

**THE EFFECTS OF COURT-ORDERED
MEDIATION IN WORKERS'
COMPENSATION CASES FILED IN
CIRCUIT COURT: RESULTS FROM
AN EXPERIMENT CONDUCTED IN
THE CIRCUIT COURT FOR
BALTIMORE CITY**

Prepared for:

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and
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**THE EFFECTS OF COURT-ORDERED MEDIATION IN WORKERS'
COMPENSATION CASES FILED IN CIRCUIT COURT: PRELIMINARY
ANALYSIS OF THE CIRCUIT COURT FOR BALTIMORE CITY MEDIATION
EXPERIMENT**

EXECUTIVE SUMMARY

Mediation and other forms of alternative dispute resolution (ADR) have numerous potential benefits for civil court cases. To date, however, outside of the family law context there is a limited volume of sound empirical research that tests whether these benefits are actually realized (Kakalik et al., 1996: 10). The study reported here is intended to add to the body of literature that uses sound research designs to assess the effects of mediation in non-family civil court cases. In particular, it reports the results of an experimental evaluation aimed at assessing the effects of court-ordered mediation on Workers' Compensation cases that are filed in the Circuit Court for Baltimore City. In this experiment, a total of 400 Workers' Compensation cases filed in the Circuit Court for Baltimore City were randomly assigned to two groups.

In the experimental group, the Court's scheduling order included an order that the parties participate in at least two hours of mediation within three months from the issuing of the scheduling order. The Court's scheduling order for those cases assigned to the control group did not include such a mandate, although the parties were not prohibited from participating in mediation.

Using data regarding these cases that were obtained from the Judicial Information Systems (JIS) unit, we addressed the following research questions:

1. What effect does an order for mediation have on the percentage of cases that are resolved prior to the discovery deadline?
2. What effect does an order for mediation have on the percentage of cases that are resolved prior to the scheduled date of the settlement conference?

3. What effect does an order for mediation have on the percentage of cases that are resolved prior to the scheduled trial date?
4. What effect does an order for mediation have on the overall pattern of the time to disposition?
5. What effect does an order for mediation have on the number of notices of service of discovery filed?

Our analysis indicates that court-ordered mediation in Workers' Compensation cases that are filed in Circuit Court has several salutary effects. In particular, we found that court-ordered mediation resulted in statistically significant increases in:

- the percentage of cases that are resolved prior to the discovery deadline;
- the percentage of cases that are resolved prior to the scheduled date of settlement conference; and
- the percentage of cases that are resolved prior to the scheduled trial date.

We also found that the effect of court-ordered mediation on the overall pattern of the time to disposition is consistent with the preceding findings, although in this analysis the effect is statistically significant at the 10% level, but not at the 5% level. Finally, we found that court-ordered mediation resulted in a statistically significant decrease in the number of notices of service of discovery that are filed.

These effects represent important cost savings to litigants as well as to the Court. Given the relatively modest costs of mediation, the beneficial impacts of court-ordered mediation in Workers' Compensation cases that are filed in Circuit Court which were detected in this study suggest that it is appropriate to require mediation in all Workers' Compensation cases that are filed in Circuit Court.

**THE EFFECTS OF COURT-ORDERED MEDIATION IN WORKERS'
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EXPERIMENT CONDUCTED IN THE CIRCUIT COURT FOR BALTIMORE
CITY**

Mediation and other forms of alternative dispute resolution (ADR) have numerous potential benefits for civil court cases. These potential benefits include reducing the time to disposition, reducing the percentage of cases that actually go to trial, and reducing the costs to participants. In addition, it is plausible that ADR has numerous benefits that, while less tangible, are potentially even more important. For example, ADR might increase participants' satisfaction and perceptions of fairness. In addition, disputes often result in damage to ongoing relationships, such as among family members or between employers and employees. A potentially important intangible benefit of ADR is minimizing the adverse impacts of the dispute in question on these types of relationships.

Determining whether these benefits are actually realized, however, is a thorny task. Many of these benefits are not adequately captured by simply looking at the percentage of mediated cases that are settled at the mediation conference. For one, many cases that settle at the mediation conference might have settled at the approximately same time even if they had not participated in mediation. Conversely, even if a mediation conference does not immediately result in a case settling, it may narrow the scope of issues in such a way as to facilitate the ultimate resolution of the case, thereby achieving some or all of the benefits cited above.

It is, therefore, necessary to compare what happened to cases in which mediation was ordered with what happened in a set of cases that are equivalent *in all respects* (both measured and unmeasured), but not ordered to participate in mediation. Such a

comparison is best accomplished through implementing a “true experiment”, in which cases are randomly assigned to two groups: one in which mediation is mandated and one in which it is not.

Unfortunately, however, outside of the family law context there is a limited volume of sound empirical research that tests whether these benefits are actually realized (Kakalik et al., 1996: 10). To be sure, several studies have relied upon experimental designs to assess the effects of mediation in non-family civil court cases. Kakalik and his colleagues (1996) studied the effects of court-ordered mediation in non-family civil court cases in two federal district courts—New York (Southern) and Pennsylvania (Eastern). The results from these two experiments are reported separately. The study conducted by Clarke and his colleagues (1995) focused on the effects of court-ordered mediation in non-family civil court cases in eight judicial districts in North Carolina. Results from the eight districts are pooled. McEwen (1992) studied the effects of court-ordered mediation in Maine. Finally, Kobbervig (1991) analyzed an experiment that took place in Hennepin County (Minneapolis), Minnesota. That experiment differed from the other experiments reported here. In particular, in the Hennepin County experiment, “cases in the experimental group could be referred to mediation, arbitration, or the traditional court process, whereas cases in the control group could only be referred to arbitration, or the traditional court process. Thus, the difference between the experimental and control group was the *availability* of mediation in the experimental group” (Keilitz et al., 1994: 6; italics added).

The results of these studies have been mixed. In all five sites, cases assigned to the experimental group had a shorter time to disposition than those assigned to the control

group, but in only one site (North Carolina) was this reduction statistically significant. The studies conducted in Maine and North Carolina examined the effect of being in the experimental group on various measures of court workload. In Maine, cases in the experimental group had fewer motions and hearings than those in the control group, although the statistical significance of this difference was not reported (McEwen, 1991, cited in Keilitz et al., 1994). In North Carolina, no difference was found between the experimental and control groups in terms of numbers of motions processes by judges and orders issued by judges or clerks (Clarke et al., 1995: 36). Two of the studies, Kobbervig (1991) and McEwen (1992), compared the experimental and control groups in terms of percentage of cases going to trial. In the Maine experiment, McEwen (1992) found that a smaller percentage of cases in the experimental group actually went to trial compared to the control group. In contrast, in the Hennepin County experiment, Kobbervig (1991) found that a *higher* percentage of cases in the experimental group actually went to trial compared to the control group. In neither study was the statistical significance of the difference reported. Both Kakalik and associates (1996) and Clarke and associates (1995) examined the effect of mediation on litigation costs. In all three sites (New York [Southern], Pennsylvania [Eastern], North Carolina), mediation was found not to have a statistically significant effect on litigation costs.

Several quasi-experiments have also attempted to address these issues. In a quasi-experiment, a comparison group is formed through some non-random mechanism. For example, to assess the effects of voluntary mediation in two federal district courts—Oklahoma (Western) and Texas (Southern)—Kakalik and his colleagues (1996) compared cases referred to mediation with a “matched” sample of cases not referred.

Such comparisons, however, often do not provide an adequate basis from which credible conclusions can be drawn. Kakalik and his colleagues (1996: 21), for example, discovered that in the evaluation of voluntary mediation in Texas (Southern) “cases that appear tougher to settle receive more judicial encouragement to volunteer for mediation”, resulting in mediation and comparison samples that were not fully comparable. Even in the Oklahoma (Western) evaluation, Kakalik and his colleagues (1996: 21) cautioned that although “...we did not discover any differences between the OK(W) mediation and comparison samples, ...the mediation volunteers may still differ on unmeasured factors that are associated with the parties’ choosing to volunteer”.

The study reported here is intended to add to the body of literature that uses sound research designs to assess the effects of mediation in non-family civil court cases. In particular, it reports the results of an experimental evaluation aimed at assessing the effects of court-ordered mediation on Workers’ Compensation cases that are filed in the Circuit Court for Baltimore City.

In calendar year 2001, over 450 Workers’ Compensation cases were filed in the Circuit Court for Baltimore City. However, Workers’ Compensation cases are, in several important respects, not typical of all civil cases that are filed in Circuit Court. In particular, a claim for workers’ compensation benefits must initially be filed in and heard by the Workers’ Compensation Commission. Following the Commission’s decision, a request can be made by any involved party that the matter be re-heard and re-considered. If denied, or if still dissatisfied upon re-hearing, any “aggrieved” party to the dispute may then appeal the Commission’s decision to the Circuit Court. Thus, before such litigation is allowed to proceed in the Circuit Court, the disputants must have pursued relief before

the Commission; and the Commission must have issued a decision regarding the worker's claim. However, there is an important distinction between the ways in which Workers' Compensation cases proceed in Circuit Court and "typical" judicial reviews of decisions made by administrative bodies. Judicial review of an administrative body's decision is usually based upon the record compiled during the administrative proceeding. In contrast, workers' compensation appeals are considered *de novo*, as if being presented for the first time. However, the parties in workers' compensation appeals do generally rely considerably on discovery conducted during the administrative proceeding. Hence, there is commonly less discovery in Workers' Compensation cases that are filed in Circuit Court than there is in other civil cases.

METHODS AND DATA

Several conditions, in addition to being a Workers' Compensation case, had to have been met in order for the case to have been eligible for inclusion in the study. First, the case must have become "at issue" between the dates of April 1, 2000 and June 11, 2001. Second, both parties in the case must have been represented by counsel. Third, jury trials must have been requested.

Eligible cases were randomly assigned to two groups. The random assignment was conducted by the Circuit Court's Differentiated Case Management (DCM) Coordinator who followed a computer-generated randomized sequence to determine which cases entered the control or treatment groups. Cases in both groups were assigned to the "Standard Short Track". In such cases, the "discovery deadline" is set for 120 days following the date at which the case became "at issue", the trial date is scheduled to begin

approximately seven months from the date at which the case became “at issue”, and a mandatory settlement conference is scheduled approximately one month before the scheduled trial date. The two groups differed in terms of whether the Scheduling Order included an order for mediation. In particular, in the experimental group, the Court’s Scheduling Order included an order that the parties participate in at least two hours of mediation within three months from the issuing of the scheduling order. The Court’s Scheduling order for those cases assigned to the control group did not include an order for mediation, although the parties were not prohibited from participating in mediation. If assigned to the experimental group, parties could file a written motion for waiver of the assignment. Seventeen such requests were made and all were granted. Parties were free to choose a different court-certified mediator than the one originally assigned.

All told, the Circuit Court’s DCM Coordinator assigned 400 cases to either the treatment or control group. Of these 400 cases, 202 were assigned to the treatment group and 198 were assigned to the control group. Data regarding such variables as the scheduled trial date, scheduled date of the settlement conference, actual disposition date, and the number of various motions filed and hearings held were sought for each of these cases from data files maintained by the Judicial Information Systems (JIS) unit. In particular, we obtained from the JIS data files records corresponding to all Workers’ Compensation appeals cases that were filed in the Circuit Court for Baltimore City and became “at-issue” between April 1, 2000 and June 11, 2001.

The data obtained from JIS were current as of July 1, 2001. JIS records were obtained for 380 of the 400 cases (95.0%) that were assigned to the experiment by the

DCM Coordinator. The “attrition” rate was nearly the same for the treatment and control groups (10 from each group, representing 4.95% of the cases originally assigned to the treatment group and 5.05% of the cases originally assigned to the control group; $p=.96$), indicating that limiting the analysis to the 380 cases for which JIS data were obtained does not introduce any bias into the analysis. To further ensure that the attrition did not lead to systematic bias, we examined in detail the reasons the 20 cases assigned by the DCM Coordinator for which JIS data could not be found were not on the JIS data set that we obtained. We found that 6 of these 20 cases had been initially filed in jurisdictions other than Baltimore City. Six others were missing dates on the scheduling order and, therefore, were not included in the JIS data set we obtained, since we searched for relevant cases by date. Two of the 20 cases were mistakenly entered into JIS as something other than a workers’ compensation case. Five of the 20 cases had, in fact, become at issue before April 1, 2000, even though they did not reach the DCM Coordinator’s until after that date. Finally, one of the cases assigned by the DCM Coordinator that was not included in the JIS data set was consolidated with another case which then controlled.

Based on these data, we addressed the impact of an order for mediation on several outcomes, including the timing of cases and number of motions filed and hearings held. In terms of the timing of cases, we looked at the time to disposition of the case (i.e., the number of days between the date at which the case became at issue and the recorded disposition date) as well as the percentage of cases reaching particular stages in the litigation process, namely settlement conference and trial. The effect of an order for mediation on time to disposition is not only important in its own right, but also serves as

a proxy measure of both litigants' costs and costs to the Court. Similarly, whether or not a settlement conference is held and whether or not a trial is held represent important measures of costs. Both preparation for these events and the events themselves are costly to litigants as well as the Court.

In looking at the impact of an order for mediation on the number of various types of motions filed and hearings, we initially intended to consider a variety of motions and hearings, including notices of service of discovery, discovery motions, dispositive motions, motions for modification of the schedule, and motion hearings. All hearings, as well as some types of motions, such as discovery motions and dispositive motions, impose costs on the Court as well as on litigants. Notices of service of discovery are indications of the volume of requests for discovery that parties serve on each other. Such requests entail attorney's time to prepare and respond to, but relatively little in terms of Court resources.

Preliminary analyses of a variety of motions and hearings revealed that the number of many types of motions filed and hearings held was quite small. Specifically, looking at the treatment and control groups combined, in 94.7% of cases, no discovery motions were filed; in 90.8% of the cases, no dispositive motions were filed; and in 96.1% of the cases, no motion hearings were held. Thus, there is little potential for an order for mediation to reduce the quantity of these motions and hearings. Our analysis of the effect of an order for mediation on motions filed and hearings held was, therefore, limited to the number of notices of service of discovery filed.

Specifically, then, we addressed the following research questions:

1. What effect does an order for mediation have on the percentage of cases that are resolved prior to the discovery deadline?

2. What effect does an order for mediation have on the percentage of cases that are resolved prior to the scheduled date of the settlement conference?
3. What effect does an order for mediation have on the percentage of cases that are resolved prior to the scheduled trial date?
4. What effect does an order for mediation have on the overall pattern of the time to disposition?
5. What effect does an order for mediation have on the number of notices of service of discovery filed?

RESULTS

EFFECT ON THE PERCENTAGE OF CASES REACHING PARTICULAR STAGES IN THE LITIGATION PROCESS

We first compared the two groups in terms of the percentage of cases that reached particular stages in the litigation process. The specific stages of the litigation process that we examined were:

- the discovery deadline;
- the scheduled date of the settlement conference; and
- the scheduled trial date.

The discovery deadline for 288 of the 380 cases in our data set was prior to July 1, 2001. Table 1 shows a cross-tabulation of these 288 cases by whether they were in the treatment or control group and whether they were resolved prior to the discovery deadline. As Table 1 indicates, 24.1% of those in the treatment group were resolved prior to the discovery deadline, as compared to 11.2% of those in the control group. A chi-square test reveals that the difference between the percentage of cases in the treatment

group that were resolved prior to the discovery deadline and the percentage of cases in the control group that were resolved prior to the discovery deadline is statistically significant at the 1% level¹.

The scheduled date of the settlement conference for 236 of the 380 cases in our data set was prior to July 1, 2001. Table 2 shows a cross-tabulation of these 236 cases by whether they were in the treatment or control group and whether they were resolved prior to the scheduled date of the settlement conference. As Table 2 indicates, 42.5% of those in the treatment group were resolved prior to the scheduled date of the settlement conference, as compared to 28.5% of those in the control group. A chi-square test reveals that the difference between the percentage of cases in the treatment group that were resolved prior to the scheduled date of the settlement conference and the percentage of cases in the control group that were resolved prior to the scheduled date of the settlement conference is statistically significant at the 5% level.

The scheduled trial date for 197 of the 380 cases in our final data set was prior to July 1, 2001. Table 3 shows a cross-tabulation of these cases by whether they were in the treatment or control group and whether they were resolved prior to the scheduled trial date. As Table 3 indicates, 82.5% of those in the treatment group were resolved prior to the scheduled trial date, as compared to 70.2% of those in the control group. A chi-square test reveals that the difference between the percentage of cases in the treatment group that were resolved prior to the scheduled trial date and the percentage of cases in

¹ In the context of program evaluation, statistical significance refers to the likelihood of concluding that a program—in this case a court order for mediation—has an effect on a particular outcome when, in fact, it does not. The standard of statistical significance that is generally accepted in social science research is significance at the 5% level, meaning that there is at most a 5% chance of concluding that a program has an effect on a particular outcome when, in fact, it does not. The 1% level of statistical significance is a more stringent level. A finding that is significant at the 10% level is often referred to as “marginally significant”.

the control group that were resolved prior to the scheduled trial date is statistically significant at the 5% level.

EFFECT ON TIME TO DISPOSITION

We also looked at the effect of an order for mediation on the overall pattern of the time to disposition, i.e., the number of days between the date at which the case became at issue and the recorded disposition date. This was accomplished by comparing the “survival curves” associated with the treatment and control groups, respectively. In this context, a “survival curve” shows the percentage of cases that remained unresolved at various points in time since becoming “at issue”.²

Figure 1 shows the “survival curves” for cases assigned to the treatment and control groups, respectively. As Figure 1 shows, the respective survival curves are very similar to each other for the first two months after the case became at issue. Following that, however, the two survival curves begin to differ from each other. Thirteen percent (13%) of cases in the treatment group were resolved in three months or less (the deadline for mediation to occur), as compared to 9% of cases in the control group. Approximately 25% of cases in the treatment group were resolved within four months following the date at which the case became at issue (the deadline for discovery) as compared to 12% of cases in the control group. In both the treatment and control groups, approximately the same percentage of cases were resolved between four months following the date at which the case became at issue and six months following the date at which the case became at issue (the scheduled date for the settlement conference). Similarly, the percentage of

² One advantage of this approach is that “right-censored” data, i.e., cases that have not yet been resolved can be easily accounted for.

control group cases that were resolved between six months following the date at which the case became at issue and seven months following the date at which the case became at issue (the scheduled trial date) was approximately equal to the number of treatment group cases that were resolved during the same one-month interval. In summary, then, an order for mediation appears to have some effect, albeit a relatively modest one, on the disposition rate of cases in the month preceding the normal deadline for mediation to occur and a somewhat stronger effect in the period between the normal deadline for mediation to occur and the normal deadline for discovery. This effect during the period between the normal deadline for mediation to occur and the normal deadline for discovery could reflect at least two types of phenomena related to mediation. The first is cases that settle as a direct result of mediation, but for which relevant documents are not immediately filed with the court. The second phenomena is an increased rate of settlements as an indirect result of mediation, e.g., narrowing the scope of issues in such a way as to facilitate the ultimate resolution of the case. Looking at the two survival curves as a whole, a log-rank test reveals that the difference between the two survival curves is marginally significant, i.e., significant at the 10% level, but not the 5% level.

EFFECT ON NUMBER OF NOTICES OF SERVICE OF DISCOVERY FILED

Table 4A shows the frequency distributions of the number of notices of service of discovery filed through June 30, 2001 for the control and treatment groups, respectively. Figure 2A shows a plot of the cumulative frequency distributions of the number of notices of service of discovery filed through June 30, 2001 for the respective groups.³

³ Note that Table 3A and Figure 2A include all cases, regardless of whether they had been resolved prior to July 1, 2001.

Among the cases in the treatment group, 37.0% of cases had two or more notices of service of discovery through June 30, 2001, as compared to 56.4% of those in the control group. A two-sample Kolmogorov-Smirnov test reveals that the difference between the two distributions is statistically significant at the 1% level. Table 4B and Figures 2B show these frequency distributions for the subset of cases (232) that had been resolved prior to July 1, 2001. Comparing the frequency distributions for cases in the respective groups that had been resolved prior to July 1, 2001, it can be seen that 33.3% of cases in the treatment group had two or more notices of service of discovery, as compared to 54.1% of those in the control group. A two-sample Kolmogorov-Smirnov test reveals that the difference between these two distributions is statistically significant at the 1% level.

DISCUSSION, POLICY IMPLICATIONS AND CONCLUSIONS

The experiment conducted in the Circuit Court for Baltimore City has great potential for contributing to an understanding of the effects of court-ordered mediation in civil court cases. Analysis of the data obtained to date reveals that court-ordered mediation in Workers' Compensation cases that are filed in Circuit Court has several salutary effects. In particular, we found that court-ordered mediation resulted in a statistically significant increase in:

- the percentage of cases that are resolved prior to the discovery deadline;
- the percentage of cases that are resolved prior to the scheduled date of settlement conference; and
- the percentage of cases that are resolved prior to the scheduled trial date.

We also found that the effect of court-ordered mediation on the overall pattern of the time to disposition is consistent with the preceding findings, although in this analysis the effect is statistically significant at the 10% level, but not at the 5% level. Finally, we found that court-ordered mediation resulted in a statistically significant decrease in the number of notices of service of discovery that are filed.

The estimated effects of an order for mediation on the percentage of cases that are resolved prior to the discovery deadline, on the percentage of cases that are resolved prior to a settlement conference, on the percentage of cases that are resolved prior to trial, and on the overall pattern of the time to disposition, represent important cost savings to litigants as well as to the Court. The reduction in the number of notices of service of discovery that are filed in cases in which mediation is ordered is an indication of another source of cost savings to litigants, namely a reduction in the volume of requests for discovery that parties serve on each other.

Because the treatment and control groups were formed through a process of random assignment, we can be confident that the effects that we detected are in fact due to the requirement of mediation rather than subtle innate differences between the two groups. These results can, however, be strengthened further by repeating the analyses reported here on JIS data that cover a longer follow-up period. One noteworthy limitation of our study is that we focused on tangible impacts of mediation. It is plausible that ADR has additional, less tangible benefits, such as increasing participants' satisfaction and perceptions of fairness, and minimizing the adverse impacts of the litigation on employer-employee relationships.

Given the relatively modest costs of mediation, the beneficial impacts of court-ordered mediation in Workers' Compensation cases that are filed in Circuit Court which were detected in this study suggest that it is appropriate to require mediation in all Workers' Compensation cases that are filed in Circuit Court. However, the question of whether this study implies that it is appropriate to require mediation in *all* civil cases that are filed in Circuit Court depends in large part on the similarity between Workers' Compensation cases filed in Circuit Court and other types of civil cases filed in Circuit Court.

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TABLE 1: EFFECT OF ORDER FOR MEDIATION ON PERCENTAGE OF CASES RESOLVED PRIOR TO DISCOVERY DEADLINE

Resolved Prior to Discovery Deadline?	Control Group	Treatment Group	Total
No	127 88.81%	100 75.86%	237 82.29%
Yes	16 11.19%	35 24.14%	51 17.71%
Total	143 100.00%	145 100.00%	288 100.00%

$$\chi^2(1) = 5.08 \quad (p = 0.024)$$

TABLE 2: EFFECT OF ORDER FOR MEDIATION ON PERCENTAGE OF CASES RESOLVED PRIOR TO SCHEDULED DATE OF SETTLEMENT CONFERENCE

Resolved Prior to Scheduled Date of Settlement Conference?	Control Group	Treatment Group	Total
No	83 71.55%	69 57.50%	152 64.41%
Yes	33 28.45%	51 42.50%	84 35.59%
Total	116 100.00%	120 100.00%	236 100.00%

$$\chi^2(1) = 5.08 \quad (p = 0.024)$$

TABLE 3: EFFECT OF ORDER FOR MEDIATION ON PERCENTAGE OF CASES RESOLVED PRIOR TO SCHEDULED TRIAL DATE

Resolved Prior to Scheduled Trial Date	Control Group	Treatment Group	Total
No	28 29.79%	18 17.48%	46 23.35%
Yes	66 70.21%	85 82.52%	151 76.65%
Total	94 100.00%	103 100.00%	197 100.00%

$$\chi^2 (1) = 4.16 \quad (p = 0.041)$$

TABLE 4A: EFFECT OF ORDER FOR MEDIATION ON NUMBER OF NOTICES OF SERVICE OF DISCOVERY (ALL CASES)

Number of Notices of Service of Discovery	Control Group	Treatment Group	Total
0	40 21.28%	59 30.73%	99 26.05%
1	42 22.34%	62 32.29%	104 27.37%
2	46 24.47%	24 12.50%	70 18.42%
3	27 14.36%	21 10.94%	48 12.63%
4	12 6.38%	6 3.13%	18 4.74%
5	9 4.79%	8 4.17%	17 4.47%
6	6 3.19%	6 3.13%	12 3.16%
7	4 2.13%	1 0.52%	5 1.32%
8	1 0.53%	2 1.04%	3 0.79%
9	1 0.53%	2 1.04%	3 0.79%
18	0 0.00%	1 0.52%	1 0.26%
Total	188 100.00%	192 100.00%	380 100.00%

Two-sample Kolmogorov-Smirnov test for equality of distribution functions:
 $D=.194$ ($p=.001$)

TABLE 4B: EFFECT OF ORDER FOR MEDIATION ON NUMBER OF NOTICES OF SERVICE OF DISCOVERY (CASES RESOLVED PRIOR TO JULY 1, 2001)

Number of Notices of Service of Discovery	Control Group	Treatment Group	Total
0	24 22.02%	39 31.71%	63 27.16%
1	26 23.85%	43 34.96%	69 29.74%
2	22 20.18%	15 12.20%	37 15.95%
3	16 14.68%	11 8.94%	27 11.64%
4	7 6.42%	2 1.63%	9 3.88%
5	5 4.59%	5 4.07%	10 4.31%
6	4 3.67%	4 3.25%	8 3.45%
7	4 3.67%	1 0.81%	5 2.16%
8	1 0.92%	1 0.81%	2 0.86%
9	0 0.00%	1 0.81%	1 0.43%
18	0 0.00%	1 0.81%	1 0.43%
Total	109 100.00%	123 100.00%	232 100.00%

Two-sample Kolmogorov-Smirnov test for equality of distribution functions:
 $D=.208$ ($p=.009$)

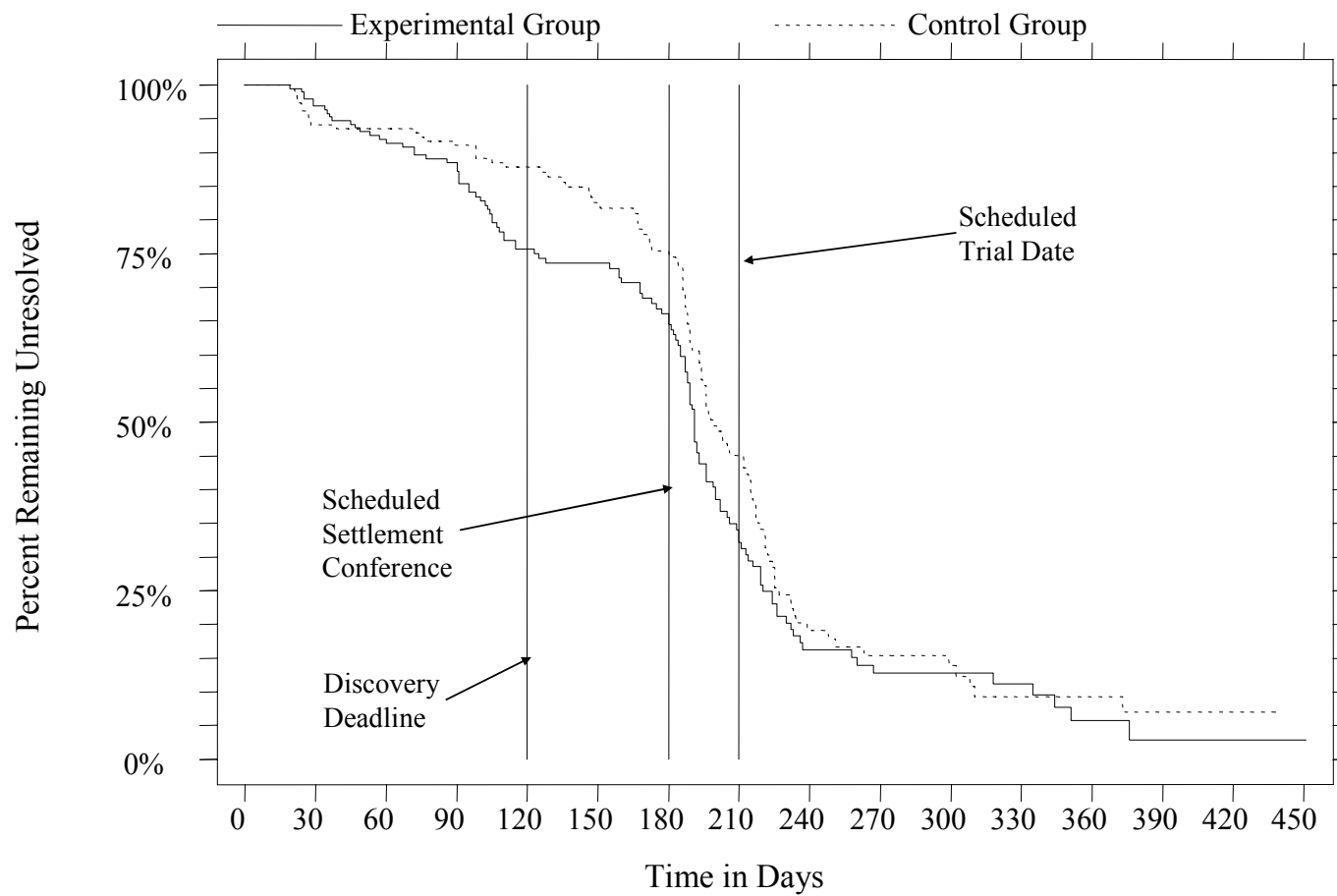


Figure 1: Survival Curves for Treatment and Control Groups

Figure 2A: Cumulative Frequency Distribution of Number of Notices of Service of Discovery Filed Through June 30, 2001

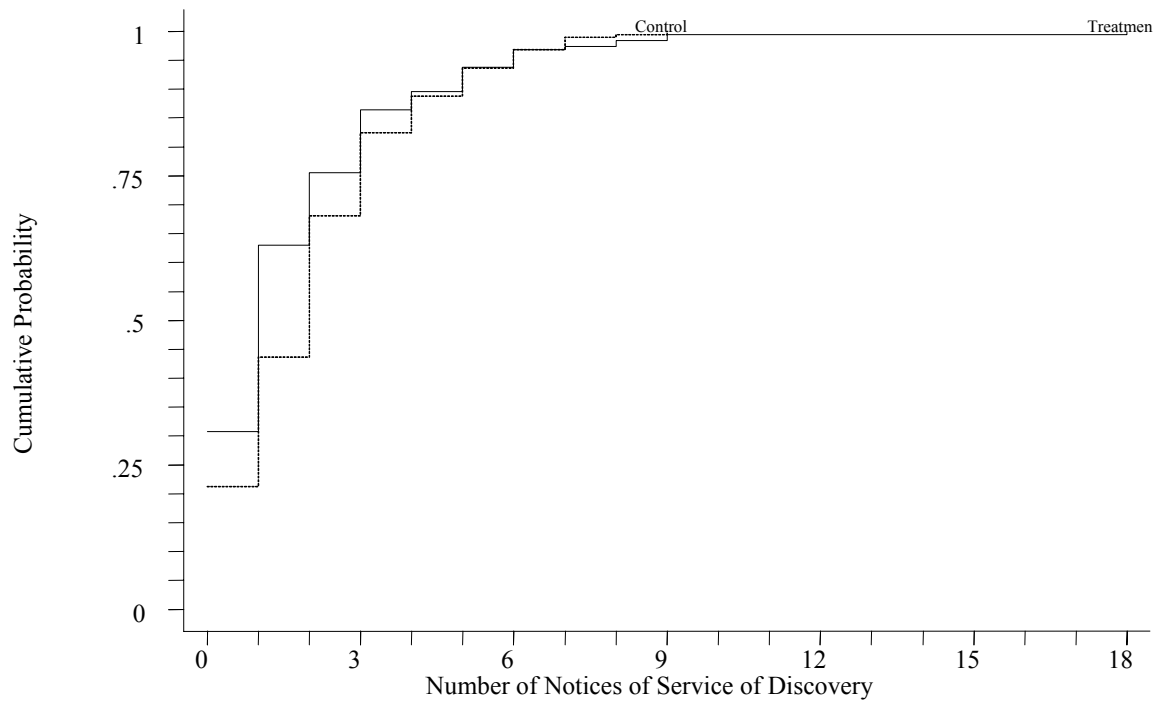


Figure 2B: Cumulative Frequency Distribution of Number of Notices of Service of Discovery Filed for Cases Disposed of Prior to 7/1/01

