We keep up on statistics important to our clients, such as the time it takes to decide appeals, and we were especially interested to see how the pandemic had affected the Sixth Circuit. Our gut feeling was that things might have slowed down a little in more complicated cases, but that the circuit had generally kept on top of things overall. So we were not surprised to learn from the Judiciary's latest statistics that the average time to decide cases from the notice of appeal until the decision, across all the circuits, had slowed by almost a month to 9.7 months. Many circuits, including the Sixth, have specifically worked for years to streamline the appellate process, shaving the average time to decide an appeal from 11.7 months in 2010 to 7.7 months in 2017, so this backsliding is a little disheartening.

But good news for those of us in the Sixth Circuit, as the pandemic did not slow down the court at all. The average time was 7.9 months in the year ending March 2020—and it remained at 7.9 months in the year ending March 2021. That’s a remarkable achievement, and one we certainly appreciate, when most circuits had to slow down their decision-making during the pandemic. It did not hurt, however, that the Sixth Circuit had every seat filled during those twelve months, and had twelve sitting senior judges at the same time. The Circuit has not been continuously full for an entire year since 2012, and is currently near its all-time record for the number of
active senior judges.

Parties should take the above numbers with a grain of salt, as appeals often take much longer. The statistics are skewed by appeals that are dismissed for lack of jurisdiction, settled or dismissed by the parties, or consolidated with other appeals—and so only take weeks or a couple months. In other appeals, months may be required to obtain the transcripts or other record items, briefing schedules may be extended by each party, the appeal may be stayed for circuit mediation or the need to supplement the record, and motions can take months to resolve. Complex appeals that involve oral argument and result in a signed, published decision also usually take longer to decide. A good appellate attorney can evaluate these variables in individual cases, but even then it is still only approximate. In the meantime, we’ll make do with these statistics.

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