



OFFICE OF THE AUDITOR

**DENVER COUNTY COURT
CIVIL JUDGMENT PROCESS
PERFORMANCE AUDIT
JUNE 2009**

*Dennis J. Gallagher
Auditor*



City and County of Denver

201 West Colfax Ave., Dept. 705 • Denver, Colorado 80202 • 720-913-5000, FAX 720-913-5247
www.denvergov.org/auditor

Dennis J. Gallagher
Auditor

June 3, 2009

Mr. Matthew McConville, Court Administrator
Denver County Court
City and County of Denver

Dear Mr. McConville:

Attached is the Auditor's Office Audit Services Division's report of their audit of the Civil Judgment Process. The purpose of the audit was to assess the Civil Division's processes for issuing and recording civil judgments. Additionally, the audit assessed whether internal controls in place were adequate under the circumstances and in accordance with applicable laws, rules and regulations.

The audit revealed a significant performance issue in the Civil Judgment Process as performed by the Civil Division of the Denver County Court, which is disclosed in the accompanying report.

If you have any questions, please call Kip Memmott, Director of Audit Services, at 720-913-5029.

Sincerely,

A handwritten signature in cursive script that reads "Dennis J. Gallagher".

Dennis J Gallagher
Auditor

DJG/ect

cc: Honorable John W. Hickenlooper, Mayor
Honorable Members of City Council
Members of Audit Committee
Kelly Brough, Chief of Staff
Claude Pumilia, Chief Financial Officer
David Roberts, Chief Services Officer
David Fine, City Attorney
Lauri Dannemiller, City Council Executive Staff Director
Beth Machann, Controller

*To promote open, accountable, efficient and effective government by performing impartial reviews and other audit services that provide objective and useful information to improve decision making by management and the people.
We will monitor and report on recommendations and progress towards their implementation.*

Mr. Matthew McConville

June 3, 2009

Page Two

Rita Trujillo, Court Division Supervisor

Mae Rodriguez, Operations Supervisor

Kris Griffin, County Court Manager of Information Technology

TABLE OF CONTENTS

Transmittal Letter	1
Table of Contents	3
Internal Auditor's Report	4
Executive Summary	5
Background, Scope, Objective, and Methodology	6
Finding and Recommendation	8
Appendix A: Case Management's Interest Accrual Variance	10
Exhibit A: Agency Response	11



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AUDITOR'S REPORT

We have completed an audit of Denver County Court's Civil Judgment Process. The purpose of the audit was to determine if processes and internal controls were adequate to maximize resource utilization, and to ensure processes and internal controls complied with applicable laws, rules and regulations. This audit was included in the Auditor's Office Audit Services Division's 2009 Annual Audit Plan and is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, *General Powers and Duties of Auditor*.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit revealed a procedural inefficiency in the Civil Judgment Process that resulted in a resource deployment issue, which is disclosed in detail within the accompanying report.

We extend our gratitude to the personnel who assisted and cooperated with us during the audit.

Audit Services Division

A handwritten signature in black ink, appearing to read "K. Memmott".

Kip Memmott, MA, CGAP, CICA
Director of Audit Services

Date: June 3, 2009

Staff: Sonia Montano, CGAP, CICA, Internal Audit Supervisor
Brandon Blomquist, MBA, Staff Internal Auditor

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DENVER COUNTY COURT – CIVIL JUDGMENT PROCESS
EXECUTIVE SUMMARY
JANUARY 1, 2007 – OCTOBER 31, 2008

This summary highlights the finding of our performance audit of the Denver County Court Civil Judgment Process, which is more fully described in the Finding and Recommendation section beginning on page 8. Exhibit A, starting on page 11, includes the response of the County Court Administration and Management of the Civil Division to our finding.

Finding I – Opportunity Exists to Improve Performance of the Civil Judgment Process

Audit work identified incorrect judgment balances computed during the Civil Judgment Process. Specifically, the interest accrual functionality of the Case Management System (CMS) is incapable of properly accruing interest on judgment balances for the following reasons:

- Programming errors
- Judgment terms of interest can vary for each case
- Payments made directly to the creditor are not recorded by the Court

We recommend removing the interest accrual functionality from the CMS because overhauling the interest functionality would not be an efficient use of resources. Denver County Court is the only court in the State of Colorado to track judgment account balances. Based on our fieldwork, this activity is not required by Colorado State law. Removing the interest accrual functionality will improve performance and provide a cost savings to Court operations.

**DENVER COUNTY COURT – CIVIL JUDGMENT PROCESS
BACKGROUND, SCOPE, OBJECTIVE, AND METHODOLOGY
JANUARY 1, 2007 – OCTOBER 31, 2008**

BACKGROUND

Denver County Court

Denver County Court is both a municipal and a county court, and is the only county court in the state of Colorado that is separate from the State Court system. The Court has jurisdiction over all traffic code violations; violations of state statute, including misdemeanors and felony hearings; violations of City ordinances; civil cases up to \$15,000; and small claims up to \$7,500. Probation services are also provided by the Court, which include evaluation and referral services for drunk driving and domestic violence offenders.

Civil Division of Denver County Court

The Civil Division of the County Court adjudicates civil lawsuits up to \$15,000, name changes, and landlord-tenant matters. It issues restraining orders, summonses, garnishments and transcripts of judgment as provided by state statute. In addition, it adjudicates small claim matters up to \$7,500.

The Civil Division of the Denver County Court utilizes the Case Management System (CMS) to manage the civil judgment process. The functionality of the CMS includes the ability to maintain the Court's register of actions, receipt and disburse judgment payments, receipt payments for fees and fines, record case-specific judgment amounts and figures, track judgment balances, and accrue interest on judgment balances. The CMS was developed and deployed internally by the County Court IT Department in 1993. Since 1993, CMS has had numerous modifications in order to adapt to the evolving demands of the Court. Currently, the CMS contains information pertaining to over 840,000 cases. Approximately 35,000 cases are filed with the Civil Division each year.

Civil Judgments

A judgment is an official decision of a court given at the end of a trial. In civil cases, a judgment determines the respective rights and claims of the parties involved. A judgment may also include the reasoning of the court's decision.

Judgments ordered by the Denver County Court are recorded by case number in the CMS for tracking and reference purposes. Any payments made for fees, fines, or judgment orders, received directly by the Court are recorded in the CMS. When an attorney represents a creditor, a debtor may deliver monies directly to the attorney and not go through the Court. A civil judgment is considered closed when a creditor has submitted a signed *satisfaction of judgment* to the Court.

SCOPE

The audit of the County Court Civil Judgment Process covers the period of January 1, 2007 through October 31, 2008. The scope of our audit focused on determining whether the interest

calculations on civil judgments were properly assessed, internal controls and accounting processes were adequate, and the Agency complied with applicable legal requirements.

OBJECTIVE

To assess the Court's process for recording and issuing civil judgments. The audit will include an examination of information technology systems used to process judgments and an assessment of compliance with related legal requirements.

METHODOLOGY

The evidence gathering and analysis techniques used in order to meet the objectives included, but were not limited to:

- Interviewing personnel to obtain an understanding of procedures
- Examining and testing of receipting and disbursement records, Writs of Restitution and judgments in the Civil Division's CMS on a sample basis
- Assessing interest calculations formulated in the Civil Division's CMS
- Reviewing internal controls
- Discussions with management
- Reviewing compliance with written policies and procedures
- Determining compliance with City fiscal rules, executive orders, State statutes and other legal requirements

DENVER COUNTY COURT – CIVIL JUDGMENT PROCESS
FINDING AND RECOMMENDATION
JANUARY 1, 2007 – OCTOBER 31, 2008

Finding I – Opportunity Exists to Improve Performance of the Civil Judgment Process

Audit work identified incorrect account balances computed during the Civil Judgment Process. The interest functionality of the Case Management System (CMS) is limited in its performance and reduces County Court’s ability to operate effectively and efficiently to fulfill agency objectives. As a result, we recommend removing the interest accrual functionality to assist the Civil Division of the Denver County Court in enhancing performance.

The Civil Division’s Case System Accrues Interest Incorrectly and Unnecessarily Tracks Judgment Balances, Which Affects the Efficiency of the Civil Judgment Process – The CMS attempts to track current judgment balances by accruing interest and documenting payments for judgment accounts even though the system does not have the capabilities to incorporate all of the variables necessary to do so accurately. We also determined the Civil Division has no legal requirement under state law to conduct this functionality.

We conducted sample testing on twenty-three (23) cases in the CMS, and noted a total absolute variance of \$14,159 from the proper accrual of interest on these cases (See Appendix A). The accrued interest on judgment balances frequently varies from the interest figures submitted by the creditors attempting to issue writs of garnishment as noted in the testing. A programming error caused the most significant interest accrual variances within the CMS. The County Court IT Department has since corrected the programming, but were unable to determine the exact cause or date of the error. The attempt to maintain current balances requires Judicial Assistants to compare interest figures on writs of garnishment to the interest figures computed by the CMS. When the two figures do not agree, Judicial Assistants are required to manually calculate the correct interest for the given judgment account.

State law allows payments of judgment balances to bypass the Court and be processed directly through the creditor when the creditor is represented by an attorney or collection agency. The majority of payments made on judgment accounts in Denver County Court are forwarded directly to creditors, and notification of the payment is not conveyed to the Court. Accordingly, the CMS contains incorrect payment information on a sizeable portion of judgment accounts, which affects the interest calculations on those accounts.

Benchmarking of other county courts has revealed that Denver County Court’s CMS is the only court system in the state that contains an interest accrual functionality and tracks account balances. Denver County Court is also the state’s only judicial system that does not utilize the Eclipse case management system. The Eclipse system does not contain the functionality to accrue interest on judgment balances. When issuing writs of garnishment through other county courts, Judicial Assistants are only required to apply a reasonableness test to the amount of interest submitted by the creditor, based on the applicable interest rate and time passed. This process and system are efficient and have only the necessary functionality, which reduces the likelihood of system failure and unnecessary resource consumption. After a judgment has been ordered, other county courts in the state act only as intermediaries between the creditor and debtor to ensure fraudulent actions are not utilized by one party or the other. The parties involved track the judgment balances and the courts do not attempt to keep such balances.

Prior to the IT Department's revision of the CMS, only a single field for interest entry existed. As a result, post-judgment interest accrued on top of pre-judgment interest, and it was impossible to determine exact amounts of the separate interest accounts. The County Court IT Department added a field for pre-judgment interest to enter it separately from the post-judgment interest accrual field.

The CMS, in its current state, is incapable of handling the large number of possible variables in interest accrual calculations. The system only allows for an annual compounding interest based on the judgment principle, pre-judgment interest, costs and attorney's fees. However, in some cases a judge may grant interest that compounds at an interval other than annually if the debtor was bound by a contract that stipulated a different compounding method. Additionally, a judge may rule that portions of the judgment are or are not, allowed to accrue interest.

Inaccurate Interest Accrual Negatively Impacts Court Resources – The inability of the CMS to correctly track interest has resulted in extended processing times for garnishments, as the Judicial Assistants are required to manually calculate the interest accrued if the figures on the garnishment and CMS do not agree. This added step to the garnishment process has used Judicial Assistant resources that could be better utilized. The County Court Magistrates, Accounting and IT Departments have also expended additional resources. Specifically, the County Court IT Department programmed a new version of the CMS. We estimate a cost savings of approximately \$132,000 per year by discontinuing this functionality.

The extensive garnishment process has also negatively affected the patrons of the County Court. Attorneys who utilize the Civil Division for their clients voiced their concerns regarding the amount of time it took the County Court to issue a single garnishment. According to attorneys interviewed during fieldwork, this inefficiency has been a longstanding problem.

The inability of CMS to compute accurate current balances is causing the Court to publicize incorrect judgment balances. These errors are published through the City website.¹ This issue has the potential to lead a debtor to assume they owe more or less than is actually due the creditor. Additionally, the publication of incorrect judgment balance information creates an opportunity for a creditor to note the higher current balance on the City website and alter their figures to match the Court's higher balance.

Recommendation

We recommend the County Court remove the interest accrual functionality from the CMS. Judicial Assistants should apply a reasonableness test to the amount of interest claimed by the creditor. Removing this interest accrual capability from the CMS will streamline the Court's process and will allow the Court to better allocate limited resources and focus on other Court objectives. Information publicized via the City & County of Denver's website should only consist of the original judgment amounts, figures and status. Our recommendation would not require the Court to alter its process related to direct creditor payments.

¹ City & County of Denver. "Search Denver County Court Records." 2008. 8 Apr 2009
<http://www.denvergov.org/apps/newcourt/court_select.aspx>

Interest Accrual Variance Identified by Audit Work

	Judgment Date	Beginning Balance	Interest Rate	Last Interest Calculation Date	System Interest	Calculated Interest	Variance
1	5/31/2007	\$19,834.76	8.00%	2/12/2008	\$808.61	\$1,116.50	-\$307.89
2	8/9/2007	\$7,120.85	8.00%	10/20/2008	\$0.00	\$690.95	-\$690.95
3	2/22/2007	\$15,400.00	8.00%	3/2/2007	\$26.23	\$26.98	-\$0.75
4	2/1/2007	\$14,293.42	8.00%	12/13/2007	\$993.15	\$986.16	\$6.99
5	4/16/2008	\$6,783.01	8.00%	9/22/2008	\$570.74	\$236.22	\$334.52
6	4/5/2007	\$14,780.61	8.00%	11/14/2007	\$723.41	\$721.93	\$1.48
7	5/3/2007	\$13,192.56	8.00%	10/2/2008	\$3,536.93	\$1,529.75	\$2,007.18
8	1/25/2007	\$16,004.80	14.95%	11/4/2008	\$6,270.56	\$4,531.31	\$1,739.25
9	4/13/2007	\$16,692.00	8.00%	2/6/2008	\$1,045.65	\$1,093.15	-\$47.50
10	1/30/2007	\$16,793.41	8.00%	3/22/2007	\$863.85	\$187.59	\$676.26
11	5/3/2007	\$13,656.59	21.00%	9/8/2008	\$5,583.76	\$4,083.98	\$1,499.78
12	3/16/2007	\$6,515.74	14.20%	11/10/2008	\$1,849.78	\$1,616.63	\$233.15
13	6/29/2007	\$17,779.80	8.00%	10/13/2008	\$2,937.47	\$1,868.20	\$1,069.27
14	1/22/2007	\$14,966.63	8.00%	5/8/2008	\$2,135.91	\$1,576.15	\$559.76
15	5/4/2007	\$13,556.00	18.00%	5/28/2008	\$4,810.27	\$2,629.27	\$2,181.00
16	6/18/2007	\$16,402.73	22.99%	2/5/2008	\$1,856.55	\$2,395.26	-\$538.71
17	5/24/2007	\$17,688.44	8.00%	6/4/2007	\$42.65	\$42.62	\$0.03
18	10/17/2007	\$15,479.92	29.99%	5/27/2008	\$2,855.58	\$2,834.39	\$21.19
19	1/8/2007	\$13,151.28	21.00%	5/9/2008	\$6,323.63	\$3,877.97	\$2,445.66
20	5/10/2007	\$9,502.29	8.00%	6/29/2007	\$103.76	\$104.06	-\$0.30
21	1/9/2007	\$10,000.00	8.00%	3/5/2007	\$120.55	\$120.47	\$0.08
22	1/4/2007	\$12,578.90	23.99%	9/26/2008	\$8,709.36	\$5,742.58	\$2,966.78
23	4/11/2007	\$13,695.38	18.00%	5/2/2007	\$144.89	\$141.73	\$3.16
							\$14,159.44

Source: Civil Division of Denver County Court Case Management System & Court Case File



Denver County Court

CITY AND COUNTY BUILDING

Colfax and Bannock

Denver, Colorado 80202

Matthew M. McConville
Court Administrator

May 20, 2009

Mr. Kip R. Memmott, CGAP, CICA
Director of Audit Services
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. Memmott:

The Office of the Auditor has conducted a performance audit of the Civil Judgment Process for the audit period beginning January 1, 2007 through October 31, 2008.

This memorandum provides a written response for each reportable condition noted in the Auditor's Report final draft that was sent to us on May 6, 2009. This response complies with Section 20-276 (b) of the Denver Revised Municipal Code (DRMC).

AUDIT FINDING(S):

Finding 1 – Opportunity Exists to Improve Performance of the Civil Judgment Process

RECOMMENDATION 1:

We recommend the County Court remove the interest accrual functionality from the CMS. Judicial Assistants should apply a reasonableness test to the amount of interest claimed by the creditor. Removing this interest accrual capability from the CMS will streamline the Court's process and will allow the Court to better allocate limited resources and focus on other Court objectives. Information publicized via the City & County of Denver's website should only consist of the original judgment amounts,

figures and status. Our recommendation would not require the Court to alter its process related to direct creditor payments.

RESPONSE/ACTION PLAN:

The court agrees with your recommendation and implemented such on April 1, 2009. Rita Trujillo(303-640-4661), manager for the County Court's Civil Division was responsible for the implementation of this recommendation.

Please contact Matt McConville, 720-865-7830 with any questions you may have.

Sincerely,



Matthew M. McConville
Denver County Court
Court Administrator

cc: Mary Celeste, Presiding Judge
Rita Trujillo, Manager