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14 Counsel for Plaintiff

15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **OAKLAND DIVISION**

19 EDWARD C. O'BANNON, JR., on behalf  
of himself and all others similarly situated,

20 Plaintiff,

21 v.

22 NATIONAL COLLEGIATE ATHLETIC  
 23 ASSOCIATION (a/k/a the "NCAA"), and  
 COLLEGIATE LICENSING COMPANY  
 24 (a/k/a "CLC"),

25 Defendants.

Case No. 3:09-cv-03329 (CW)

**DECLARATION OF CHRISTOPHER L.  
 LEBSOCK IN OPPOSITION TO  
 DEFENDANTS' MOTION TO TRANSFER  
 VENUE**

Judge: The Hon. Claudia Wilken  
 Courtroom: 2, 4th Floor

1 I, Christopher L. Lebsock, hereby declare:

2 1. I am a partner of Hausfeld LLP, one of Plaintiff Edward O'Bannon's attorneys in  
3 the above captioned litigation. I have personal knowledge of the following facts and could and  
4 would testify competently thereto if called as a witness.

5 2. A true and correct copy of Pacer's U.S. Party/Case Index Civil Name Search  
6 Results for the National Collegiate Athletic Association is attached hereto as Exhibit 1.

7 3. A true and correct copy of Pacer's U.S. Party/Case Index Civil Name Search  
8 Results for the Collegiate Licensing Company is attached hereto as Exhibit 2.

9 4. Attached hereto is a true and correct copy of the U.S. District Court—Judicial  
10 Caseload Profile for the Northern District of California for the year ending September 30, 2008 is  
11 attached hereto as Exhibit 3.

12 5. Attached hereto is a true and correct copy of the U.S. District Court—Judicial  
13 Caseload Profile for the Southern District of Indiana for the year ending September 30, 2008 is  
14 attached hereto as Exhibit 4.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is  
16 true and correct and that this declaration was executed on September 21, 2009, at San Francisco,  
17 California.

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20

Christopher L. Lebsock  
Christopher L. Lebsock

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# **EXHIBIT 1**

# U.S. Party/Case Index

## Civil Name Search Results

**131 Total Party matches for selection NATIONAL COLLEGIATE ATH for ALL COURTS**

**Search Complete**

**Mon Sep 21 18:06:30 2009**

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2 NATIONAL COLLEGIATE ATHLETIC ASSN. & COLLEGIATE SPORTS National Collegiate v. John Does	<a href="#">codce</a>	<a href="#">1:1990cv00502</a>	03/23/1990	840	04/11/1990
3 NATIONAL COLLEGIATE ATHLETIC ASSOC Phillip, et al v. National Collegiate, et al	<a href="#">ctdce</a>	<a href="#">3:1996cv02134</a>	10/21/1996	440	12/15/1997
4 NATIONAL COLLEGIATE ATHLETIC ASSOC Phillip, et al v. National Collegiate, et al	<a href="#">ctdce</a>	<a href="#">3:1996cv02134</a>	10/21/1996	440	12/15/1997
5 NATIONAL COLLEGIATE ATHLETIC ASSOC. Nat. Col. Athlet., et al v. John Does 1-100, et al	<a href="#">nysdce</a>	<a href="#">1:1996cv02139</a>	03/25/1996	840	04/08/1996
6 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION Keeling v. Board of Trustees, et al	<a href="#">caedce</a>	<a href="#">2:1991cv00121</a>	01/28/1991	440	03/25/1991
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9 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION JEFFREY A. ROSENBERG V. AMERICAN BROADCASTING COMPANY ET AL	<a href="#">nvdce</a>	<a href="#">2:2002cv00002</a>	01/02/2002	440	02/27/2002
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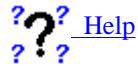
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61 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION Prime Sportschannel v. National Collegiate, et al	<a href="#">wvsdce</a>	<a href="#">2:1995cv01094</a>	12/08/1995	190	06/03/1996
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	Bishop v. Electronic Arts, Inc., et al					
107	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">wawdce</a>	<a href="#">3:1999cv05483</a>	09/15/1999	440	09/17/1999
	Matthews v. Natl Collegiate Athl					
108	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">njdce</a>	<a href="#">2:1996cv05597</a>	11/27/1996	440	03/13/1997

WELLS v. NATIONAL COLLEGIATE, et al

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## Civil Name Search Results

**131 Total Party matches for selection NATIONAL COLLEGIATE ATH for ALL COURTS**

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**Selections 109 through 131 (Page 3)**

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Name	Court	Case No.	Filed	NOS	Closed
109 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">paedce</a>	<a href="#">2:2000cv05708</a>	04/30/2004	890	04/30/2004
POCONO CAMP, et al v. NAATIONAL COLLEGIATE					
110 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">ordce</a>	<a href="#">6:1997cv06027</a>	02/03/1997	190	02/11/1997
Haber v. National Collegiate, et al					
111 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">cacdce</a>	<a href="#">2:1993cv06705</a>	11/05/1993	410	02/03/1994
Law, et al v. Natl Collegiate					
112 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">ilndce</a>	<a href="#">1:1996cv06953</a>	10/24/1996	443	12/10/1998
Ganden v. Natl Collegiate					
113 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">cacdce</a>	<a href="#">2:1998cv08640</a>	10/23/1998	410	01/20/1999
Baum Research & Dev, et al v. Hillerich & Bradsby, et al					
114 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">cacdce</a>	<a href="#">2:1998cv08944</a>	11/04/1998	443	03/29/1999
Vernon Schea Cotton v. NCAA, et al					
115 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">miedce</a>	<a href="#">2:2008cv14812</a>	11/17/2008	410	03/11/2009
Warrior Sports, Incorporated et al v. National Collegiate Athletic Association					
116 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">miedce</a>	<a href="#">2:2006cv15127</a>	11/15/2006	410	03/16/2007
Warrior LaCrosse, Incorporated v. National Collegiate Athletic Association					
117 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">miedce</a>	<a href="#">2:1998cv72946</a>	08/18/2000	410	03/23/2005
Baum Research Dev Co, et al v. Hillerich Bradsby Co, et al					
118 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION	<a href="#">miedce</a>	<a href="#">2:1998cv74889</a>	11/13/1998	410	07/29/1999
Natl Collegiate v. Hillerich Bradsby Co, et al					

119	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA)	<a href="#">azdce</a>	<a href="#">2:1996cv00197</a>	01/22/1996	443	07/11/1996
	Johannesen, et al v. NCAA, et al					
120	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA)	<a href="#">insdce</a>	<a href="#">1:2009cv00335</a>	03/18/2009	440	06/15/2009
	MILLEN v. NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA) et al					
121	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA)	<a href="#">cacdce</a>	<a href="#">2:2004cv04252</a>	06/15/2004	410	12/29/2004
	Aculeus 5 LLC v. NFL Properties LLC et al					
122	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION AND SPECTATOR SPORTS SERVICES, INC.	<a href="#">ncwdce</a>	<a href="#">3:1996cv00107</a>	03/22/1996	840	09/12/1996
	NCAA & Spectator Spo v. Doe, et al					
123	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION INITIAL-ELIGIBILITY CLEARINGHOUSE	<a href="#">gandce</a>	<a href="#">1:1999cv02170</a>	08/24/1999	440	02/08/2000
	Cole, et al v. Nat'l Collegiate Ath, et al					
124	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,	<a href="#">flsdce</a>	<a href="#">1:1987cv01609</a>	08/28/1987	440	09/21/1987
	Sileo v. National Collegiate, et al					
125	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,	<a href="#">flsdce</a>	<a href="#">1:1997cv03575</a>	11/06/1997	890	03/01/1998
	Law, et al v. National Collegiate					
126	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,	<a href="#">flsdce</a>	<a href="#">9:1998cv08093</a>	02/18/1998	440	04/22/1999
	Wortley v. National Collegiate					
127	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, THE	<a href="#">hidce</a>	<a href="#">1:2004cv00204</a>	03/25/2004	410	09/22/2006
	Aloha Sports, Inc. v. National Collegiate					
128	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, THE	<a href="#">laedce</a>	<a href="#">2:1995cv02927</a>	09/06/1995	440	12/12/1995
	LA State Committee, et al v. Nokia Sugar Bowl, et al					
129	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, THE	<a href="#">njdce</a>	<a href="#">2:2001cv04163</a>	08/31/2001	440	06/07/2002
	WERTHEIMER v. NATIONAL COLLEGIATE					
130	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, THE	<a href="#">flndce</a>	<a href="#">1:1992cv10159</a>	10/19/1992	440	01/05/1994
	GROW v. SCHULTZ, et al					
131	NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, THE	<a href="#">flndce</a>	<a href="#">4:1994cv40413</a>	08/24/1994	950	11/08/1994
	NCAA v. FL BOARD OF REGENTS, et al					

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# **EXHIBIT 2**

# U.S. Party/Case Index

## Civil Name Search Results

35 Total Party matches for selection COLLEGIATE LICENS for ALL COURTS

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Selections 1 through 35 (Page 1)

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Name	Court	Case No.	Filed	NOS	Closed
1 COLLEGIATE LICENSING CO Collegiate Licensing v. With Distinction Inc, et al	ctdce	<a href="#">3:1996cv00540</a>	03/26/1996	840	11/04/1996
2 COLLEGIATE LICENSING CO Collegiate Licensing v. With Distinction Inc, et al	ctdce	<a href="#">3:1996cv00540</a>	03/26/1996	840	11/04/1996
3 COLLEGIATE LICENSING CO.--CCI/ICE Regents Univ. Of Col v. Riefer's Sportswear	codce	<a href="#">1:1990cv00384</a>	03/07/1990	840	03/11/1992
4 COLLEGIATE LICENSING COMPANY Duke University v. Hagggar Clothing Co.	gandce	<a href="#">1:1999mi00054</a>	02/18/1999	890	03/22/1999
5 COLLEGIATE LICENSING COMPANY Texas Tech University v. Spiegelberg	txndce	<a href="#">5:2005cv00192</a>	08/24/2005	840	03/01/2007
6 COLLEGIATE LICENSING COMPANY UW Board of Trustees, et al v. Lin, et al	wydcce	<a href="#">2:1992cv00210</a>	09/17/1992	840	04/15/1993
7 COLLEGIATE LICENSING COMPANY Spiegelberg v. Collegiate Licensing Company	txndce	<a href="#">5:2005cv00276</a>	12/05/2005	840	12/28/2005
8 COLLEGIATE LICENSING COMPANY Zuckerberg, et al v. Collegiate Licensing	flmdce	<a href="#">3:1999cv00929</a>	09/10/1999	840	01/21/2000
9 COLLEGIATE LICENSING COMPANY Zuckerberg, et al v. Collegiate Licensing	flmdce	<a href="#">3:1999cv00929</a>	09/10/1999	840	01/21/2000
10 COLLEGIATE LICENSING COMPANY Spiegelberg v. Collegiate Licensing Company	txsdce	<a href="#">4:2005cv01264</a>	04/14/2005	840	11/30/2005
11 COLLEGIATE LICENSING COMPANY Trevino v. Univ of SO MS, et al	laedce	<a href="#">2:2004cv01546</a>	06/02/2004	820	02/13/2007
12 COLLEGIATE LICENSING COMPANY Bd of Supv of LSU, et al v. Smack Apparel Co, et al	laedce	<a href="#">2:2004cv01593</a>	06/07/2004	840	02/12/2007
13 COLLEGIATE LICENSING COMPANY Bd of Supv of LSU, et al v. Smack Apparel Co, et al	laedce	<a href="#">2:2004cv01593</a>	06/07/2004	840	02/12/2007
14 COLLEGIATE LICENSING COMPANY Keller v. Electronic Arts Inc. et al	candce	<a href="#">4:2009cv01967</a>	05/05/2009	190	
15 COLLEGIATE LICENSING COMPANY	gandce	<a href="#">1:2002cv02281</a>	08/16/2002	190	03/24/2003

Collegiate Licensing v. National Center  
 16 COLLEGIATE LICENSING COMPANY ksdce 2:2006cv02341 08/16/2006 840 12/02/2008  
 University of Kansas et al v. Sinks et al  
 17 COLLEGIATE LICENSING COMPANY txndce 3:1993cv02519 12/20/1993 840 09/30/1994  
 NBA Properties Inc, et al v. In Trading Co, et al  
 18 COLLEGIATE LICENSING COMPANY cacdce 2:1994cv02773 04/28/1994 840 05/18/1994  
 Collegiate Lic Co, et al v. Main & Co, et al  
 19 COLLEGIATE LICENSING COMPANY candce 4:2009cv03329 07/21/2009 410  
 O'Bannon, Jr. v. National Collegiate Athletic Association et al  
 20 COLLEGIATE LICENSING COMPANY candce 3:1993cv03437 09/16/1993 840 06/23/1994  
 Electronic Arts Inc. v. Collegiate Licensing, et al  
 21 COLLEGIATE LICENSING COMPANY gandce 1:1997cv03871 12/31/1997 442 09/20/2000  
 Goodwin, et al v. Collegiate Licensing  
 22 COLLEGIATE LICENSING COMPANY candce 3:2009cv04128 09/04/2009 360  
 Bishop v. Electronic Arts, Inc., et al  
 23 COLLEGIATE LICENSING COMPANY cacdce 2:1993cv07770 12/27/1993 820 11/18/1994  
 Pasadena Tournament, et al v. Various John Does, et al  
 24 COLLEGIATE LICENSING COMPANY cacdce 2:1999cv13381 12/22/1999 840 01/04/2000  
 Pasadena Tournament, et al v. John Does  
 25 COLLEGIATE LICENSING COMPANY - ilndce 1:1992cv03617 06/02/1992 840 09/09/1992  
 CCI/ICE  
 NBA Prop Inc, et al v. Screen-X, et al  
 26 COLLEGIATE LICENSING COMPANY, dcdce 1:1993cv01324 06/25/1993 190 03/03/1994  
 THE  
 G & T SPORTSWEAR, et al v. COLLEGIATE CONCEPTS, et al  
 27 COLLEGIATE LICENSING COMPANY, dcdce 1:1993cv01324 06/25/1993 190 03/03/1994  
 THE  
 G & T SPORTSWEAR, et al v. COLLEGIATE CONCEPTS, et al  
 28 COLLEGIATE LICENSING COMPANY, dcdce 1:1990cv01391 06/14/1990 840 02/06/1991  
 THE  
 PRESIDENT AND DIR., et al v. GEORGETOWN TEE'S, et al  
 29 COLLEGIATE LICENSING COMPANY, tnwdce 2:1994cv02930 11/14/1994 840 07/17/1995  
 THE  
 Brimhall Foods Co., et al v. University of AR., et al  
 30 COLLEGIATE LICENSING COMPANY, tnwdce 2:1994cv02930 11/14/1994 840 07/17/1995  
 THE  
 Brimhall Foods Co., et al v. University of AR., et al  
 31 COLLEGIATE LICENSING COMPANY, madce 1:1997cv11449 06/26/1997 840 10/05/2000  
 THE  
 Time Warner Entertai, et al v. Graphic Images, et al  
 32 COLLEGIATE LICENSING COMPANY-- nyedce 1:1992cv03333 07/16/1992 840 09/02/1993  
 CCI/ICE  
 Major League Basebal, et al v. Master Imaging Corp., et al

33 COLLEGIATE LICENSING COMPANY--  
CCI/ICE [nyedce 1:1992cv03334](#) 07/16/1992 840 08/29/1994

Major League Baseball, et al v. Pro Silk Printing, et al

34 COLLEGIATE LICENSING  
CORPORATION [ordce 6:2008cv00167](#) 02/08/2008 830 07/01/2008

Tailgate Nation Inc. et al v. Top Marketing USA et al

35 COLLEGIATE LICENSING  
CORPORATION [moedce 4:2008cv01040](#) 07/11/2008 830 01/28/2009

Tailgate Nation, Inc. et al v. Top Marketing USA et al

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# **EXHIBIT 3**

## U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

			12-MONTH PERIOD ENDING SEPTEMBER 30								
<b>CALIFORNIA NORTHERN</b>			2008	2007	2006	2005	2004	2003	Numerical Standing		
<b>OVERALL CASELOAD STATISTICS</b>	Filings*		7,295	7,970	8,683	6,362	6,727	6,919	U.S.	Circuit	
	Terminations		7,402	6,777	6,983	6,966	6,471	7,094			
	Pending		8,882	9,005	8,157	6,557	7,267	7,567			
	% Change in Total Filings	Over Last Year			-8.5					78	12
		Over Earlier Years				-16.0	14.7	8.4	5.4	20	1
Number of Judgeships			14	14	14	14	14	14			
Vacant Judgeship Months**			5.9	.0	.0	.0	.0	3.1			
<b>ACTIONS PER JUDGESHIP</b>	<b>FILINGS</b>	Total	521	569	620	455	480	494	22	6	
		Civil	441	505	558	390	413	424	10	2	
		Criminal Felony	42	33	37	39	44	47	78	14	
		Supervised Release Hearings**	38	31	25	26	23	23	19	8	
	Pending Cases		634	643	583	468	519	541	10	2	
	Weighted Filings**		592	624	621	543	581	631	10	3	
	Terminations		529	484	499	498	462	507	17	5	
	Trials Completed		6	8	8	10	10	11	93	14	
<b>MEDIAN TIMES (months)</b>	From Filing to Disposition	Criminal Felony	11.2	12.4	11.2	12.6	11.1	11.7	72	13	
		Civil**	7.7	6.7	7.4	9.8	8.2	10.6	22	4	
	From Filing to Trial** (Civil Only)		30.0	24.9	25.0	28.0	22.5	30.3	61	8	
<b>OTHER</b>	Civil Cases Over 3 Years Old**	Number	488	393	528	530	430	377			
		Percentage	6.0	4.7	7.3	9.5	6.9	5.7	53	6	
	Average Number of Felony Defendants Filed Per Case		1.3	1.2	1.5	1.5	1.4	1.5			
	Jurors	Avg. Present for Jury Selection	64.09	53.81	59.09	55.21	61.19	65.00			
		Percent Not Selected or Challenged	42.1	41.9	43.2	31.0	48.9	40.9			

<b>2008 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE</b>													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6175	97	326	1877	92	75	564	557	246	479	710	162	990
Criminal*	575	3	83	221	75	83	19	39	4	10	13	5	20

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See ["Explanation of Selected Terms."](#)

# **EXHIBIT 4**

## U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

		12-MONTH PERIOD ENDING SEPTEMBER 30								
<b>INDIANA SOUTHERN</b>		2008	2007	2006	2005	2004	2003	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*	2,942	2,617	2,920	3,126	3,364	3,202	U.S.	Circuit	
	Terminations	2,755	2,801	3,026	3,391	3,434	3,208			
	Pending	2,519	2,340	2,587	2,686	2,955	3,022			
	% Change in Total Filings	Over Last Year	12.4						10	1
Over Earlier Years				.8	-5.9	-12.6	-8.1	55	4	
Number of Judgeships		5	5	5	5	5	5			
Vacant Judgeship Months**		6.2	.0	.0	.0	.0	.0			
ACTIONS PER JUDGESHIP	FILINGS	Total	589	523	585	625	673	641	14	1
		Civil	541	482	535	577	628	593	6	1
		Criminal Felony	39	35	44	43	39	42	83	6
		Supervised Release Hearings**	9	6	6	5	6	6	84	7
	Pending Cases	504	468	517	537	591	604	16	1	
	Weighted Filings**	627	594	645	690	729	670	6	1	
	Terminations	551	560	605	678	687	642	15	1	
Trials Completed		24	26	24	28	32	30	30	4	
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	9.9	10.2	7.8	8.1	8.0	7.8	62	5
		Civil**	9.2	9.9	10.9	10.4	11.2	11.9	55	4
	From Filing to Trial** (Civil Only)		29.0	24.0	26.0	25.0	25.0	24.0	55	4
OTHER	Civil Cases Over 3 Years Old**	Number	195	119	127	113	119	108		
		Percentage	8.3	5.4	5.2	4.5	4.2	3.8	71	6
	Average Number of Felony Defendants Filed Per Case		1.6	2.0	1.9	1.7	1.8	1.6		
	Jurors	Avg. Present for Jury Selection	36.10	40.38	39.97	33.17	33.19	34.47		
		Percent Not Selected or Challenged	29.1	25.0	31.5	28.5	23.5	23.1		

2008 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2704	136	81	898	25	78	219	235	179	82	575	1	195
Criminal*	193	4	42	11	46	31	4	22	6	9	1	2	15

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See ["Explanation of Selected Terms."](#)