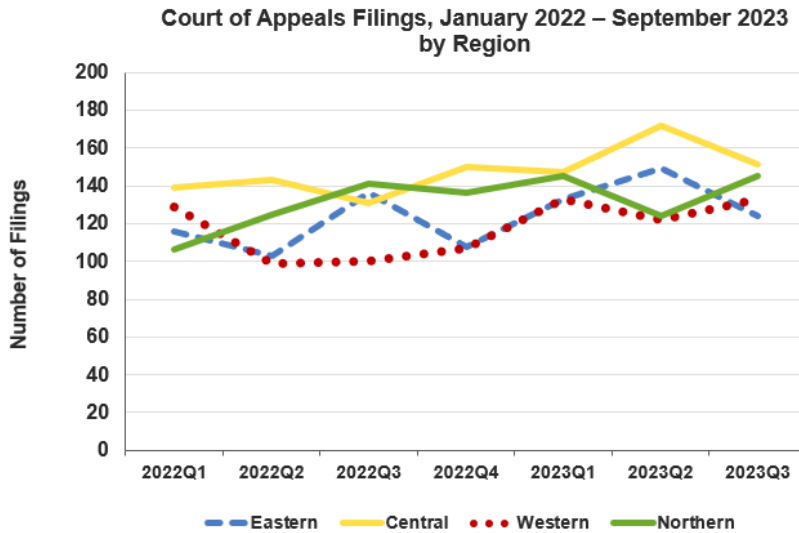
2. New Case Filings – Regional Numbers

Regional filings by case type in 2023 continue to provide useful trends for projecting and scheduling cases in the future. First, criminal filings consistently comprise more than half of the total filings for the Eastern, Central and Western Regions. In contrast, civil cases comprise just over half of the case filings in the Northern Region. In fact, more than a third of the total expanded civil case filings come from the Northern Region (213 of 559 new civil case filings).

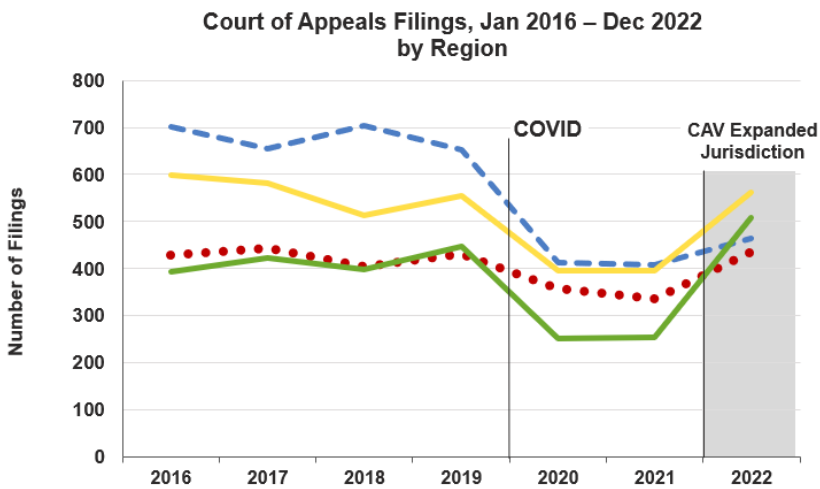
CASE TYPES BY REGION - 2023



Total case distribution among regions has been relatively even. As demonstrated in the next chart, the Central Region has seen the most cases over the past 21 months; however, the other Regions are generally keeping pace.



The case distribution parity is a new phenomenon. Before 2020, more than 300 cases separated the Region with the highest annual case intake from the Region with the lowest intake each year. In 2022, the gap narrowed to fewer than 130 cases over the year.

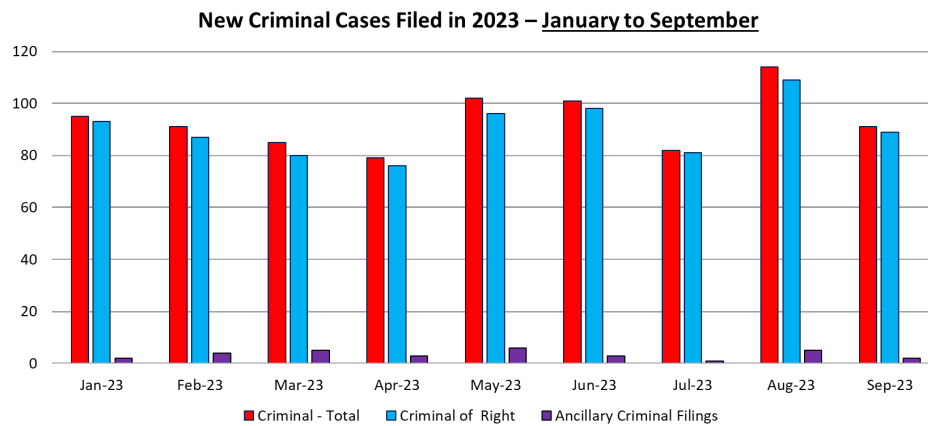


It is unclear whether this parity will endure. Initial observations suggest that the filing parity does not alleviate all docketing and processing concerns. New civil cases have brought greater balance to the total regional intake. Yet, the Northern Region has a disproportionate number of complex civil appeals with voluminous records and multiple issues, and motions that prolong case life. That disparity makes managing and distributing the cases more difficult.

3. *New Case Filings – Criminal*

So far in 2023, there were 809 criminal of right cases filed. The average number of monthly criminal appeals remains lower than pre-pandemic levels of criminal petitions for appeal. To date, the Court received an average of 90 new criminal cases per month. Historically, the Court received a monthly average of 120 new criminal petitions for appeal.

Still, the 90 average monthly cases thus far represents an increase of the case numbers from a low in 2021 of 73 new criminal cases per month during the pandemic, and 80 new cases a month last year.

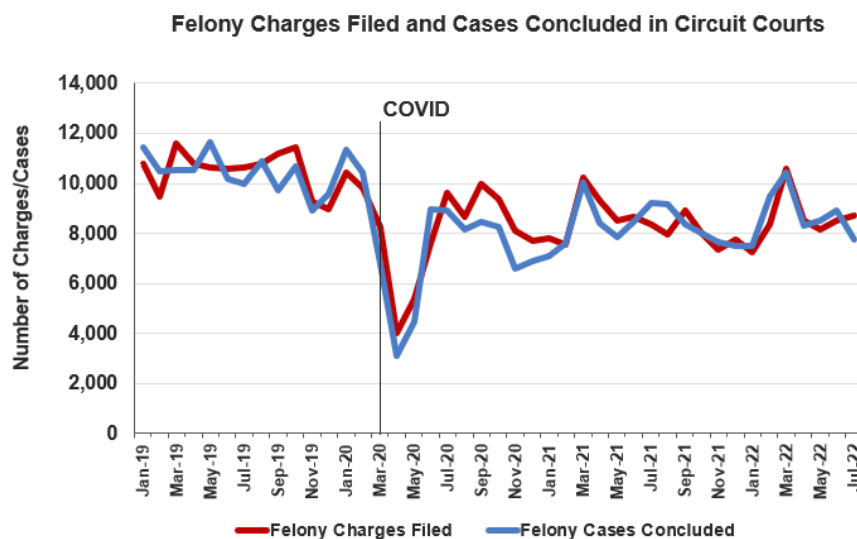


Source: Court of Appeals of Virginia Appellate Case Management System (ACMS)

Note: “Ancillary Criminal Filings” include, but are not limited to, Commonwealth’s Appeals and bond appeals (see glossary section for details).

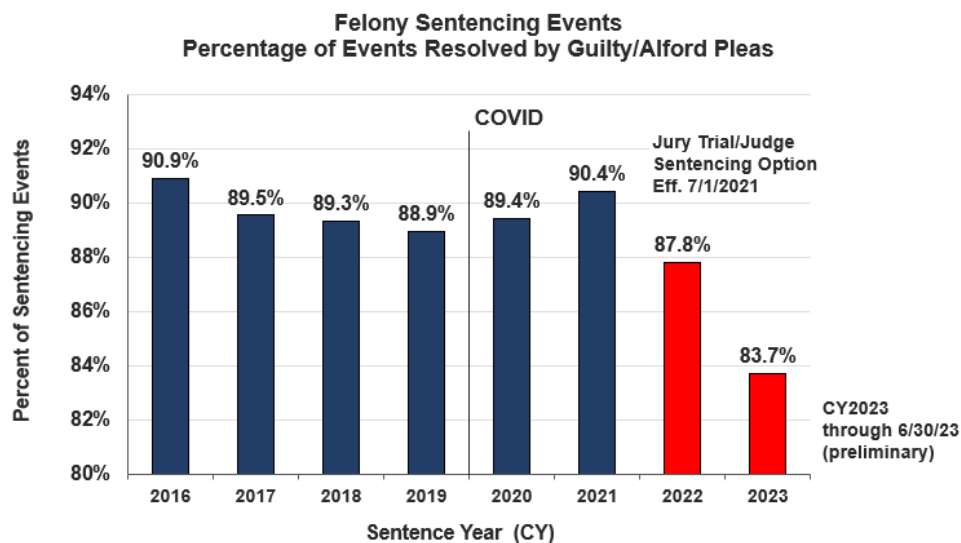
Although the Court is unable to forecast a return to pre-pandemic intake levels for criminal appeals, current filing trends suggest that the average number of new criminal appeals will continue to rise.

Felony dispositions in the trial courts remain about 15-20% lower than pre-pandemic averages. If these recent trends manifest at the appellate level, the Court may receive approximately 100 criminal cases per month. Even with this modest growth, the Court expects to receive around 1,200-1,260 criminal appeals in 2024, which would likely increase the total number of new cases filed in 2024 by 150-200 appeals.



Note: Virginia Criminal Sentencing Commission chart reflects data from the Supreme Court of Virginia’s Case Management System (CMS) for the Circuit Courts analyzed by the Judicial Planning Department, Office of the Executive Secretary, Supreme Court of Virginia.

The Court is also tracking the effect of the statutory changes permitting judge sentencing following a jury trial under Code §§ 19.2-295 and -295.1, which took effect on July 1, 2021. Preliminary data indicate a drop in the percentage of sentencing events for cases resolved by guilty or *Alford* pleas. This decline may indicate that more defendants will proceed to trial and appeal their convictions or sentences. The Court expects some increase in the total number of criminal appeals, even if the total number of sentencing events does not return pre-pandemic levels.



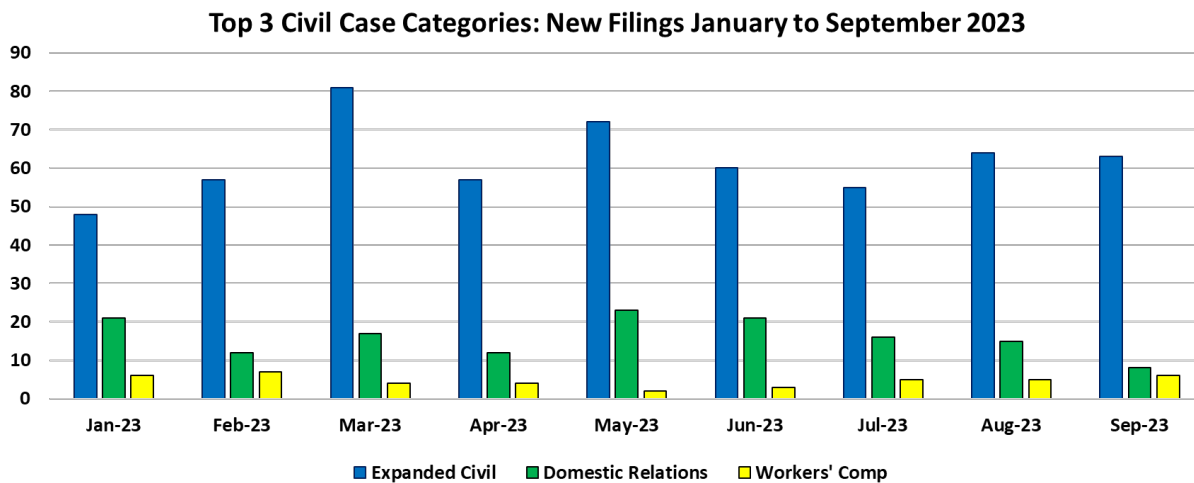
4. *New Case Filings – Civil*

To date in 2023, there were 559 expanded-jurisdiction civil cases and 144 domestic relations cases filed with the Court. These two categories accounted for more than 90% of all civil filings before the Court. Expanded civil case filings have propelled the Court’s caseload since expanded jurisdiction took effect in January 2022, despite a decline in civil cases that fell within its previously limited jurisdiction (primarily administrative agency, domestic relations, workers’ compensation).

The average monthly intake of civil cases continued to increase in 2023 from 31.6 per month in the first quarter of 2022 to 61.8 per month this year. While this average demonstrates a significant jump, the intake of these expanded-jurisdiction civil cases has remained steady throughout the first three quarters of this year.

In other categories of civil filings, the Court has realized a small decline in new domestic relations cases, with intake numbers below pre-pandemic averages. Workers’ Compensation and Administrative Agency appeals have remained steady but do not comprise a significant portion of the Court’s caseload.

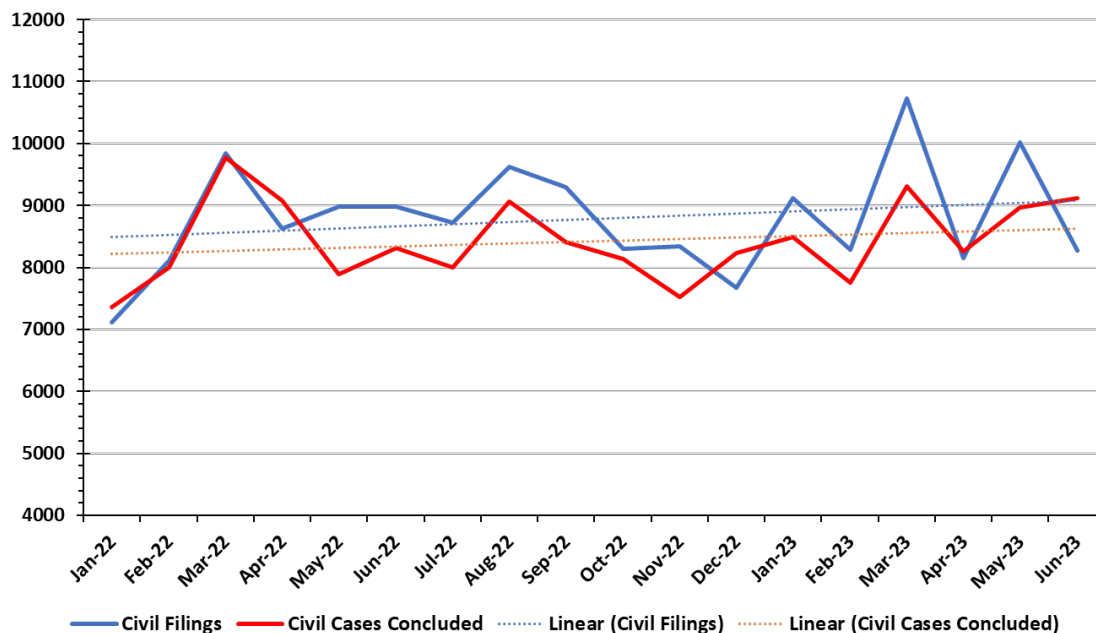
Civil Case Loads by Quarter - Jan. 2022 - Sep. 2023				
Overall and Top 3 Civil Categories				
Quarter	Civil Total	Expanded Civil	Domestic Relations	Worker Comp
2022-Q1	196	95	61	25
2022-Q2	192	126	38	16
2022-Q3	241	159	60	13
2022-Q4	244	172	52	10
2022-Total	873	552	211	64
2023-Q1	261	186	50	17
2023-Q2	266	189	56	9
2023-Q3	246	182	39	16
2023-thru Sept. 30	773	557	145	42



Source: Court of Appeals of Virginia Appellate Case Management System (ACMS)

Judicial system reports for 2022 and 2023 indicate that circuit courts are experiencing a modest uptick in civil case filings over the last eighteen months. The trend does not foretell an incoming wave of civil appeals but suggests that the Court will see a gradual increase in the number of expanded-jurisdiction civil appeals in the next year. The Court is monitoring these civil case numbers closely as many circuit courts still have a backlog of civil cases awaiting trials. Accordingly, the Court expects the increase in new civil appeals to continue.

**Civil Cases Filed and Concluded In Virginia Circuit Courts
January 2022 – June 2023**



Note: Numbers in this graph reflect data collected by the Office of the Executive Secretary and do not include case numbers for Fairfax County and the City of Alexandria. The numbers also do not include concealed weapons permit applications.

5. Longer Case Life of Appeals Reaching a Panel Argument

Appeals of right comprise most of the Court’s docket. Before expanded jurisdiction most appeals to the Court were criminal petitions for appeal, which typically took less time to resolve. The shift away from a large proportion of petitions has increased the life of the appeals the Court reviews and decides.

In 2023, of the 1,275 concluded cases, over a third were criminal cases that took more than one year to resolve—from inception to final disposition. As a comparative snapshot, in 2019, the Court decided 1,657 criminal cases. Of those criminal cases, 167 were granted full briefing and argument before a merit panel. The Court denied 1,490 criminal petitions. Of the 1,490 denied petitions, more than a third (509) were finalized with a one-judge denial order. Those cases were concluded in an average of 225 days; thus, in 2019 the Court resolved 30% of its criminal cases in less than eight months.¹⁰ The average case life for the 167 granted appeals was 426 days. Only 10% of the total criminal dispositions took more than one year to resolve.

¹⁰ The 509 denied criminal petitions represented 30% of the criminal dispositions and 23% of the total dispositions for the year (2,156 dispositions were released in 2019).

**Court of Appeals Disposed Cases
Median Case Processing Time (in Days)**

Year Concluded	Criminal Petitions Resolved at One-Judge Review	Criminal Petitions Resolved at Three-Judge Review	Criminal Appeals Resolved by Merit Panel
2019	225 days	277 days	426 days
	509 cases	981 cases	167 cases

**Court of Appeals Cases with Merit Hearings in 2023
Cases Disposed as of September 30
Overall Case Processing Time (in Days)**

Case Type	Mean	Median	Number of Cases
Criminal of Right	384	377	310
Ancillary Criminal	221	151	9
Expanded Civil	345	354	67
Other Civil	400	392	5
Domestic Relations	388	373	52
Workers' Comp	343	358	11
Administrative Agency	434	406	4

For criminal cases, the 2019 median time to complete a granted appeal was 426 days, compared to 377 days median time in 2023. In other words, appellants who received a merits argument in a criminal case previously waited approximately two months longer for a resolution. But for most litigants, the wait time to have their claims resolved has increased by approximately four months on average.

The picture is different for litigants with civil matters. The previously limited civil matters that the Court considered were disposed of more expeditiously. In 2019, the Court resolved 212 domestic relations cases in a median case processing time of 153 days. The Court resolved 99 workers' compensation cases in 2019 in a similar time frame. In 2023, it took approximately one year to resolve a civil case.

The increased case life of most of the Court's cases is attributable to four main factors: (1) docket crowding; (2) the complications associated with increased pro se litigation; (3) the growing number of complex motions filed with the Court slowing the cases' average processing time; and (4) more concurrences and dissents in opinions and orders.

The issues noted last year by the sudden conversion of 300 criminal cases to appeals of right have substantially been resolved with only three such cases remaining in the inventory.

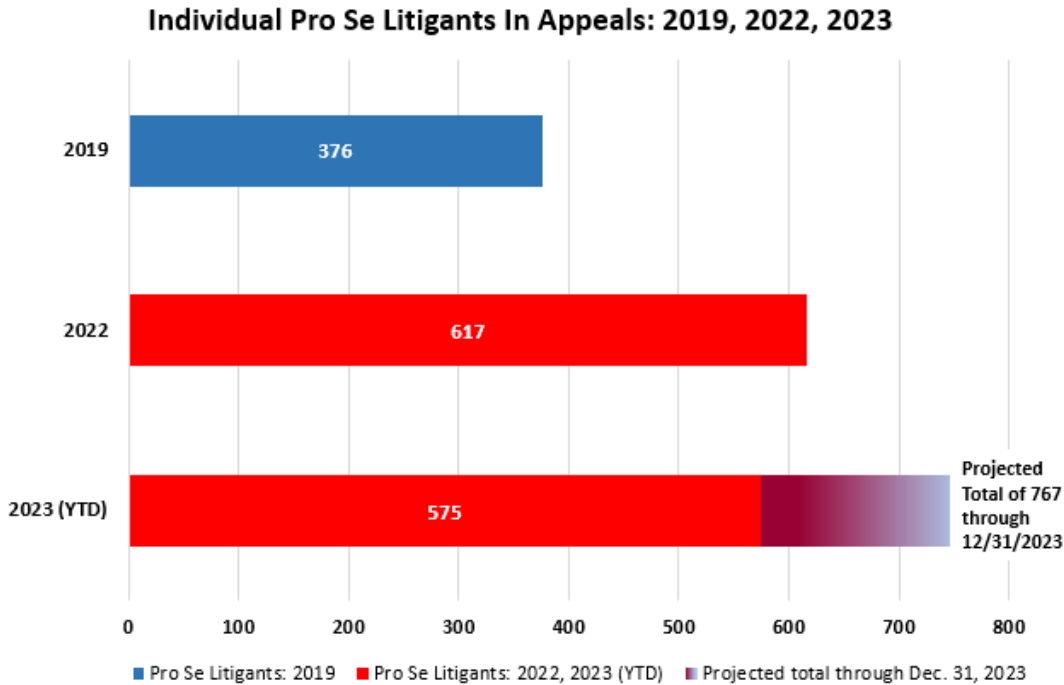
a) Docket crowding

Many cases are awaiting oral argument because of the transition to appeals of right in almost all cases along with corresponding restrictions on summary dispositions. In 2023, the Court filled its 48 oral argument panels and docketed 873 cases. Moreover, many of the Court’s 2024 panels are assigned cases and filled. Cases have been docketed in every region for the first quarter of 2024, and many cases have been docketed preliminarily for the second quarter.

As previously noted, the Court has acted to relieve some of the backlog by processing certain cases through its standing panels. Cases reviewed by the standing panels include appeals in which an appellant failed to preserve the issues presented and cases in which oral argument may be dispensed with under the strict parameters of Code § 17.1-403. Moving these cases away from the 48 oral argument panels in 2024 has opened more docket spaces for other cases that would have waited in the growing queue. Since implementing this procedure in March 2023, standing panels have resolved 168 of these cases.

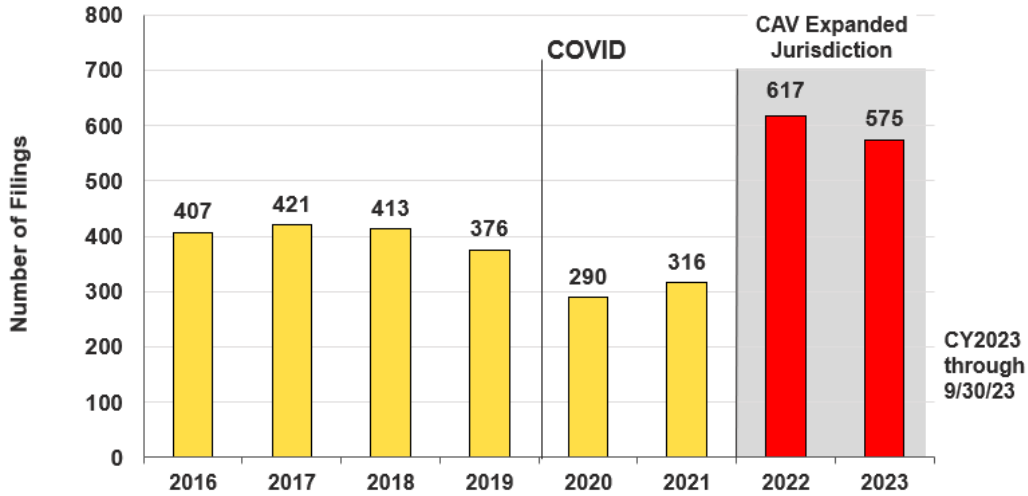
b) Continued increase in pro se filings

As reported last year, the number of pro se (self-represented) litigants increased with the expanded civil jurisdiction and has continued to grow in 2023. But because pro se litigants generally are non-lawyers who are unfamiliar with the appellate process, it often takes several attempts to get the filings in proper form. In addition, pro se litigants typically have more interaction with the Clerk’s office staff as they try to navigate procedures and deadlines.



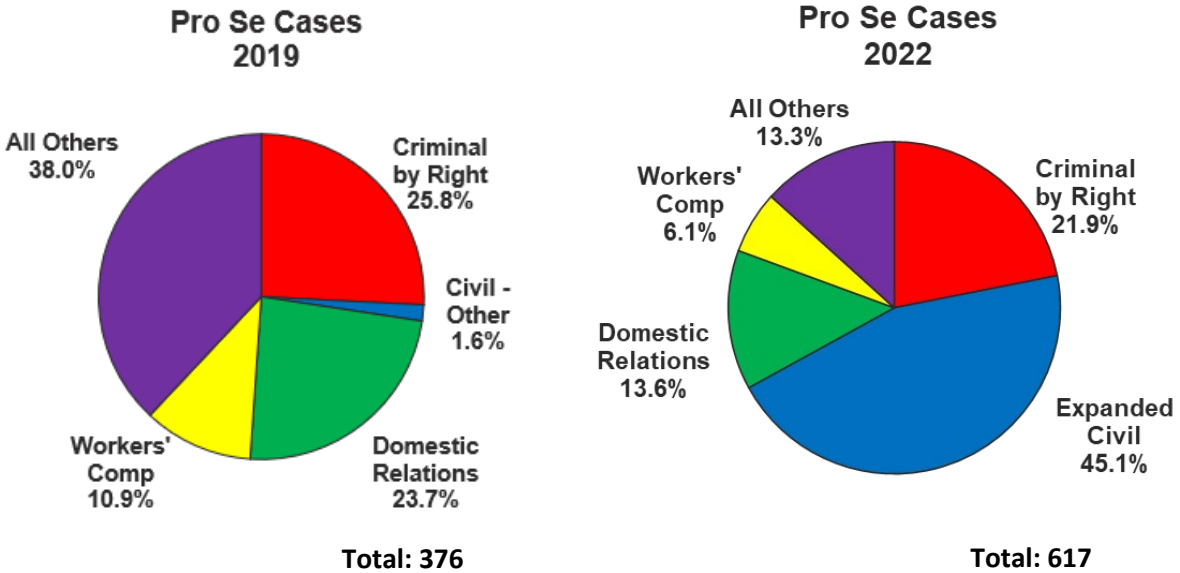
Note: These numbers do not include *Anders* cases, in which counsel for the appellant seeks to withdraw after submitting an opening brief.

Pro Se Cases, Jan 2016 – Sep 2023



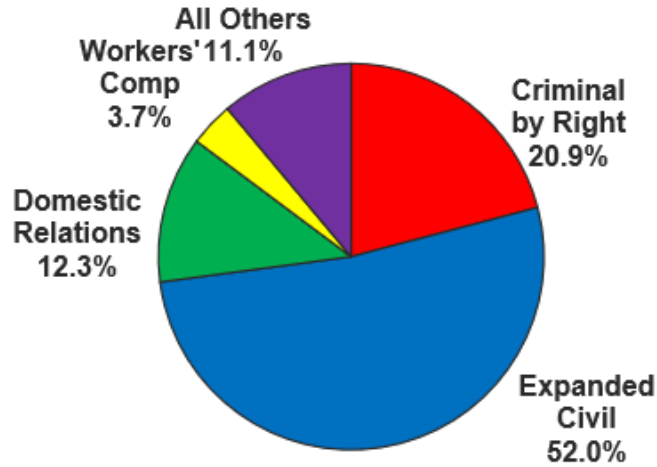
Note: The reported pro se cases for 2016-2021 reflect the years' complete data

The growth in pro se litigants correlates to the expanded-jurisdiction civil cases. In 2022, about 45% of the pro se cases were expanded-jurisdiction civil cases. In 2023, that percentage has grown to over half of the pro se appeals.



Note: Figures include cases in which one or both parties were pro se.

Pro Se Cases, January - September 2023 by Case Category



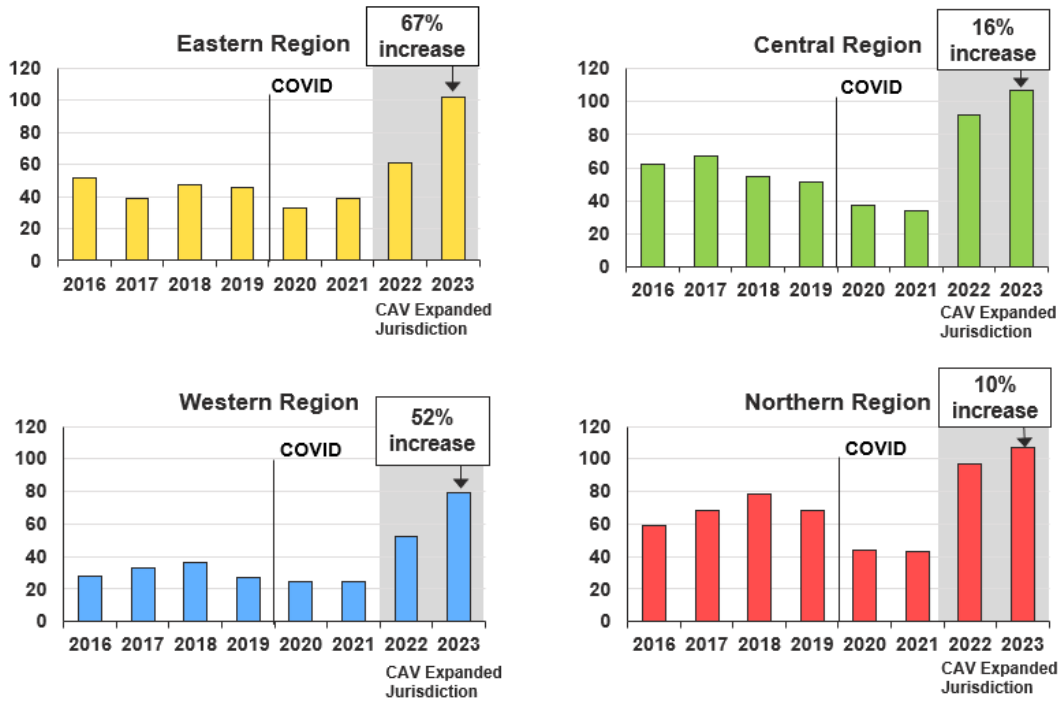
Total: 575

In 2019, the largest percentage (28.7%) of the pro se filings were in cases over which the Court lacked subject matter jurisdiction. Now that the Court has jurisdiction over most cases, there are more total pro se cases *and* fewer that can be finalized quickly because they must be transferred to the Supreme Court.¹¹ *See* Code § 8.01-677.1.

Once again, the Northern Region accounts for the highest volume of pro se cases, but the Eastern and Central Regions are closing the gap.

¹¹ This figure is likely to fall given the recent amendments to Code § 17.1-406(B). *See* 2023 Va. Acts chs. 314, 315. But the amendment only applies to collateral challenges to criminal convictions, so the rate of decrease is unknown.

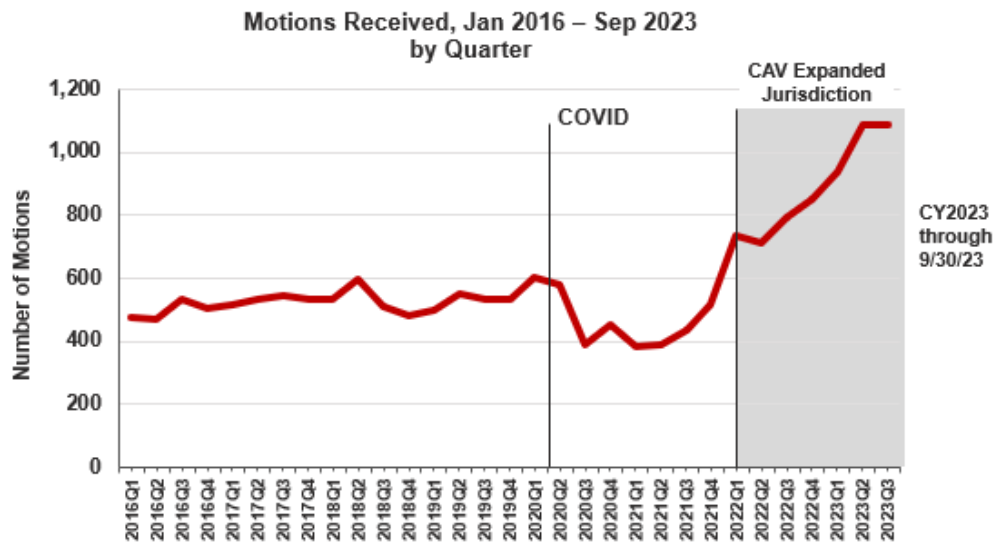
Pro Se Cases, 2016 – 2023
 Filed during *January-June* of Each Year



Note: Figures include cases in which one or both parties were pro se.

c) The continued increase in motions

As already detailed, the volume and complexity of the motions practice before the Court has intensified. Motions for extension of time have increased, as have complex substantive motions that take significant time and resources for the Court to review and resolve. Many motions must be resolved before a case can be docketed, and so increase the case life.

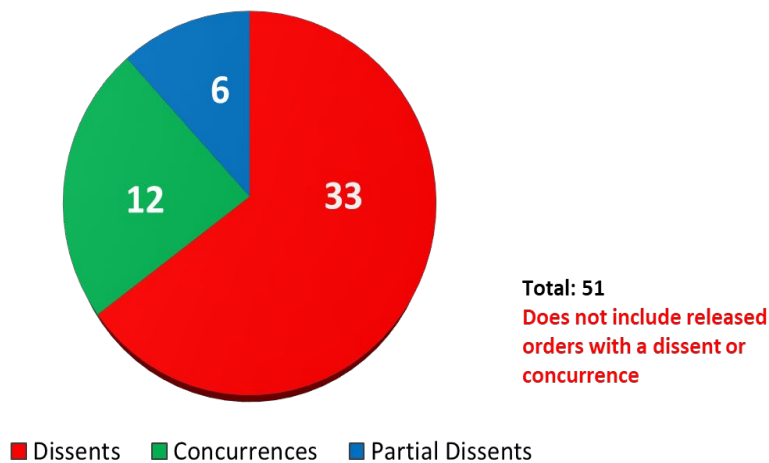


d) An increase in concurring and dissenting opinions

Although opinions and orders move through chambers and panels efficiently, concurring and dissenting opinions, necessarily prolong the life of a case. Concurrences and dissents take additional time to draft and process. Deliberations among the judges after a concurrence or dissent is circulated further extends the process. Moreover, concurrences and dissents make for longer opinions which increase the review time needed with the Court’s Dispositions Team. Consequently, the inclusion of a dissent or concurrence often adds weeks to the life of these cases.

While the Court’s case management system does not capture the number of concurrences and dissents written in past years, the Court began tracking them through internal records on January 1, 2022. In 2022, the Court released 44 opinions that included a dissent and/or concurrence. To date, the Court has released 44 opinions that include a dissent and/or concurrence. Of those 44 opinions, six included *multiple* dissents and/or concurrences. A total of 51 dissents and/or concurrences were written and released through September 30, 2023.

**Total Number of Released Opinions with a Dissent or Concurrence
January 1, 2023 through September 30, 2023**



VI. Conclusion

Twenty-one months after the Court's jurisdiction was expanded, the impacts on the Court's workload and productivity are coming into focus. The volume and complexity of cases continues to increase as do the number and variety of issues and motions filed in those cases.

With the caseload increasing from the inception of the Court's expanded jurisdiction until today, the Court continues to innovate to move cases through the appeals process as effectively and efficiently as possible. Almost all appeals that the Court receives are appeals of right. As a result, docketing the cases for a panel of judges has become a priority and a challenge. The Court now uses standing panels to review (1) cases that have been identified as being wholly without merit or authoritatively decided, as authorized by Code § 17.1-403, (2) the parties have waived oral argument, or (3) the case has a procedural bar that prevents consideration of all issues raised. The impact of this change has not been fully realized, but it is expected to produce decisions that can expeditiously move through the appellate process. Additionally, not docketing these cases will free up space on the argument panels and allow for more expedient assignment of all other cases with meritorious issues into those 48 panels.

The Court continues to improve its clearance rate since expanded jurisdiction. With the expeditious consideration of Code § 17.1-403 cases, the Court will provide litigants with timely resolution of their controversies. The more cases decided naturally contributes to an improving clearance rate. The Court, however, will continue to evaluate systems to improve the case flow in 2024.

While the Court may now forecast its anticipated caseload for the upcoming year, the broad view of what the Court may expect five-years from now is still uncertain. The lingering effects of the pandemic, which slowed the progress of cases throughout the Commonwealth, makes it difficult to assess the long-term workload of the Court. The Court expects that by 2026 it will be able to predict its annual appellate workload with more accuracy.

Glossary of Frequently Used Terms:

“All Others” – This term refers to a catch all category used in many charts, tables, and graphs in this report. Included case categories are “Actual Innocence Petitions,” “Administrative Agency,” “Concealed Weapons,” “Interlocutory- Certifications,” “Interlocutory- Immunity,” “Mandamus and Prohibition,” and “Sexually Violent Predator Appeals,” unless otherwise noted.

“Ancillary Criminal” – This term refers to criminal matters appealed to the Court, either before or after the expansion of the Court’s jurisdiction, that do not challenge a final sentencing order or must still be initiated by petition. These matters include “Bond Appeal by Right,” “Commonwealth Bond,” “Commonwealth Pretrial Appeal,” and “Commonwealth Sentencing.”

“Clearance Rate” – This term refers to the number of appeals that the Court has finalized over the course of the year compared to the number of cases that have been appealed during the same year.

“Criminal of Right” – This term refers to criminal appeals initiated after January 1, 2022, that are reviewed under the statutory right of appeal granted in Code § 17.1-406 (A).

“Expanded Civil” – This term refers to civil appeals that were not part of the subject matter jurisdiction of the Court before its January 1, 2022 expanded jurisdiction.

Appendix A

Additional Court of Appeals of Virginia Data:

Case Filings By Year - Comparison of Cases Pre- & Post- Expanded Jurisdiction

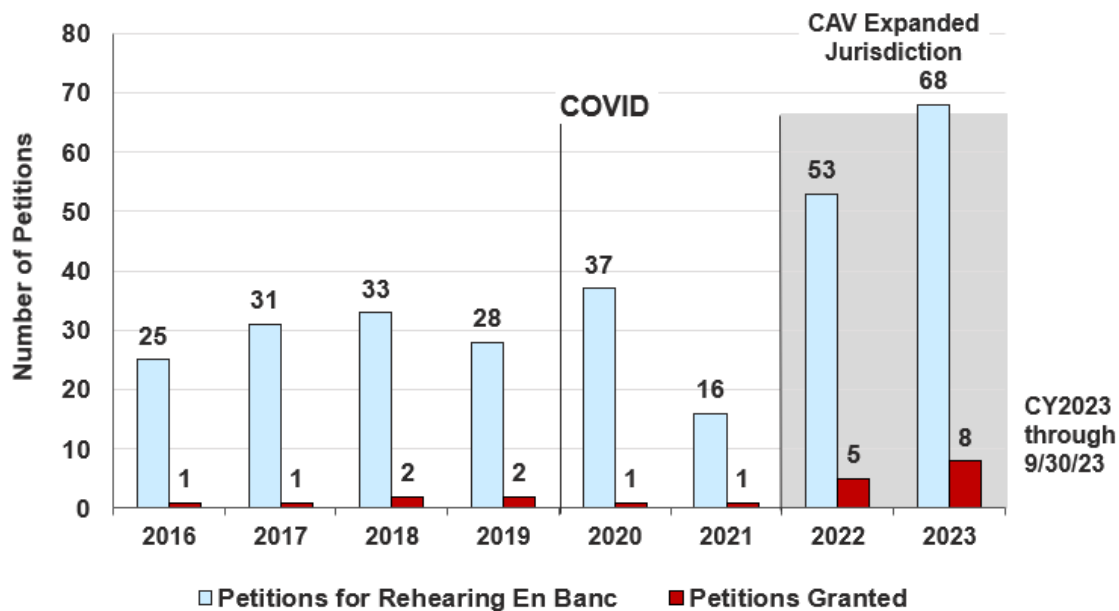
Year	Total Yearly Case Filings	Total Annual Criminal Petitions/of Right	Expanded Civil Filings	Total Annual Domestic Filings	Total Workers' Comp Filings	Total Admin. Appeal Filings	All Other Case Categories
2016	2123 (177/month)	1530 (127.5/mo.)	N/A	247 (20.5/mo.)	90 (7.5/mo.)	19 (1.5/mo.)	237 (19.8/mo.)
2017	2104 (175/month)	1501 (125/mo.)	N/A	233 (19.5/mo.)	92 (7.5/mo.)	19 (1.5/mo.)	259 (21.6/mo.)
2018	2022 (168.5/month)	1470 (122.5/mo.)	N/A	221 (18.5/mo.)	109 (9/mo.)	19 (1.5/mo.)	203 (16.9/mo.)
2019	2086 (174/month)	1493 (124.5/mo.)	N/A	252 (21/mo.)	94 (8/mo.)	20 (1.5/mo.)	227 (18.9/mo.)
2020 #	1420 (118/month)	962 (80/mo.)	N/A	178 (15/mo.)	77 (6.5/mo.)	15 (1/mo.)	188 (15.7/mo.)
2021 #	1399 (116.5/month)	875 (73/mo.)	N/A	221 (18.5/mo.)	61 (5/mo.)	13 (1/mo.)	229 (19.1/mo.)
2022 *	1970 (164.2/month)	961 (80.1/mo.)	553 (46.1/mo.)	210 (17.5/mo.)	64 (5.3/mo.)	17 (1.4/mo.)	165 (13.8/mo.)
2023 ^	1679 (186.8/month)	809 (89.9/mo.)	559 (62.1/mo.)	144 (16.0/mo.)	42 (4.7/mo.)	13 (1.4/mo.)	112 (12.4/mo.)

COVID-19 Affected Year

* First Year of Expanded Jurisdiction

^YTD - January 1, 2023 - September 30, 2023

Number of Petitions for Rehearing En Banc Jan 2016 – Sep 2023



**Court of Appeals Cases with Merit Hearings in 2023
Cases Disposed as of September 30
Overall Case Processing Time (in Days)**

Eastern Region

Case Type	Mean	Median	Number of Cases
Criminal of Right	397	393	84
Ancillary Criminal	273	277	3
Expanded Civil	317	304	10
Other Civil	378	378	2
Domestic Relations	438	410	6
Workers' Comp	na	na	0
Administrative Agency	na	na	0

Central Region

Case Type	Mean	Median	Number of Cases
Criminal of Right	410	403	81
Ancillary Criminal	144	144	2
Expanded Civil	337	335	17
Other Civil	403	403	1
Domestic Relations	423	397	10
Workers' Comp	336	331	4
Administrative Agency	434	406	4

Western Region

Case Type	Mean	Median	Number of Cases
Criminal of Right	359	356	89
Ancillary Criminal	140	140	2
Expanded Civil	358	350	12
Other Civil	421	421	2
Domestic Relations	378	370	20
Workers' Comp	379	379	2
Administrative Agency	na	na	0

Northern Region

Case Type	Mean	Median	Number of Cases
Criminal of Right	370	362	56
Ancillary Criminal	300	300	2
Expanded Civil	355	367	28
Other Civil	na	na	0
Domestic Relations	361	354	16
Workers' Comp	335	358	5
Administrative Agency	na	na	0

Court of Appeals of Virginia 2022 Statistical Report – Published Opinions – Specific Dispositions

Court of Appeals of Virginia

Statistical Report

January 1, 2022 - December 31, 2022

Petitions / Appeals / Dispositions / Orders / Opinions	I	II
Cases Decided by Published Opinion		
Affirmed	47	
Affirmed and Remanded for Attorney's Fees Determination	2	
Affirmed and Remanded for Correction of Clerical Error	2	
Affirmed in Part, Dismissed in Part	0	
Affirmed in Part, Dismissed in Part, and Remanded for Attorney's Fees Determination	0	
Affirmed in Part, Dismissed in Part, and Transferred in Part	0	
Affirmed in Part, Reversed and Final Judgment in Part	1	
Affirmed in Part, Reversed and Remanded in Part	9	
Affirmed in Part, Reversed in Part	0	
Affirmed in Part, Transferred in Part	0	
Dismissed	0	
Dismissed and Remanded for Attorney's Fees Determination	0	
Modified	0	
Reversed	2	
Reversed and Final Judgment	3	
Reversed and Final Judgment in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Final Judgment in Part, Transferred in Part	0	
Reversed and Remanded	12	
Reversed and Remanded in Part	0	
Reversed and Remanded in Part, Dismissed in Part	0	
Reversed and Remanded in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Remanded in Part, Transferred in Part	0	
Reversed in Part, Dismissed in Part	1	
Reversed in Part, Dismissed in Part, and Transferred in Part	0	
Reversed in Part, Transferred in Part	0	
Summarily Affirmed	0	
Summarily Affirmed and Remanded for Attorney's Fees Determination	0	
Summarily Affirmed and Remanded for Correction of Clerical Error	0	
Transferred to SCV	0	
Vacated	1	
Sum of I: Cases Decided by Published Opinion		80

Court of Appeals of Virginia 2022 Statistical Report – Unpublished Opinions – Specific Dispositions

Court of Appeals of Virginia

Statistical Report

January 1, 2022 - December 31, 2022

Petitions / Appeals / Dispositions / Orders / Opinions	I	II
Cases Decided by Unpublished Opinion		
Affirmed	526	
Affirmed and Remanded for Attorney's Fees Determination	4	
Affirmed and Remanded for Correction of Clerical Error	11	
Affirmed in Part, Dismissed in Part	1	
Affirmed in Part, Dismissed in Part, and Remanded for Attorney's Fees Determination	1	
Affirmed in Part, Dismissed in Part, and Transferred in Part	0	
Affirmed in Part, Reversed and Final Judgment in Part	1	
Affirmed in Part, Reversed and Remanded in Part	9	
Affirmed in Part, Reversed in Part	3	
Affirmed in Part, Transferred in Part	0	
Dismissed	5	
Dismissed and Remanded for Attorney's Fees Determination	0	
Modified	0	
Reversed	2	
Reversed and Final Judgment	4	
Reversed and Final Judgment in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Final Judgment in Part, Transferred in Part	0	
Reversed and Remanded	22	
Reversed and Remanded in Part	0	
Reversed and Remanded in Part, Dismissed in Part	0	
Reversed and Remanded in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Remanded in Part, Transferred in Part	0	
Reversed in Part, Dismissed in Part	0	
Reversed in Part, Dismissed in Part, and Transferred in Part	0	
Reversed in Part, Transferred in Part	0	
Summarily Affirmed	0	
Summarily Affirmed and Remanded for Attorney's Fees Determination	0	
Summarily Affirmed and Remanded for Correction of Clerical Error	0	
Transferred to SCV	0	
Vacated	0	
Sum of I: Cases Decided by Unpublished Opinion		589

Court of Appeals of Virginia 2023 Statistical Report – Published Opinions – Specific Dispositions

Court of Appeals of Virginia

Statistical Report

January 1, 2023 - September 30, 2023

Petitions / Appeals / Dispositions / Orders / Opinions	I	II
Cases Decided by Published Opinion		
Affirmed	58	
Affirmed and Remanded for Attorney's Fees Determination	0	
Affirmed and Remanded for Correction of Clerical Error	1	
Affirmed in Part, Dismissed in Part	0	
Affirmed in Part, Dismissed in Part, and Remanded for Attorney's Fees Determination	0	
Affirmed in Part, Dismissed in Part, and Transferred in Part	0	
Affirmed in Part, Reversed and Final Judgment in Part	1	
Affirmed in Part, Reversed and Remanded in Part	9	
Affirmed in Part, Reversed in Part	0	
Affirmed in Part, Transferred in Part	0	
Dismissed	0	
Dismissed and Remanded for Attorney's Fees Determination	0	
Modified	0	
Reversed	3	
Reversed and Final Judgment	3	
Reversed and Final Judgment in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Final Judgment in Part, Transferred in Part	0	
Reversed and Remanded	7	
Reversed and Remanded in Part	1	
Reversed and Remanded in Part, Dismissed in Part	0	
Reversed and Remanded in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Remanded in Part, Transferred in Part	0	
Reversed in Part, Dismissed in Part	0	
Reversed in Part, Dismissed in Part, and Transferred in Part	0	
Reversed in Part, Transferred in Part	0	
Summarily Affirmed	0	
Summarily Affirmed and Remanded for Attorney's Fees Determination	0	
Summarily Affirmed and Remanded for Correction of Clerical Error	0	
Transferred to SCV	0	
Vacated	0	
Sum of I: Cases Decided by Published Opinion		83

Court of Appeals of Virginia 2023 Statistical Report – Unpublished Opinions – Specific Dispositions

Court of Appeals of Virginia

Statistical Report

January 1, 2023 - September 30, 2023

Petitions / Appeals / Dispositions / Orders / Opinions	I	II
Cases Decided by Unpublished Opinion		
Affirmed	478	
Affirmed and Remanded for Attorney's Fees Determination	6	
Affirmed and Remanded for Correction of Clerical Error	15	
Affirmed in Part, Dismissed in Part	3	
Affirmed in Part, Dismissed in Part, and Remanded for Attorney's Fees Determination	0	
Affirmed in Part, Dismissed in Part, and Transferred in Part	0	
Affirmed in Part, Reversed and Final Judgment in Part	1	
Affirmed in Part, Reversed and Remanded in Part	9	
Affirmed in Part, Reversed in Part	0	
Affirmed in Part, Transferred in Part	0	
Dismissed	6	
Dismissed and Remanded for Attorney's Fees Determination	0	
Modified	0	
Reversed	0	
Reversed and Final Judgment	8	
Reversed and Final Judgment in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part	0	
Reversed and Final Judgment in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Final Judgment in Part, Transferred in Part	0	
Reversed and Remanded	25	
Reversed and Remanded in Part	0	
Reversed and Remanded in Part, Dismissed in Part	0	
Reversed and Remanded in Part, Dismissed in Part, and Transferred in Part	0	
Reversed and Remanded in Part, Transferred in Part	0	
Reversed in Part, Dismissed in Part	1	
Reversed in Part, Dismissed in Part, and Transferred in Part	0	
Reversed in Part, Transferred in Part	0	
Summarily Affirmed	0	
Summarily Affirmed and Remanded for Attorney's Fees Determination	0	
Summarily Affirmed and Remanded for Correction of Clerical Error	0	
Transferred to SCV	0	
Vacated	0	
Sum of I: Cases Decided by Unpublished Opinion		552

Appendix B

Court of Appeals of Virginia
Strategic Plan
2023 – 2025

Introduction

In 2014 the Court began work on a three-year strategic plan. The plan was adopted unanimously by the judges and went into effect January of 2015. The success of the Court's first strategic plan demonstrated the benefits of structured planning and development. Consequently, a second strategic plan was drafted and adopted by the Court in 2017 to cover a five-year period between 2018-2022.

While the second strategic plan was in effect, the global COVID-19 pandemic presented unforeseen challenges for judicial systems across the nation. Despite these challenges, the Court completed over ninety percent of the focus area goals of the 2018-2022 Strategic Plan. The plan was pivotal in the Court achieving significant accomplishments during those unprecedented times. The steps taken before the pandemic to address the strategic goals allowed the Court to quickly expand the intake of electronic documents and expedited the development of the system of electronic filings. Additionally, the Court's standing committee structure, established under the first strategic plan, was an effective mechanism for addressing issues as they arose during the pandemic. The committees, working in conjunction with the chief judge, Clerk's Office, and the Chief Staff Attorney's Office, were instrumental in developing solutions to challenges that faced the Court over the course of the pandemic. Consequently, the strategic plan once again proved itself as an effective tool for keeping the Court on course and moving it forward, even in challenging times.

Further unforeseen when the Court drafted the 2018-2022 Strategic Plan were the historic changes that occurred in 2022. In its 2021 Session, the General Assembly restructured the mission of the Court and its composition. The legislature expanded the jurisdiction of the Court to include almost all civil appeals. The criminal appeal process was converted from a petition structure to one of appeals of right. Now, virtually all appeals are appeals of right in this Court. The General Assembly also increased the number of judges from eleven to seventeen active judges. And to accommodate the expanded jurisdiction, the legislature significantly increased the number of staff in the Clerk and Chief Staff Attorney's offices.

While the structure of the Court's strategic plan remains the same as it was in 2014, this third edition of the plan has a broader scope to reflect the new structure and function of the Court. With the extensive changes initiated in the past two years, it is prudent for this third strategic plan to cover a timeframe of three-years, while the changing landscape of the Court and its processes are fully realized.

Consistent with the manner in which the Court successfully implemented the 2015–2018 and the 2018-2022 Strategic Plans, the goals and objectives identified in the 2023–2025 Strategic Plan will be accomplished through the Court's standing

committees and ad hoc committees. Progress will be reported to the Court periodically and action items will be presented to the Court for adoption/approval as appropriate.

Mission

We will timely administer fair and impartial justice in the Commonwealth by rendering thoughtful, well-reasoned appellate decisions consistent with the Constitution and other applicable laws in an efficient manner, treating all those who come before the Court with courtesy and respect.

Vision

We will be a model intermediate appellate court, providing full and fair justice in the Commonwealth to all who come before the Court.

Core Values

We will consistently act in the highest professional manner by embodying the following core values in our service to the Commonwealth:

- Fidelity to the rule of law
- Equal justice for all
- Judicial integrity and independence
- Diligence and excellence
- Collegiality, respect, and kindness
- Access to justice and court services for all

Focus Areas

Continuing Education, Training, and Staff Career Development

- Maintain in-house continuing education programs for judges and staff
- Coordinate with Supreme Court counterparts to promote uniform continuing education where appropriate for the appellate judiciary and staff
- Identify funding/scholarships available for continuing education of judges and Court personnel

Facilities

- Continue to develop a better workspace in Richmond

- Work with the Supreme Court of Virginia, the Office of the Executive Secretary, the Department of General Services, and the architects to design an appellate court complex in Capitol Square
- Develop plans to move the Court into the future Richmond appellate court complex
- Continue to ensure a safe, health-compliant, and secure workspace for all Court staff
- Work with the Virginia Division of Capitol Police and local law enforcement departments to conduct security assessments and ensure adequate security procedures for each chambers, in-person argument panels, and official Court functions
- Explore possible temporary courtroom locations for Richmond in-person panels to address the space limitations of the Court's current location and more fully accomplish the Court's goal of open access for all
- Work with the Office of the Executive Secretary and the Department of General Services to streamline satellite office acquisition and ensure that satellite offices are structured to meet accepted Court security practices to the extent possible

Future of the Court

- Identify trends that may affect the successful implementation of the Court's Strategic Plan, including variations in caseload and changes in the type and distribution of the Court's cases
- Monitor Bar activities that affect the Court
- Monitor national trends and innovations that could improve Virginia's Justice System
- Review annual reports on case filings and trends for submission to the General Assembly
- Conduct annual Court retreats, subject to funding
- Conduct and review periodic stakeholder surveys

Operations

- Continue assessment of alternative in-person panel locations, including law school venues
- Engage in periodic analysis of case assignments and scheduling protocols
- Conduct quarterly reviews and recommend any necessary updates of the Court's Policy and Procedure manual

- Explore logistics for “hybrid” oral arguments in satellite locations
- Conduct biannual review of Court performance metrics for case processing
- Work with stakeholder groups to develop a pro bono appellate initiative

Personnel

- Analyze workflow and personnel requirements for the Clerk’s Office and the Chief Staff Attorney’s Office
- Collaborate with the Clerk’s Office and the Chief Staff Attorney’s Office on revising evaluation forms and implementing new job descriptions and performance metrics based on new staff roles and new personnel
- Work with the Clerk’s Office and the Chief Staff Attorney’s Office on succession planning for critical management positions
- Identify and implement staff incentives and maintain positive morale
- Streamline and refine systematic protocol for efficiently and securely onboarding and offboarding personnel
- Maintain and foster an environment of inclusiveness, well-being, respect, and acceptance among Court personnel

Technology

- Continue to expand electronic filing and electronic document transmission
- Develop automations between the Court’s electronic document submission systems and the Court’s case management system
- Develop secure public user electronic access to case documents and filings and identify systems and appropriate vendors to make briefs available through online research platforms
- Continue to explore expanding and developing video conferences and virtual platforms, including livestreaming capabilities for in-person merit panel arguments
- Consider technology that would improve the Court’s internal processes
- Consult with all stakeholders, including judges and chambers staff, to identify and design improvements to the case management system and to purchase and implement custom workflow software to be integrated with the case management system
- Develop training programs to promote better use of technology