



Book Review: What is Happening to State Trial Court Civil Filings?

BOOK REVIEW

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ABSTRACT

This book review explores research findings and recommendations in *What is Happening with State Trial Court Civil Filings? The Unresolved Riddles*, a 2024 publication of the American Bar Association. The book presents data revealing a counterintuitive reality observed in recent decades: a broad decline in state court civil case filings despite large population growth and significant disparities in per capita case filings across states in the United States.

The authors of the book, Alan Carlson and John Grecean, examine a number of factors traditionally assumed to be associated with the volume of civil case filings. They also voice deep concerns about systemic barriers to the civil justice system. To close the “justice gap,” the authors propose the creation of customer-focused courts, simplified procedures for case filing and improvements in court data management.

The unexpected study findings give rise to a number of policy and planning that merit research and review. The research approach set forth in *What is Happening to State Trial Court Civil Filings?* provides a model framework for the expanded study of case filing trends, a critically important facet of modern judicial administration.

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Court planning strategies and the acquisition of judicial resources are typically predicated upon an expectation of ever-growing caseloads. This widely accepted paradigm is now in question with respect to state courts in the United States, given the research findings in a new book, *What is Happening with State Trial Court Civil Filings: The Unresolved Riddles?* The book, published by the American Bar Association in 2024, presents research revealing a counterintuitive reality observed in recent decades: a broad decline in state court civil case filings despite large population growth and significant disparities in per capita case filings across states.

For our international audience, it is noteworthy that the U.S. Constitution creates a federal system of government in which power is shared between the federal government and 51 state governments. Both state and federal governments are authorized to establish court systems, although the jurisdiction of the federal courts is limited and primarily focused on the administration and adjudication of federal law. In the United States, state courts hear most contract cases, tort cases (including personal injury) and cases arising from state constitutions and state laws. The nationwide federal court system hears cases involving federal laws and treaties, constitutionality of laws, bankruptcy and disputes between states of the citizens of different states. The focus of this book review is civil case filing trends in state trial courts in the United States.

The book's authors, Alan Carlson and John Greacen, have extensive experience in judicial administration and case management. Their expertise is reflected in the thoughtful scope and methodology of the research, as well as insightful data analysis. The researchers examine a number of factors traditionally assumed to be associated with the volume of civil case filings. Nationwide civil case filing data is drawn from the National Center for State Courts' caseload statistics database, dating back to the 1970's. The research also includes a detailed review of civil case filing data and key characteristics of civil court systems in the states of California, Illinois, Minnesota, Ohio and Texas. The research findings are counterintuitive and, at first glance, inexplicable; some at direct odds with the conventional wisdom on civil caseload growth:

- State civil filings across all types of civil cases in state courts have been falling for years
- Population size is not a strong predictor of per capita civil case filings
- Per capita civil case filings vary widely across states, within states, and even among adjacent geographical jurisdictions and large courts in the same state
- Changes in statutes of limitation time frames and "amount in controversy" thresholds do not appear to dramatically impact case filing levels
- The organizational structure of state courts – unified versus multiple trial courts – does not correlate with civil case filing levels
- Civil case filing fees have no measurable effect on filing volume
- Extensive introduction of court technology – fillable forms, e-filing and the expansion of self-help tools – has not slowed the decline in civil case filings

The research data is presented in rich graphical charts, inviting the reader to explore various potential correlates of civil case filing volume, including economic conditions, legislative changes, and procedural reforms. Refreshingly, Carlson and Greacen do not draw overly broad generalizations or unsubstantiated conclusions from the available civil case filing trend data.

In reviewing the downward trend in civil case filings per capita, the authors voice concerns about systemic barriers to the civil justice system, such as the high costs and complexity of civil litigation for self-represented litigants. They state, "Significantly, the proportion of people with unmet legal needs appears to have increased during the period of declining civil filings." Access to justice remains a major concern, given the vast number of individuals with legal needs who appear to be unserved or underserved by state courts. Carlson and Greacen also highlight a corresponding decline of public trust in state courts as a public forum for dispute resolution, noting a "staggering gap in unmet legal needs."

To close the "justice gap," the authors propose the creation of more customer focused courts, simplified procedures for case filing and other measures to expand access to court services. *What is Happening to State Court Civil Filings?* also outlines a series of practical "next steps" for state courts, providing a road map for enhanced data collection and actionable data analysis. Suggested improvements in data management include the creation of new case categories for counting and analytical purposes, the development of data dashboards and the simplification of terminology describing civil case types and categories. These proposed system improvements stand to help court leaders in development of "next generation" case management systems, new data-driven case management techniques and performance based strategic plans.

The unexpected research findings presented in this book give rise to a number of policy and planning questions that merit research and review. First, does the long-term downward trend in state court civil filings per capita also extend to federal courts in the United States and/or to other common-law countries? The above, worldwide Second is the decline in per capita case filings found in this research unique to the civil arena or does it also encompass domestic relations litigation and other case types? If so, to what extent and what are the policy implications for the judicial systems?

A third related area ripe for future research is how the growing popularity of court-annexed and private alternative dispute resolution (ADR) initiatives impacts the volume of civil case filings. The array of innovative ADR programs, including court-annexed, other public, and private initiatives has been expanding for decades, and mandatory arbitration provisions are included in myriad contracts, including many consumer service agreements. To what extent have state court systems and bar associations established dispute resolution programs that provide civil parties with alternatives to traditional litigation, thus offering them less costly and more expedient options for resolving their civil disputes? The role of the courts in ADR processes along with measures to maximize procedural fairness is also an area for examination. To what extent has growth in the use of these less-formal, less-costly, and often more convenient resolution mechanisms contributed to the decline in state court civil filings? Assuming that it is significant, is that growth desirable from the perspective of improving the administration of justice and should reliance on these mechanisms be encouraged?

These areas of inquiry merit further study and discussion among policy makers, judges and court administrators. The research approach set forth in *What is Happening to State Court Civil Filings?* provides a model framework for the expanded study of case filing trends, a critically important facet of modern judicial administration.

COMPETING INTERESTS

The author has no competing interests to declare.

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4

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