

**CTC8**

**FIGHTING THE NAYSAYERS**

**A Candid Discussion About  
Recurring E-Filing Issues**

**Judge Herbert Dixon**

**Judge Henry duPont Ridgely**

**Judge Joseph Bataillon**

# **BECAUSE OF THE INTERNET**

- **Effective medium for electronic documents**
- **Low costs**
- **Social Infrastructure**
- **Easy as sending e-mail**
- **Or, making online purchase**

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**FIGHTING THE NAYSAYERS**

**PANEL PARTICIPANTS:**

**Judge Joseph Bataillon**

**Judge Henry duPont Ridgely**

**Judge Herbert Dixon**

# **IN RESPONSE TO E-FILING**

- **Technological Change Is Often Resisted**
- **Hurdles and Obstacles**
- **Similar Issues Arise in Every Jurisdiction**
- **Inside and Outside the Court**
- **From E-File Proposal to Implementation**

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**FIGHTING THE NAYSAYERS**

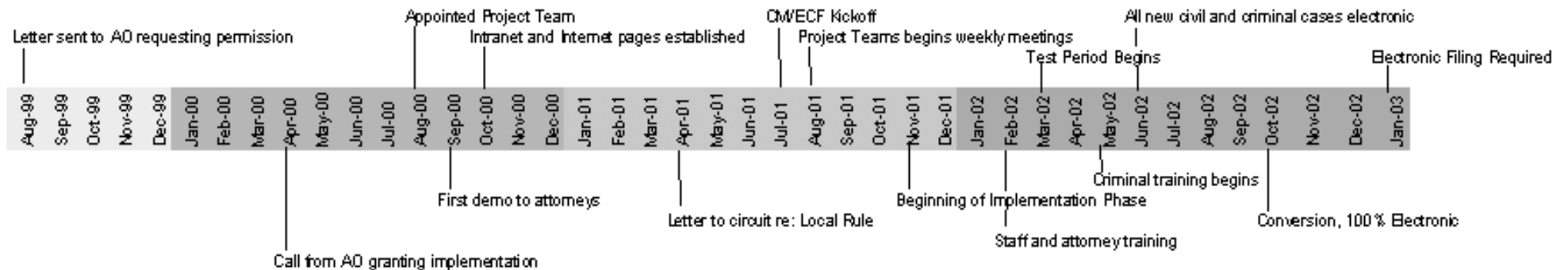
**Judge Joseph Bataillon**  
**United States District Judge**  
**District of Nebraska**

**Years on the bench: 6**

**CM/ECF Project Working Group for the Federal Courts**  
**High-Tech Courtroom of the Future**

# Timeline for Implementing Electronic Filing

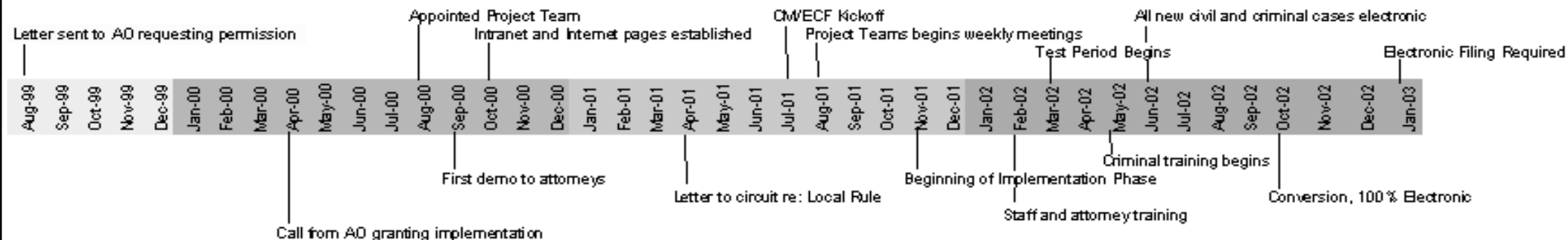
Judge Joseph Bataillon  
United States District Court  
for the  
District of Nebraska



# Proposal Letter Sent to AO

August 4, 1999 -- 31 Months Prior to Live

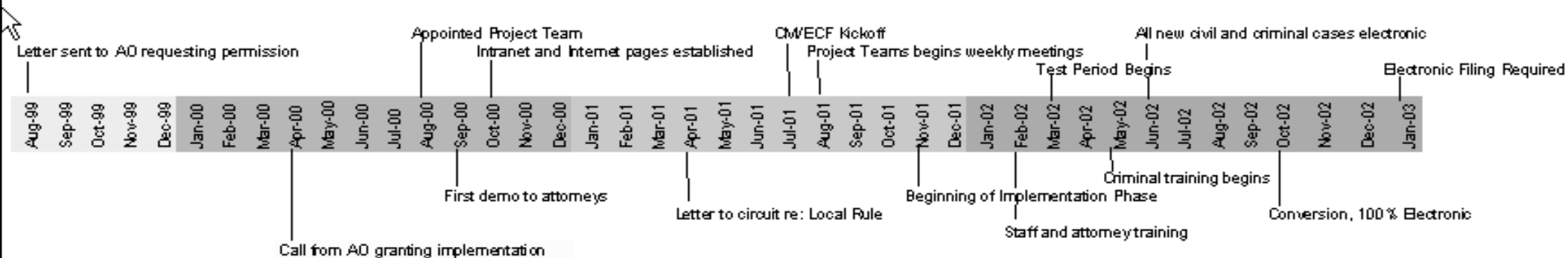
- Letter sent to Robert Lowney, Chief of Administrative Office of the US Courts
- Requested permission to implement Case Management/Electronic Case Files



# Call from AO-Permission granted

April 20, 2000 -- 23 Months Prior to Live

- Received call from David Scott informing that our court had been chosen as a “test wave” court with implementation on or after January 1, 2001

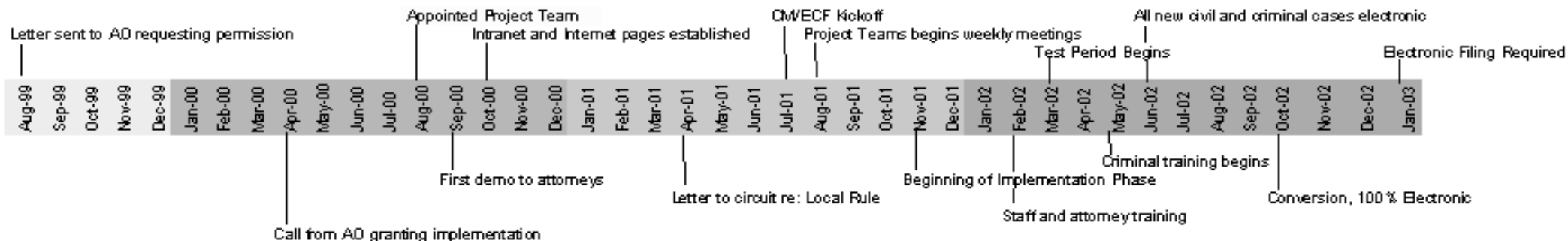


# Appointed CM/ECF Project Team

August 28, 2000 -- 19 Months Prior to Live

## ■ 12 members

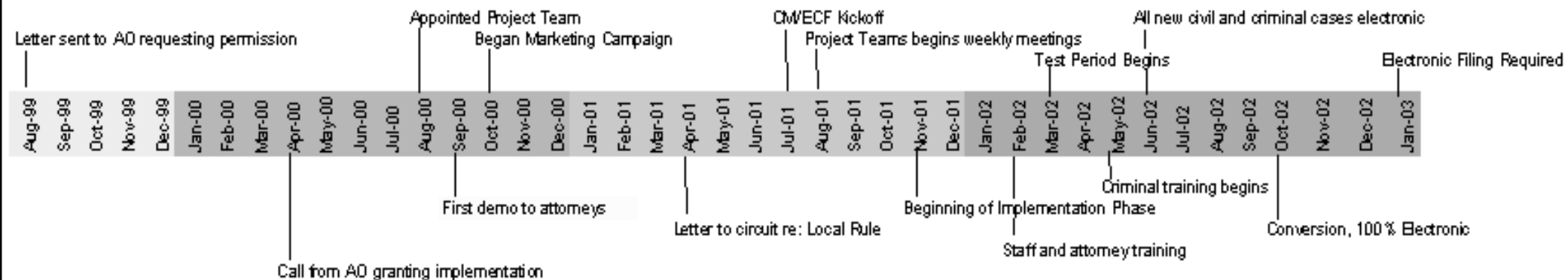
- Chief Deputy Clerk
- Law Clerk
- Judicial Assistant
- Training Coordinator
- Systems Manager
- Systems Administrator
- Courtroom Deputy
- Courtroom Deputy Supervisor
- Docket Clerk
- Docket Clerk Supervisor
- Financial Administrator
- Deputy-in-charge



# First Demo to Attorneys

September 12, 2000 -- 18 Months Prior to Live

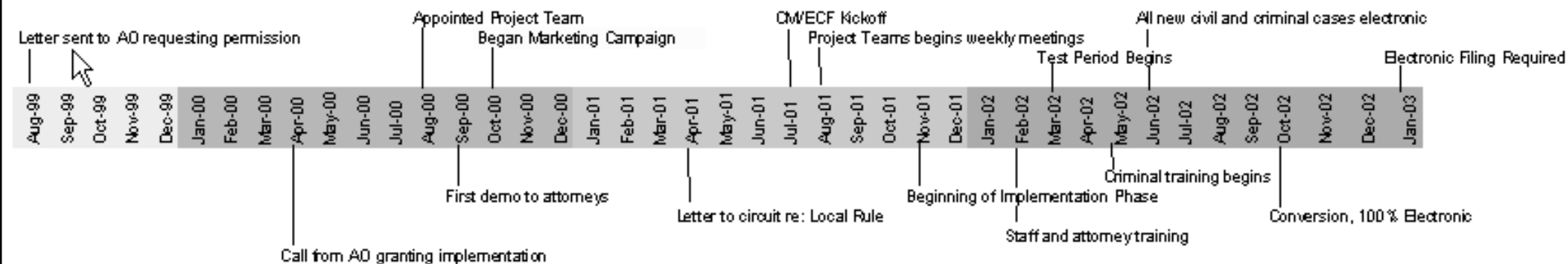
- Demonstrated the CM/ECF system at an Inns of Court meeting to approximately 75 attorneys, law students and judges.



# Began Marketing Campaign

October, 2000 -- 17 Months Prior to Live

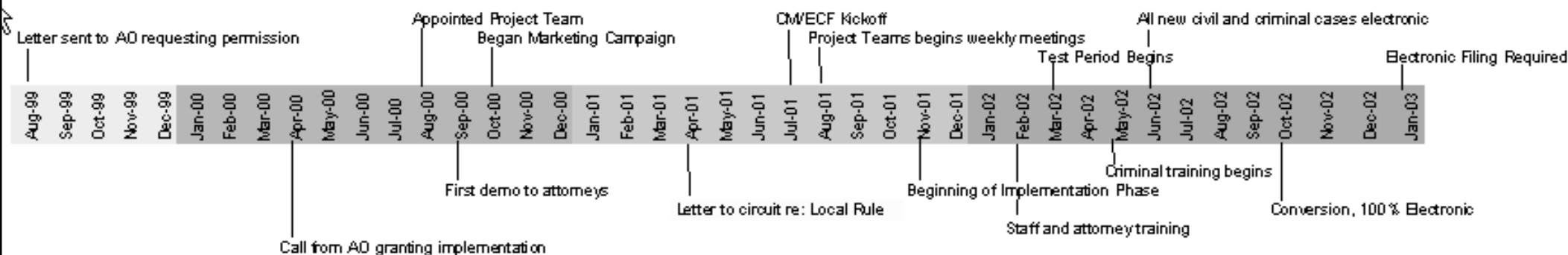
- Established Internet and Intranet web sites
- Created brochures and flyers
- Presented demonstrations at the state bar meeting



# New Local Rule Permitting Electronic Filing

April 20, 2000 -- 23 Months Prior to Live

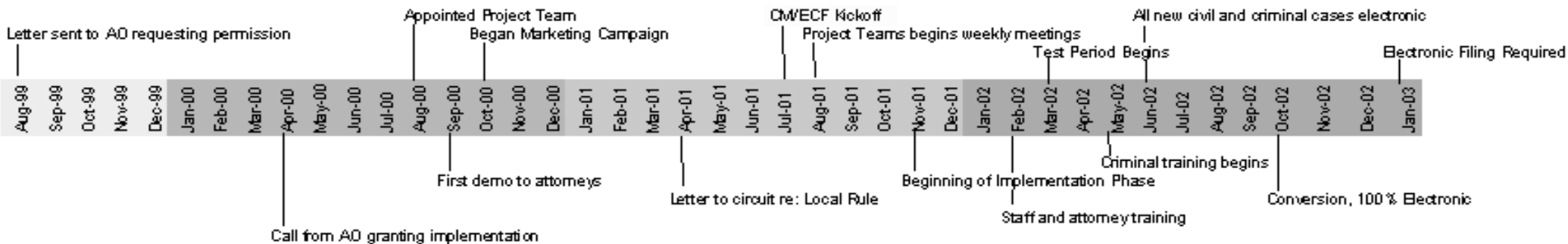
- Sent letter to circuit requesting approval of changes to NELR 5.2.1 allowing filing by electronic means.



# CM/ECF Kickoff

July 19, 2001 -- 8 Months Prior to Live

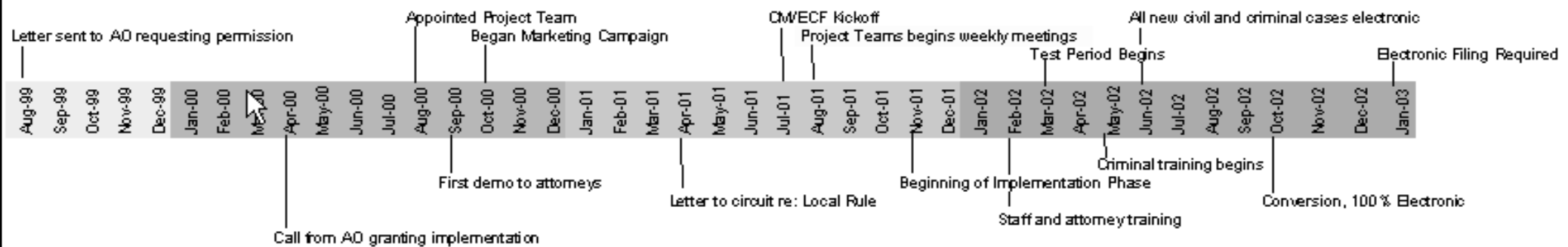
- Olympic theme
- Passing of the ECF “torch” from the AO to the Clerk's Office
- Taking of an ECF oath
- Videotape documenting the changes in electronic filing
- ECF demonstration



# Weekly Meetings

August 2001 -- 7 Months Prior to Live

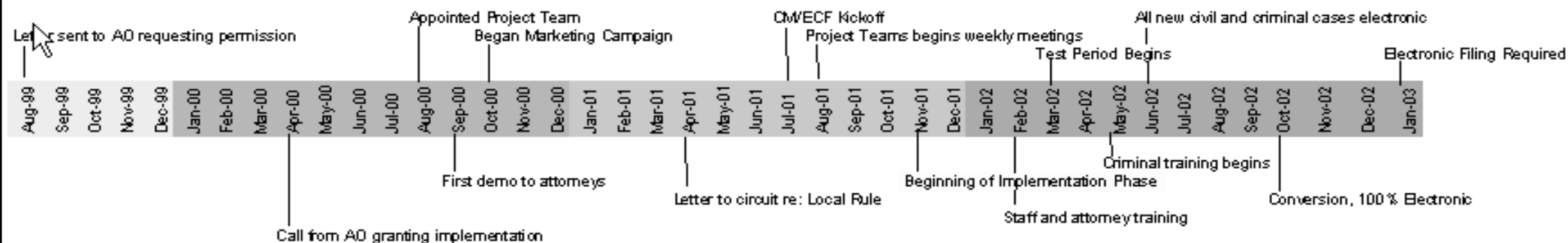
- CM/ECF Project Team begins meeting weekly over the lunch hour.



# Implementation Phase Begins

November, 2001 -- 4 Months Prior to Live

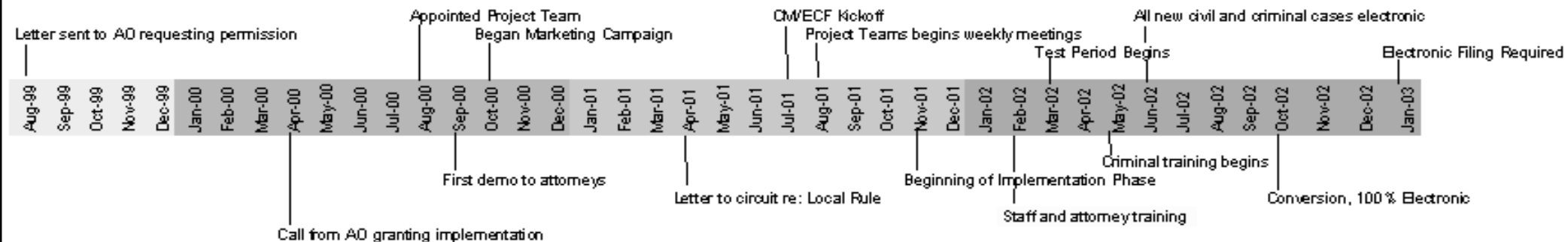
- Bi-weekly phone calls with the Administrative Office
- Scheduled AO site visit



# Civil Training Begins

February, 2002 -- 1 Months Prior to Live

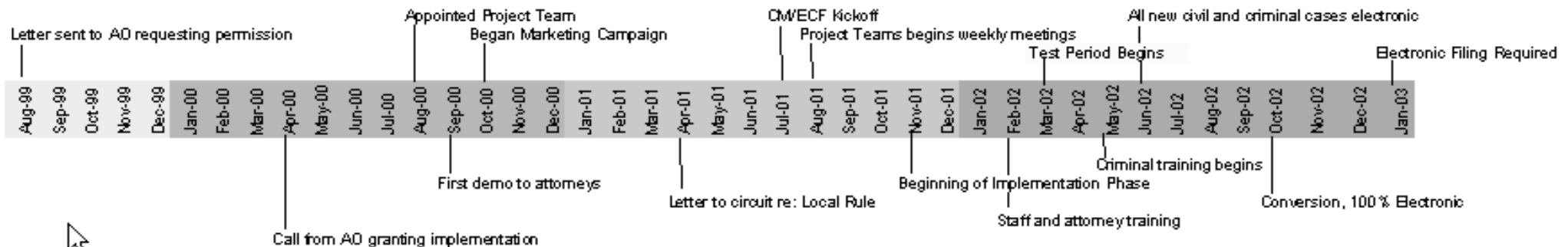
- Civil filing training for staff lasted 2 weeks
- Civil filing training for attorneys offered on-site and off-site. Initially trained over 100 attorneys and their staff per week.



# Civil Test Period Begins

March 4, 2002 -- Live

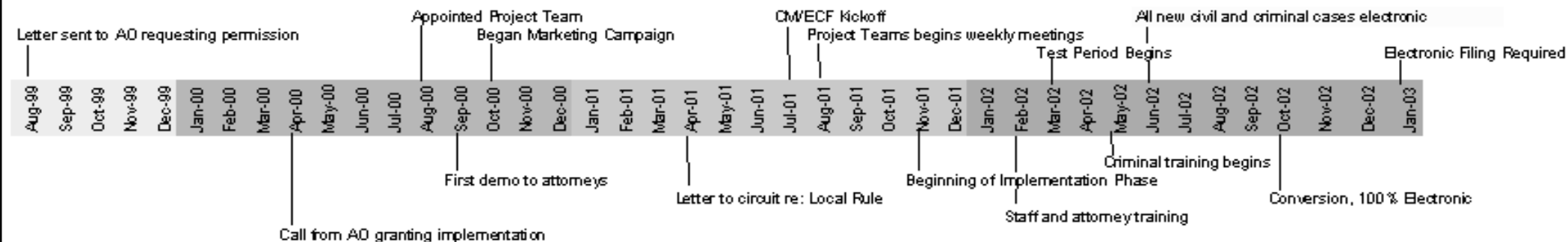
- New civil cases assigned to judges Bataillon and Kopf
- Docket clerks and Courtroom Deputies began having weekly "debrief" meetings to discuss questions, problems, and changes



# All New Civil and Criminal Cases Electronic

June 17, 2002 -- 3 Months After Going Live

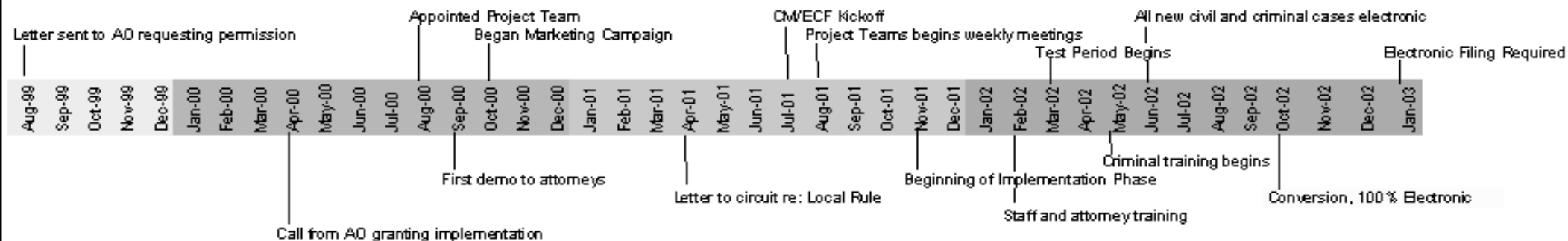
- All new cases assigned to all judges are filed electronically.



# Existing Cases Converted

October 13, 2002 -- 7 Months After Going Live

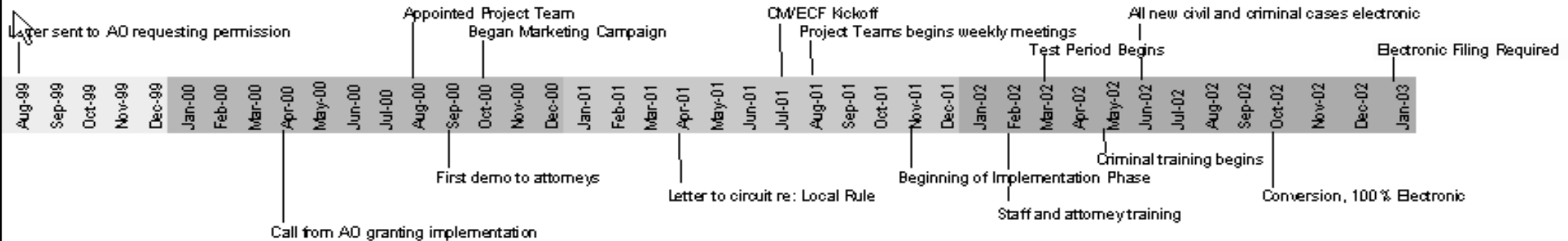
- 100% of cases are live on CM/ECF



# Electronic Filing is Mandatory

January 6, 2003 -- 10 Months After Going Live

- Attorney's required to file documents electronically or submit on a disk to the Clerk's Office



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**Judge Henry duPont Ridgely**  
**President Judge**  
**Superior Court of Delaware**

**Years on the bench: 19**

**First Court In the USA To Implement E-Filing**  
**Chair-Elect, National Conference of State Trial Judges**

# THE DELAWARE EXPERIENCE

## *Taming the Paper Tiger*

**1991 to 2003**

Henry duPont Ridgely

President Judge, Superior Court of Delaware

# The Early Days: The Demands of the Coverage Cases

- **Eleven Environmental Insurance-Coverage Cases**
- **Up to 109 Parties**
- **Underlying Claim Spanning Five Decades**
- **Recognition That Something Must Be Done**

- Appointment of Complex Litigation Rules Advisory Committee
- Interim Rule 79.1 (CLAD)
- First Electronic Filing on December 9, 1991

- Expansion to Asbestos Cases
- The Lawsuit to Stop Electronic Filing

**The use of computers to access information is a commonplace feature of modern law office operation. If the court system is to be able to respond to the demands of complex litigation, parties and their counsel who seek the intervention of the judicial system may be required to incur the reasonable expenses of participation in modern information systems.**

*- In The Matter of the White Lung Association, 1994 Del. LEXIS 95 (Del. Supr. 1994).*

# CLAD Electronic Filings

*From 1991 through 2002*

**Number of Documents: 114,673**

- **2003 Conversion To Internet-Based LexisNexis File And Serve System**
- **Rule 79.1 (Permanent)**
- **Administrative Directive 2003-8**  
[www.courts.state.de.us/superior](http://www.courts.state.de.us/superior)
- **Mandatory Electronic Filing Statewide in Non-ADR Cases (Superior) and C.A. Cases (Chancery)**

# The Delaware Experience

## *2003 Year to Date*

- Court Filings: 13,736  
Documents  
89,122 Pages
- Service on Parties: 80,178  
Documents  
661,235 Pages

# **The National Trend**

## *2003 Year to Date*

### **■ Court Filings:**

- Over 475,000 documents
- Over 3,000,000 pages

### **■ Service on Parties:**

- Over 3,000,000 documents
- Over 22,000,000 pages

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**FIGHTING THE NAYSAYERS**

**Judge Herbert Dixon**  
**Superior Court of the District of Columbia**

**Years on the bench: 18**

**Former Presiding Judge, Civil Division & Multi-Door  
Dispute Resolution Division**

**Chair, E-File Project**

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**FIGHTING THE NAYSAYERS**

**THE DISTRICT OF COLUMBIA'S  
E-FILE EXPERIENCE**

**Judge Herbert Dixon**  
**Chair, E-File Project**

**Project Commenced May 1, 2001**

**Status as of October 22, 2003**

# **HOW THE D.C. SUPERIOR COURT PROCESS STARTED**

- **1995 Court Technology Conference 4 (CTC4)  
(Early E-File Systems)**
- **CLAD (Complex Litigation Automated  
Docketing)**
- **LAWPLUS**
- **Proprietary Soft Ware**

# **HOW THE D.C. SUPERIOR COURT PROCESS STARTED**

- **Excited Return to the District of Columbia**
- **Reported To Technology Committee Chair**
- **E-File Subcommittee Established**
- **Not Much More Happened**

# **HOW THE D.C. SUPERIOR COURT PROCESS STARTED**

- **1997 Court Technology Conference 5 (CTC5)  
[Still little progress in D.C.]**
- **JEDDI (Judicial Electronic Document and  
Data Interchange)  
[To Avoid Tower of Babel Result]**
- **2 Years later .....**

Be Prepared, the issues will arise.

## **1999 Court Technology Conference 6 (CTC6)**

- **Technical Questions Arose!**
- **Is it Compatible with Oracle?**
- **Is it XML Compliant?**

Be Prepared, the Naysayers will come.

- Let's wait until industry standards are developed.
- What if the private vendor goes out of business?
- We don't have the resources!
- What about pro se litigants and those who can't afford computers or who don't have Internet access?

Be Prepared, the Naysayers will come.

- Privacy and Public Access to Court Records.
- What if the system crashes?
- I can't read from the screen!
- These are the court's records! The business of the court can't be delegated!

# Obstacles and hurdles to change can come from anywhere

- .... even from an IT consultant
- E-File Project will drain resources from IJIS planning & Implementation.
- Lack of certainty that it will be compatible with eventual IJIS solution.
- Existing IT infrastructure is deficient.

# More from the IT Consultant:

- Effective E-Filing solution must consist of three integrated components:
  - 1. Modern case management system;
  - 2. Modern document management system; and
  - 3. Modern electronic transmission and database storage mechanism.
  
- E-Filing Implementation should mimic replacement of the Case Management application through the RFP process.

# Obstacles and hurdles to change can come from anywhere

- .... even from Procurement
- We're The Government. We can't accept anything for free.
- Others may want to compete for the opportunity to give us this service.

# **FINALLY!!!**

## **Just before CTC7**

### **Chief Judge Administrative Order 01-06 Mandated E-File Participation**

- **All Complex Civil Litigation Cases**
- **2 Civil I Calendars**
- **Average Total 650 Cases**
- **Commencing May 1, 2001**
  
- **The right people were in place to make this happen!**

**Has Superior Court's E-File  
Project Been Successful?**

**■ YES!!!**

# WORKAROUND SOLUTIONS:

- \*New cases are still initiated by the traditional paper method.
- \*Data exchange is a two-way street --  
Not an Integrated System
- \*Manual docket entry process maintained.
- \*Lessons Learned (as they occur)

**WHAT ARE THE  
STATISTICAL RESULTS OF  
D.C. SUPERIOR COURT'S  
E-FILE PROJECT?**

# IN CY 2003:

(Through October 22, 2003)

- 4,805 Documents (35,436 pages) filed.
- 251,502 Pages served.

# Since May 1, 2001:

(Through October 22, 2003)

- Average Caseload: 650 cases.
- 15,834 Documents (118,965 pages) filed.
- 742,070 Pages served.
- Total Pages Filed and Served 861,035

# % Filings: Time of Day:

- 33.6 % of filings 4 p.m. - 9 a.m.
- 25% of filings 2 p.m. - 4 p.m.
- Gradual Increase in filings Mon - Fri by 31.7%  
(55.4% in 2003)
- 23% of Filings on Fridays (27.6% in 2003)

# **Has Superior Court's E-File Project Been Successful?**

- **YES!!**
- **2 Years later ...**
- **IT Consultant said:**
- **“Judge Dixon, ... we were wrong. Superior Court's E-File Project has been very successful.”**

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**FIGHTING THE NAYSAYERS**

**THE DISTRICT OF COLUMBIA'S  
E-FILE EXPERIENCE  
(ABBREVIATED)**

**Judge Herbert Dixon, Project Chair**

**Project Commenced May 1, 2001**

**Status as of October 22, 2003**

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**FIGHTING THE NAYSAYERS**

**Frequently Raised E-Filing Issues**

**Judge Herbert Dixon**

**Judge Henry duPont Ridgely**

**Judge Joseph Bataillon**

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**FIGHTING THE NAYSAYERS**

**FREQUENTLY RAISED ISSUE:**

- **Electronic Systems Are Vulnerable To Hackers And Others Who May Alter Or Destroy Files!**

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**FREQUENTLY RAISED ISSUE:**

- **We Should Wait Until  
Industry Standards Are  
Developed!**

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**FREQUENTLY RAISED ISSUE:**

- **What If The System Crashes And We Are Unable To File Our Pleading Or Don't Received The Pleading Filed By Our Opponent?!**

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**FIGHTING THE NAYSAYERS**

**FREQUENTLY RAISED ISSUE:**

- **I Can't Keep Track of Cases and Schedule Without My Paper!**

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**FREQUENTLY RAISED ISSUE:**

- **Electronic Filing Will Cause Severe Disadvantages to *Pro Se* Litigants and Those Who Don't Have Computers or Internet Access !**

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**FREQUENTLY RAISED ISSUE:**

- **How Can We Be Sure That the Electronic Document Submitted With "/S/" Is Really From That Attorney?**

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**FREQUENTLY RAISED ISSUE:**

- **Internet Access to Case Files Will Expose Litigants to Unnecessary Invasion of Their Privacy!**

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**FREQUENTLY RAISED ISSUE:**

- **What If the Private Vendor Goes Out of Business?**

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**FREQUENTLY RAISED ISSUE:**

- **I Can't Read From a  
Computer Screen !**

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**Questions?**

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**Thank You For Attending  
FIGHTING THE NAYSAYERS**

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