Stuart (and all):

Jane and I are continuing to look into this.  In addition to the first attached document (which we sent earlier), we found an article describing the processes of the Eleventh Circuit from the time period in question.  It may provide some insight.

We are still waiting on any more information from the librarians at the 11th Circuit.  They have responded with some questions (e.g., where the opinion data was coming from), which we have provided and will get back to you when/if we get any additional useful information.

The other thing that might be useful is doing some searches in Westlaw in the 11th Circuit to see what the per curiam opinions look like for the period in question.  That may reveal something, but will require a bit of time to go through (Westlaw has upper limits on its searches, unlike Lexis, so searches would have to be broken down into smaller time units to avoid hitting that ceiling).

We will let you know as we find anything further.

Best Regards,

Wick and Jane

**From:** Wickliffe Shreve, J.D.   
**Sent:** Thursday, September 26, 2019 10:03 AM  
**To:** Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>; ByungKoo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>  
**Cc:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>; Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>  
**Subject:** RE: LN Update

Stuart:

We’ve attached an article that Jane found that may be relevant to the issue.  Pages 75-76 address anomalies in the 11th Circuit when it comes to their reluctance to publish non-unanimous decisions.  This may be part of the reason for the discrepancy, particularly as the numbers return to standard after the FRAP specifically allowed for attorneys to cite to unpublished opinions issued from [January 1, 2007 onward](https://www.uscourts.gov/sites/default/files/unpub_opinions_1.pdf).

Both Jane and I have back-to-back conferences with our first year students until the end of this week.  I am in contact with the 11th Circuit librarians to see if they have any additional insight into this situation, but again we likely will not be able to get back with anything additional substantively until the end of next week.  If you wanted to reach out to Lexis before that point, we don’t see a reason not to.

We hope this helps!

Best Regards,

Wick and Jane

**From:** Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>   
**Sent:** Thursday, September 26, 2019 9:00 AM  
**To:** ByungKoo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>  
**Cc:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>; Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>; Wickliffe Shreve, J.D. <[wickliffe.shreve@law.duke.edu](mailto:wickliffe.shreve@law.duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>  
**Subject:** RE: LN Update

Jane, Wick, and Alex,

Do you have a sense when you will be able to report back about the 11th Circuit case drop? As we discussed, I am guessing that this is an artifact of an 11th Circuit rules change, and I would like to wait to send the email to LN until we have done what we can on our end to figure out what explains the number of cases in the 11th Circuit.

Stuart M. Benjamin

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(919) 613-7275 (phone)

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**From:** ByungKoo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>   
**Sent:** Thursday, September 26, 2019 8:50 AM  
**To:** Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>  
**Cc:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>; Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>; Wickliffe Shreve, J.D. <[wickliffe.shreve@law.duke.edu](mailto:wickliffe.shreve@law.duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>  
**Subject:** Re: LN Update

Yes,

I wrote down a short paragraph on the main part of our inquiry on the case counts. I do not know whether my tone is appropriate, so any editting is welcome.

* Drops in case counts

We found that there is a sharp drop of case counts with panels for the 11th circuit from years 1998 to 2004. On average we count 500 cases for those years whereas the average count a few years before/after that period is 2500. We would like to confirm two things:

1. could you confirm that this is indeed the case? (does LN see the same thing?)
2. if it is, is there a chance that LN data team could examine what was going on? may be change of rules in the bookkeeping of data?

Best,

BK

On Sep 26, 2019, at 8:45 AM, Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)> wrote:

I think Byung Koo is going to propose language regarding the 11th Circuit. Right, Byung Koo?

Stuart M. Benjamin

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[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)

(919) 613-7275 (phone)

(919) 613-7231 (fax)

**From:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>   
**Sent:** Wednesday, September 25, 2019 10:11 PM  
**To:** Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>; Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>  
**Cc:** Byung Koo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>; Wickliffe Shreve, J.D. <[wickliffe.shreve@law.duke.edu](mailto:wickliffe.shreve@law.duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>  
**Subject:** RE: LN Update

Thank you, Tom. I agree that what you put together generally looks very good.

In terms of the labeling, perhaps just getting rid of the pronouns and using either Duke or LN as appropriate would provide maximum clarity.

I agree with ByungKoo that having more information about LN’s understanding of what’s happening in the 11th circuit would be useful. I don’t have thoughts on the best way to structure that question.

Thanks,

KQ

On September 25, 2019 at 3:50:27 PM, Tom Balmat ([thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)) wrote:

Hi Stuart,

Of course.  The thank you is important and I did not omit it intentionally.  I would suggest the use of “[LN question]” as opposed to “[our question]” to indicate who “we” are.  How about if you do the editing?

Tom

**From:** Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>   
**Sent:** Wednesday, September 25, 2019 2:54 PM  
**To:** Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>  
**Cc:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>; Wickliffe Shreve, J.D. <[wickliffe.shreve@law.duke.edu](mailto:wickliffe.shreve@law.duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>; Byung Koo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>  
**Subject:** RE: LN Update

Tom, thanks very much. This looks good to me. I would like to add back in the language about appreciating their time and effort etc., and I would like to put back in “[Our question]”, just to be clear, but that is pretty small potatoes, and otherwise all looks good to me.

Can everyone take a look and get back to the group by tomorrow morning? I will plan to email this to Joselyn around mid-day tomorrow.

Stuart M. Benjamin

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**From:** Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>   
**Sent:** Wednesday, September 25, 2019 2:37 PM  
**To:** Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>  
**Cc:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>; Wickliffe Shreve, J.D. <[wickliffe.shreve@law.duke.edu](mailto:wickliffe.shreve@law.duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>; Byung Koo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>  
**Subject:** RE: LN Update

Hello Everyone,

Attached is a summary of outstanding requests to LN.  Black text is copied from the most recent LN response (August 28, 2019), additional comments and questions are in blue (which are a combination of the team’s suggestions). The intent is for the excerpts listed (in black) to prompt review of the original document as opposed to repeating full text here.  Kevin’s suggestion of including original document page numbers should aid in locating the referenced text.  Feel free to modify.

Stuart:  the “as described above” comment in the e-mail of 9/21, under Authoring Judge IDs, was intended to refer to the previous Duke comment, regarding provision of judge identifier XML.  I have omitted the “as described above” text.

Kevin:  Your question about our request for judge XML data possibly being limited to resolved names is a good one.  I modified the request to include all panel and authoring judges on all cases.

Tom

**From:** Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>   
**Sent:** Monday, September 23, 2019 4:37 PM  
**To:** Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>  
**Subject:** FW: LN Update

Tom,

Have you had a chance to look at my suggested changes and questions for you?

Stuart

**From:** Kevin Quinn <[kmq@umich.edu](mailto:kmq@umich.edu)>   
**Sent:** Sunday, September 22, 2019 8:35 AM  
**To:** Tom Balmat <[thomas.balmat@duke.edu](mailto:thomas.balmat@duke.edu)>; Stuart M. Benjamin <[benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)>  
**Cc:** Sean Chen <[schen@law.duke.edu](mailto:schen@law.duke.edu)>; Wickliffe Shreve, J.D. <[wickliffe.shreve@law.duke.edu](mailto:wickliffe.shreve@law.duke.edu)>; Jane Bahnson <[bahnson@law.duke.edu](mailto:bahnson@law.duke.edu)>; Alex Jakubow <[jakubow@law.duke.edu](mailto:jakubow@law.duke.edu)>; Byung Koo Kim <[kimbk@umich.edu](mailto:kimbk@umich.edu)>  
**Subject:** RE: LN Update

Thanks, Tom and Stuart. This generally looks good to me. Although, Tom, I think it’s important that you are OK with some of Stuart’s suggested edits dealing with the technical portions of the request.

A couple of small things:

1) This might be an email client issue, but some of the formatting that Stuart describes in his email didn’t come through for me. In the end it was a little difficult to parse which parts of the email were excerpts from the 8/28 pdf file and which parts were our current responses/requests. Would it be useful to add an executive summary of our requests/responses in bullet points immediately after the first paragraph that starts “Thank you for your valuable assistance…” and then go on to elaborate on those points in the body of the email? Relatedly, would it be useful to reference page numbers when including the excerpts from their 8/28 response document?

2) The one portion of the text that I’d especially like Tom’s opinion on is below. My understanding is that the XML in this excerpt is just dealing with the resolved judge names and is thus information that we already have. Tom is that correct? If so, is there another way that we could clearly indicate what exactly it is that we want?

Best,

KQ

On September 21, 2019 at 7:12:13 PM, Stuart M. Benjamin ([benjamin@law.duke.edu](mailto:benjamin@law.duke.edu)) wrote:

·         Authoring judge IDs

**Answer**(Mark Shewhart):

We provided judge pguids in the opinion by, concurby, and dissentby section. See example below. However, this information appears available only for the resolved judge names. We only extracted resolved judge names. We will review the data to verify whether we can provide pguids for both resolved and unresolved judge names.

<judges>

COLE~~jud-100062319|McKEAGUE~~jud-100032238|STRANCH~~jud-100053256|COLE~~jud-100062319|STRANCH~~jud-100053256|McKEAGUE~~jud-100032238|McKEAGUE~~jud-100032238

</judges>

<opinionby>COLE~~jud-100062319</opinionby>

<concurby>McKEAGUE~~jud-100032238</concurby>

<dissentby>McKEAGUE~~jud-100032238</dissentby>

* + [2019-09-21](https://urldefense.proofpoint.com/v2/url?u=http-3A__airmail.calendar_2019-2D09-2D21-252012-3A00-3A00-2520EDT&d=DwMFaQ&c=imBPVzF25OnBgGmVOlcsiEgHoG1i6YHLR0Sj_gZ4adc&r=9CPfb8_i3cLSA6E45DODwRFXeYFupEW1IyR7cZQfUSk&m=N1MCC_ByyfD2n4BuV_1hQwcoH2ekNOZDDMMXmxO-N3Y&s=k4pYBqVPGH-Kf_vYn91LLJ-h1a1IaA6-Tm98S_ud2ok&e=) Duke comment:  XML as shown in the [2019-08-28](https://urldefense.proofpoint.com/v2/url?u=http-3A__airmail.calendar_2019-2D08-2D28-252012-3A00-3A00-2520EDT&d=DwMFaQ&c=imBPVzF25OnBgGmVOlcsiEgHoG1i6YHLR0Sj_gZ4adc&r=9CPfb8_i3cLSA6E45DODwRFXeYFupEW1IyR7cZQfUSk&m=N1MCC_ByyfD2n4BuV_1hQwcoH2ekNOZDDMMXmxO-N3Y&s=h1JfBbu_2iQkiSBDmmNU409Lfc6_RHGnHV-fmRZTDQw&e=) LN response **(immediately above)** would be helpful, as described above. [**Tom, 1) am I right that you are referring to what I have put in immediately above? 2) When you say “as described above,” what are you referring to? We should try to be as clear as possible.]**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Kevin Quinn**

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Professor (by courtesy) | Department of Statistics

Research Professor | Michigan Institute for Data Science (MIDAS)

Faculty Associate | Center for Political Studies

University of Michigan

Co-Editor | The Journal of Law, Economics, and Organization

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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