



304: Litigation Management-Using Metrics to Demonstrate Value

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**ACC's 2004 Annual Meeting
Monday October 25, 2004**

**304 Litigation Management
Using Metrics to Demonstrate Value**

Presenters

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Overview of Presentation

- What are litigation metrics?
- Why are they important?
- How do you implement a litigation metrics management system?
- How do you use the results to show legal value to Company?

What are Litigation Metrics

- Metrics are compilations of data that measure select performance criteria
- Litigation Metrics Management System ("LMMS") – application of selected metrics to measure litigation management achievements.
 - Not a matter tracking or reporting system
 - Identifies select and "big picture" metrics
 - Flexible - additional metrics and sub-metrics can be added in the future
- All Litigation Metrics and Measurements can be criticized; other option is to do nothing
- No LMMS will happen overnight

Important Objectives Achievable with Litigation Metrics

- Controlling and reducing costs
- Trending performance
- Preventing or mitigating future loss through “lessons learned”
- Improving performance by
 - Setting targets
 - Measuring success
- Identifying litigation related business and legal trends earlier
- Comparing performance against peer companies
- Demonstrating to management and others that the litigation functions add value









Keys to Success

- Uniform operating guidelines
- Definition of processes
- Proactive management focus
- Effective communication, education and training
- Effective utilization of technology
- Centralized program administration

Roadblocks to a Successful Litigation Management Program

- Litigators are not historically trained, by education or experience, to be proactive macro litigation managers
- Data collections systems are either non-existent or not designed to gather data to support metrics
- Litigators are too busy “putting out fires” to implement systematic change necessary to have a successful metrics program

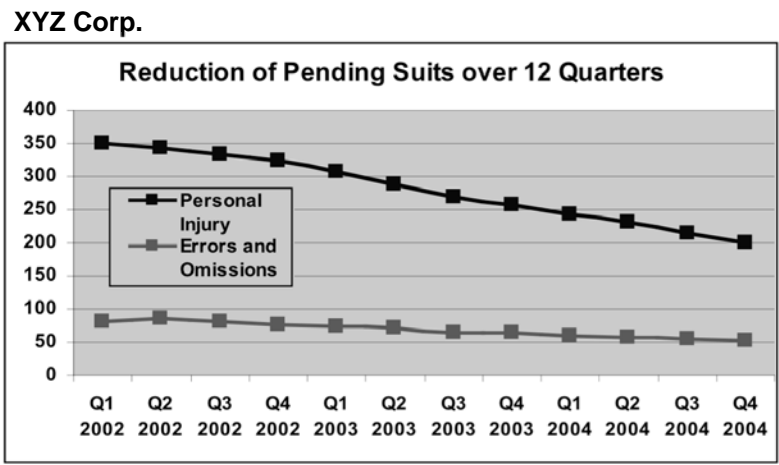
Eight Key Questions to Ask Before Setting Up a Litigation Measurement Management System

-  What are your specific goals as a litigation section or legal department?
-  How do you determine if these goals are met?
-  What measurements are appropriate?
-  What data do we need to gather to accurately measure whether you achieve the goals?
-  Is that data already available? If not, what systems do you need to put in place to gather the data?
-  Once the systems are in place how do we ensure compliance with data entry requirements?
-  What is the best way to communicate the data to emphasize achievements?
-  What are the rewards for meeting the goals?

Six Metrics Every Litigation Manager Should Implement

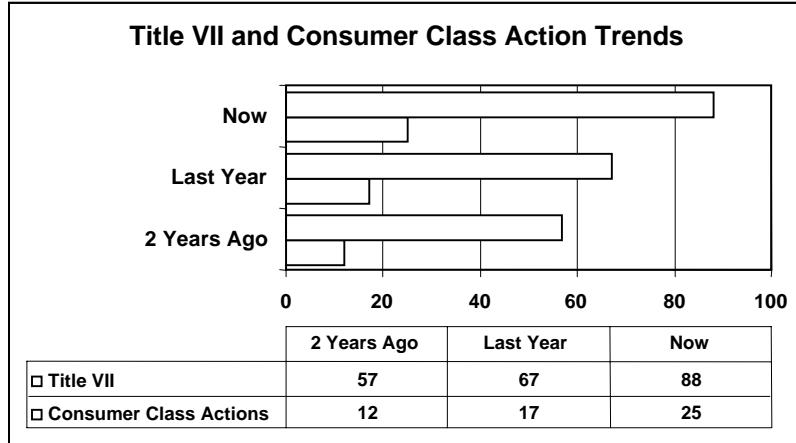
- | | |
|---|---|
| <ul style="list-style-type: none"> 📁 Case Inventory <ul style="list-style-type: none"> • Type • Business Unit 📄 Total cost to resolve (TCR+) <ul style="list-style-type: none"> • Type • Business unit 🕒 Dispute cycle time <ul style="list-style-type: none"> • Type • Business Unit | <ul style="list-style-type: none"> 📄 Outside counsel fees <ul style="list-style-type: none"> • Actual • Budget 📄 Early case assessment <ul style="list-style-type: none"> • Use • Effectiveness 🕒 After Action Reviews <ul style="list-style-type: none"> • Use • Effectiveness |
|---|---|

Pending Suit Reduction



Marked Increase in Selected Actions

XYZ Corp.



TCR and TCR+ Definitions

TCR =

- Outside Counsel Fees+
- Their Expenses +
- Their Costs
- Added to:
- Resolution Costs
 - Settlements
 - Verdicts
 - Judgments , etc

TCR+ =

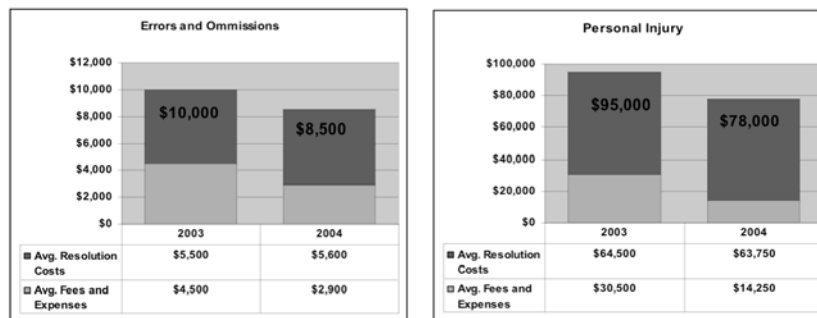
- TCR
- Added to
- Dollar Value of:
 - In-House Counsel
 - Para-professionals
 - Management time +
- Expenses
 - (using formulae rather than timekeeping)

Resolution Costs (settlement, verdict/judgment, etc.)

- Total resolution costs for all litigation matters collectively
- Total resolution costs as a % of TCR and TCR+
- Average per matter resolution costs for each substantive litigation area

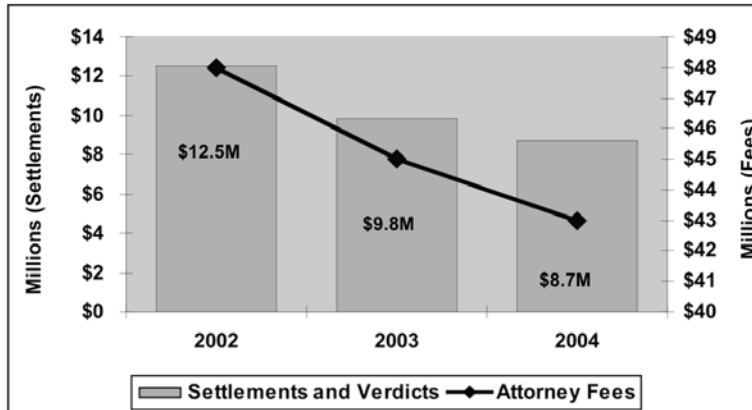
Reduced Total Cost To Resolve

XYZ Corp.



Total Cost Resolution

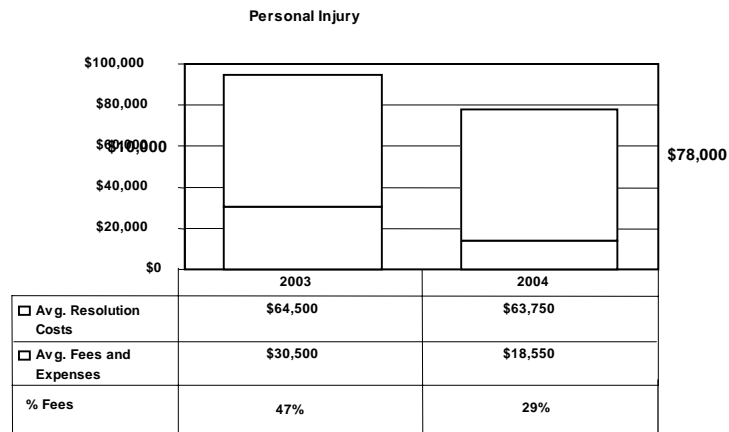
XYZ Corp. – Personal Injury Cases



Outside Counsel Fees, Expenses, and Costs

- Total outside counsel fees, expenses, and costs for all litigation matters collectively
- Total outside counsel fees, expenses, and costs as a % of TCR and TCR+
- Total savings on outside counsel fees, expenses and costs resulting from negotiated discounts and alternative fee arrangements
- Average per matter outside counsel fees, expenses and costs for each litigation substantive area

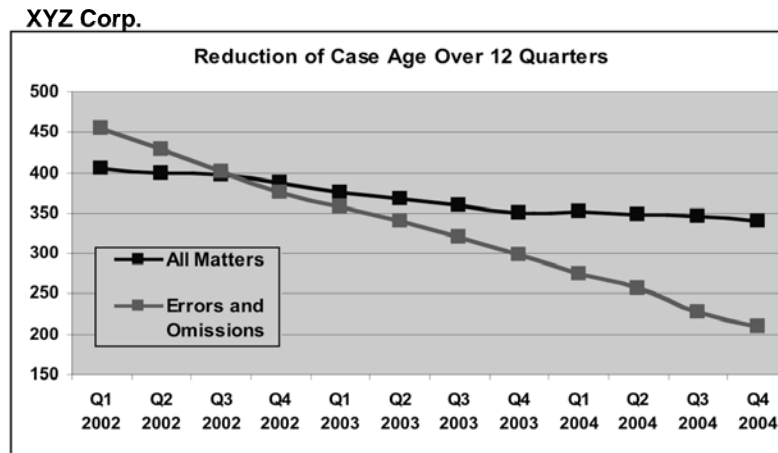
XYZ Corp. Personal Injury



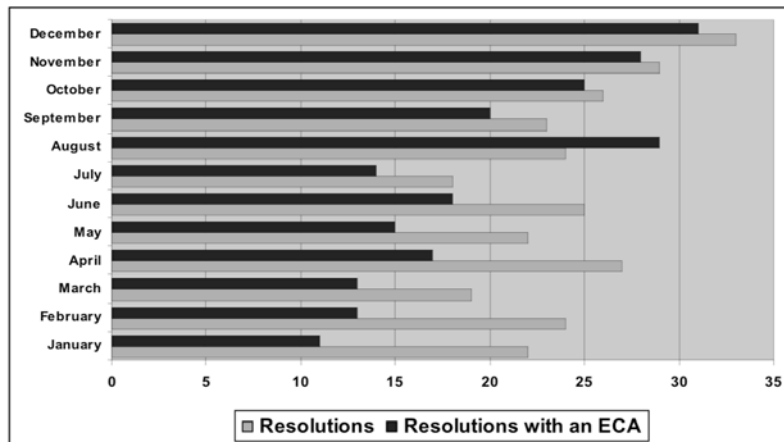
Dispute Cycle Time

- Definition:
 - Time period between opening a matter and closing it consistent with the matter management guidelines
- Measures:
 - Average dispute cycle time for all matters in all litigation substantive areas
 - Average dispute cycle time per matter for each litigation substantive area

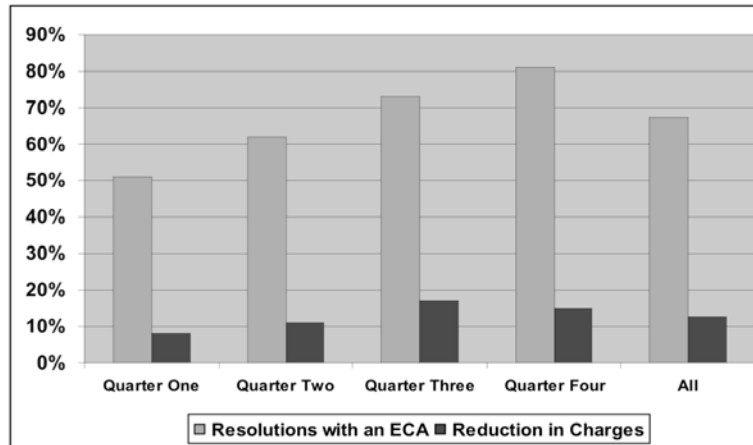
Cycle Time - Case Age Reductions



The Number of Resolutions Increase as an ECA Discipline is Implemented



As Use of Early Case Assessments Increase Savings Increase



After Action Review Usage

- Definition:
 - Formal process of conducting a timely analysis of significant matters after matter conclusion, primarily to secure and leverage “lessons learned.”
- Measures:
 - Whether an AAR was conducted
 - As a percentage of all “significant” matters
 - Whether an AAR was conducted
 - As a percentage of each litigation substantive area

Metrics at ConocoPhillips

Ron Denton –
Business Services Manager

October 25, 2004



Measuring Value in Legal

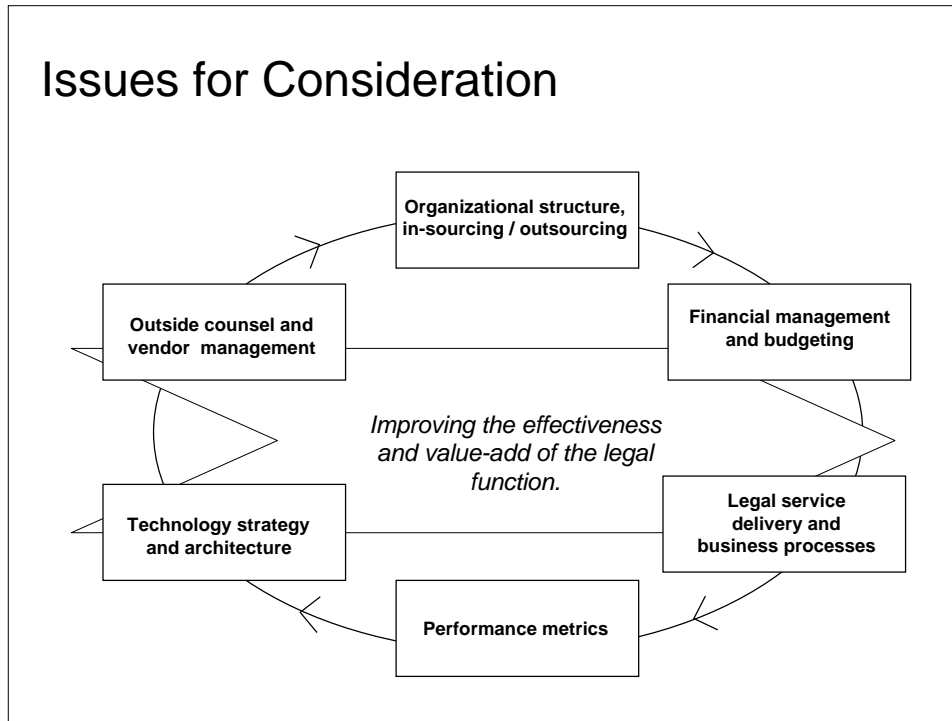
- Inputs to measurements
 - Number of lawyers and cost of service
 - Internal billings
 - Compensation
 - Outside counsel costs
- Measurements
 - Matters per lawyer
 - Results of litigation
 - Settlements and judgments
- Client satisfaction measures
 - Periodic performance surveys
 - Project service delivery reviews

What Are Satisfactory Results?

- Increase in quality of service delivered
- Decrease in cost of services delivered
 - Cost per case or per transaction
 - Positive impact on SVA
- Creativity of solutions
- Effectiveness of preventative counseling
 - Reduction in cases
 - Severity of problems lessen
- Responsiveness and cycle time
 - Fast track cases and matters (lifecycle)
 - Shorten time to resolution (get to settlement)

Means for Demonstrating Value

- Information management – Collection
 - Financial statistics
 - HR data
 - Internal and external performance data
 - Outside counsel costs
 - Asset valuation, such as IP
- Information management - Analysis
 - Predictability, trends and progress mapping
 - Calculations of metrics to support success
- Information management - Reporting
 - Management understands numbers
 - If legal can't provide numbers, management will derive them for legal



Considerations

Technology

- What technology do we have in place to serve the law department?
- Are we using technology effectively to support our work processes?
- Are users satisfied with the current technology?
- Are we taking advantage of existing technology designed to support the law department?

Considerations

Costs

- What are our internal and external cost drivers?
- Do we have the right tools in place to adequately capture costs?
- How does the cost of the legal department compare to the cost of outside counsel?

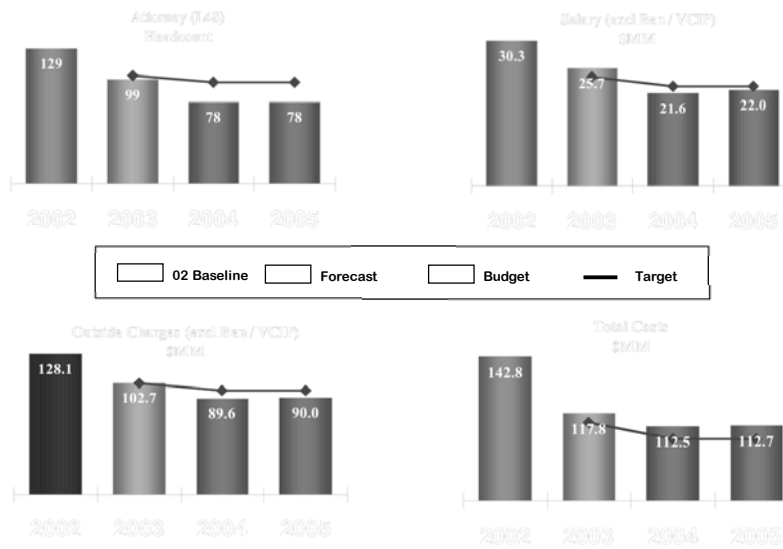
Considerations

Accountability

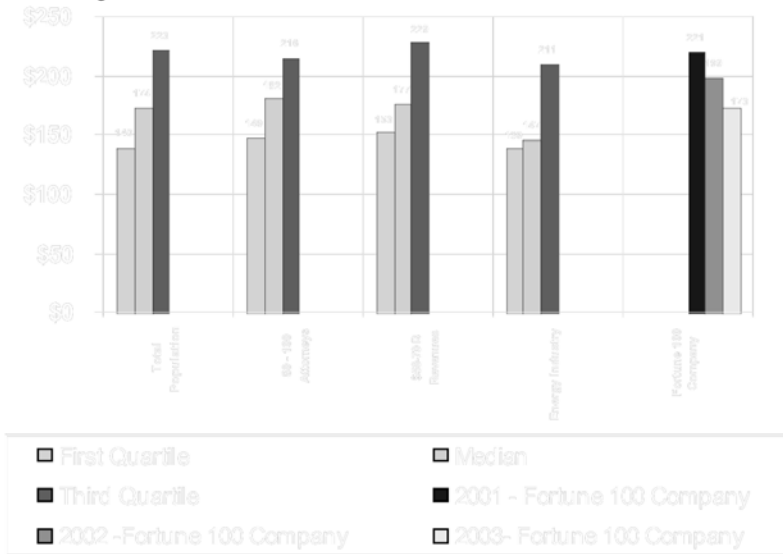
- What tools do we have in place to collect data and provide information?
- How do we measure our performance?
- Do our performance metrics provide incentives for the right behavior?
- How do we report law department performance to senior management?

Examples of Metrics

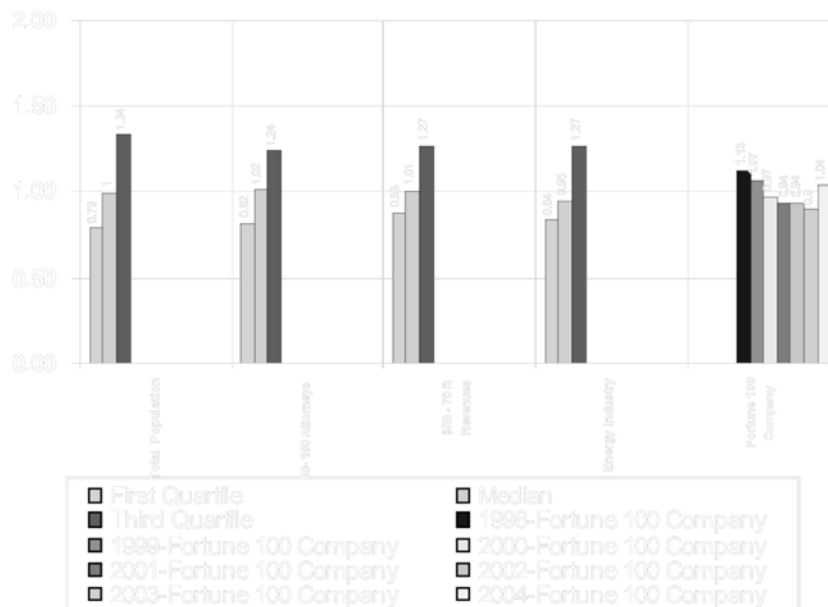
Budget Highlights



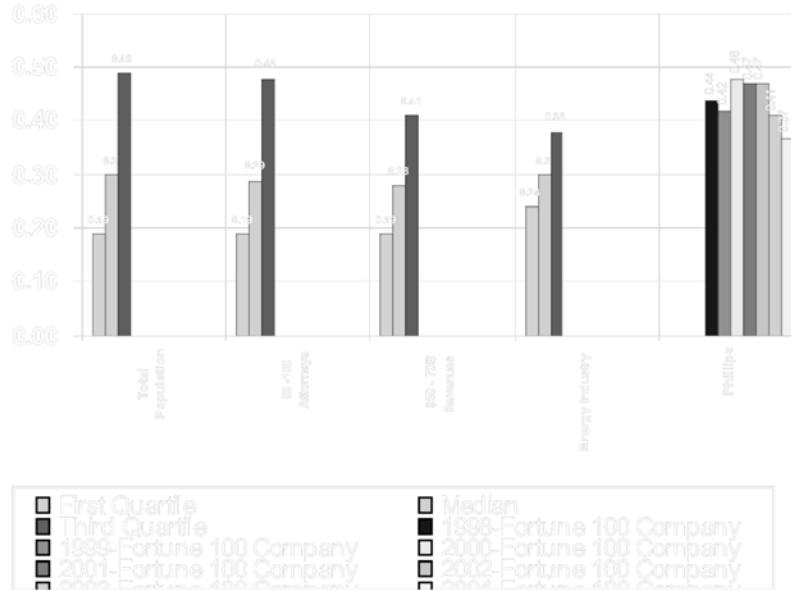
Fully-loaded Inside Hourly Rate for Attorneys



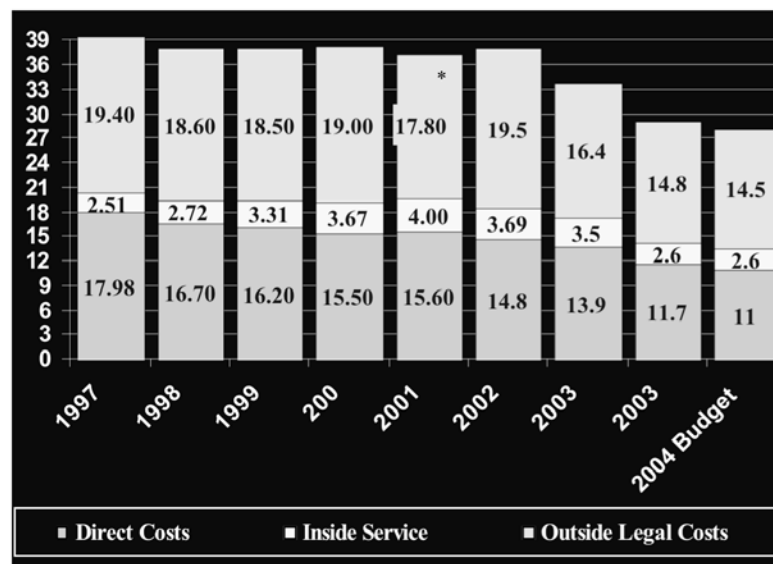
Total Support Staff per Attorney



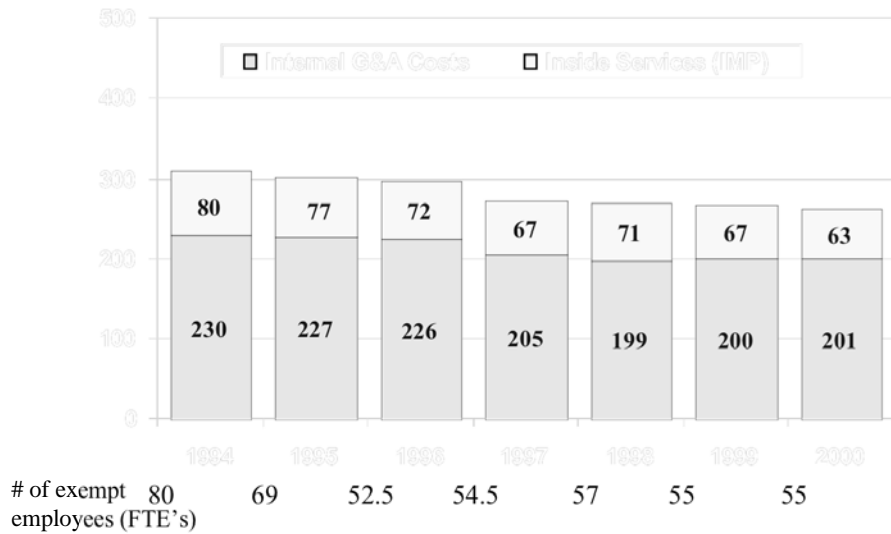
Legal Assistants per Attorney



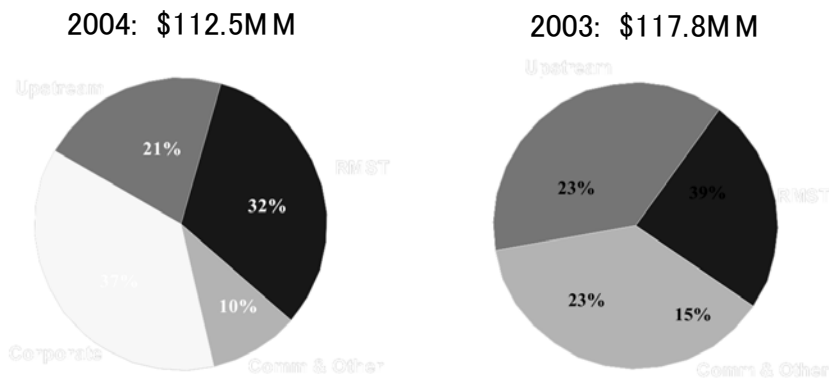
Legal Department - Controllable Costs



General Counsel - Cost Per Exempt Employee

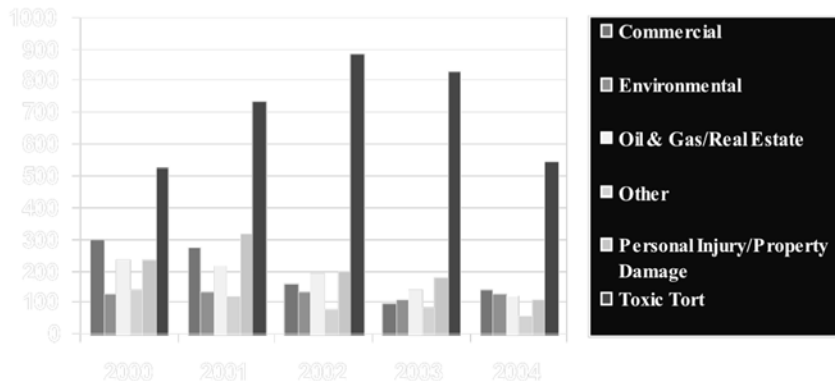


Allocations to B.U.s - % of Total Costs

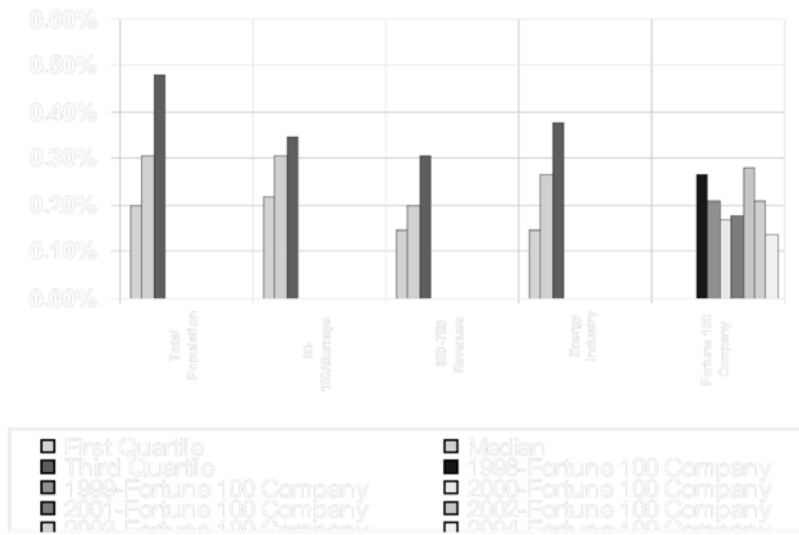


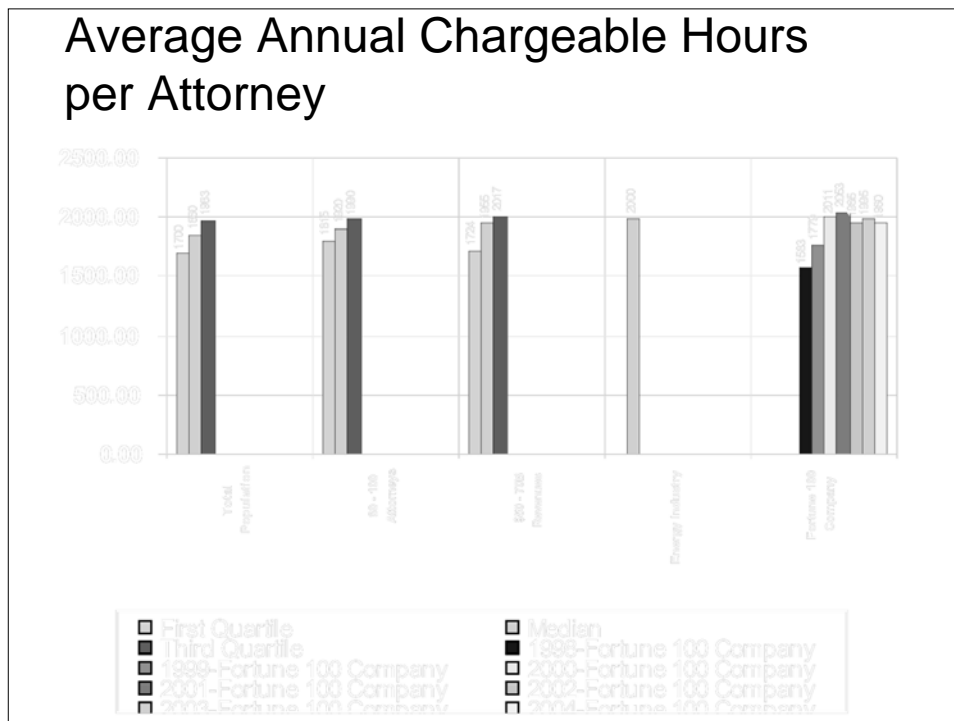
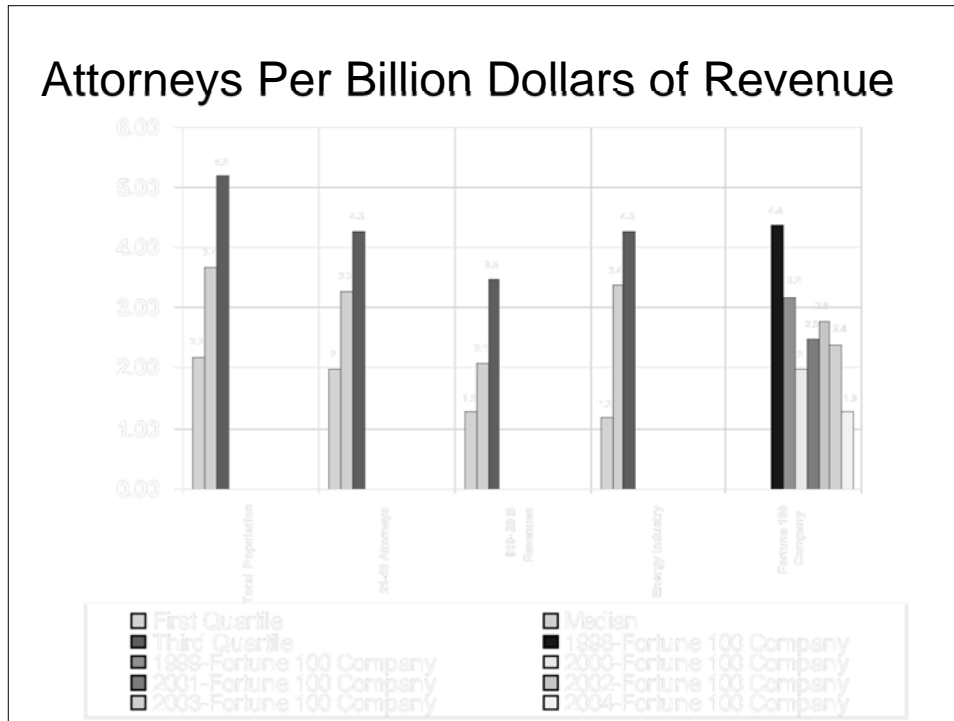
COMBINED - PENDING LAWSUITS BY TYPE

Toxic tort cases, including asbestos, continue to dominate docket

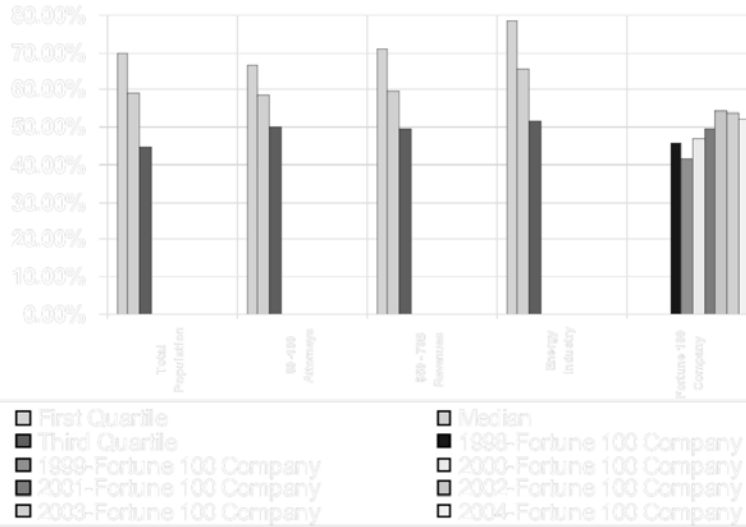


Total Legal as Percent of Revenue

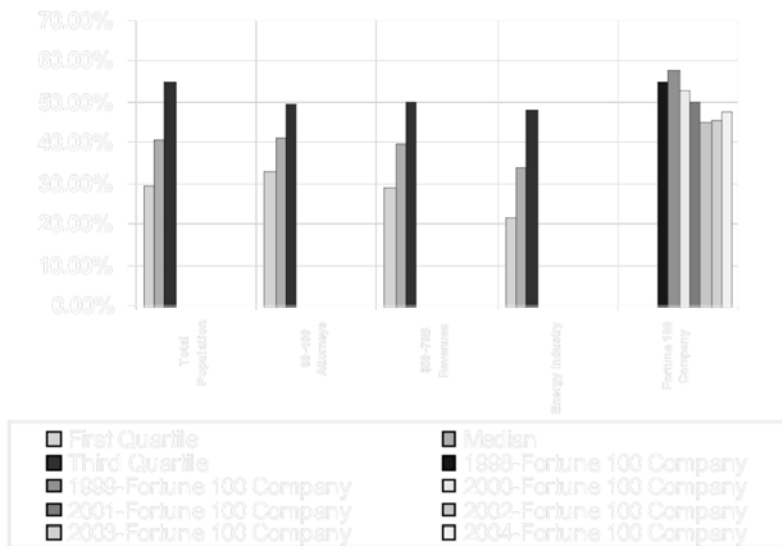




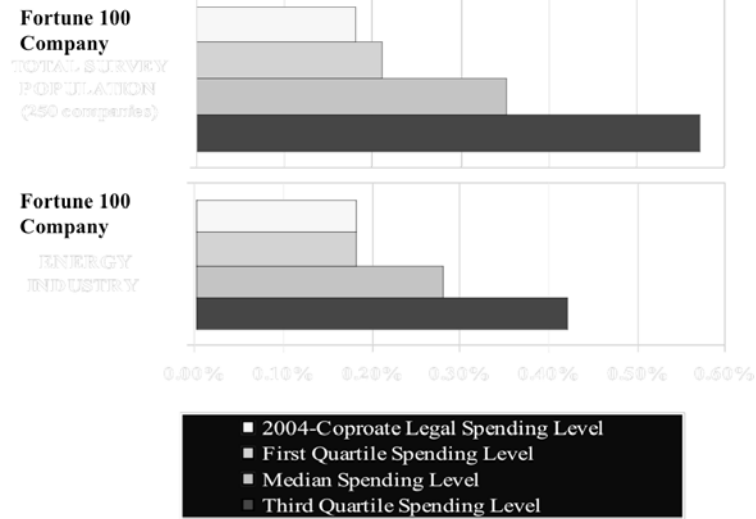
Outside Spending as a Percentage of Total Legal Spending



Inside Spending as a Percentage of Total Legal Spending



Total Legal Spending as Percent of Revenue



Questions??