**Introduce panel**

***Overview of non-patent cases in the district (statistics) – Andrea Fair – 3 minutes***

Since June 2017 – June 2021

~85-90% private civil (vs. US)

* ~30% prisoner petitions
* 15-20% IP
* ~10% contract
* ~8-10% personal injury
* ~6-8% civil rights
* Others: real property

~10-15% US Civil

* ~45-50% prisoner petitions
* ~35% social security
* Others: torts, forfeitures & penalties

***Class actions – Judge Payne, Travis DeArman, Judge Kendall – 8 minutes***

* Pre-class certification discovery and timing of certification (4 minutes)
  + Different approaches – later certification and more early discovery vs. early certification / less early discovery
  + Pros and cons
* Class settlements – different than most civil actions – must be approved (4 minutes)
  + Considerations and impediments for approval
  + Defendants’ attempts to settle (including intimidation and other unsavory tactics to watchout for) – 1st amendment rights of communications with individuals

***FCA/Qui Tam – Brett Johnson, Judge Mazzant – 8 minutes***

* What should a party do with the government in a declined case? (3 minutes)
  + Plaintiff –
  + Defendant – Leave govt alone and be glad they declined? Engage with government since it’s their case and they have to approve settlement?
  + Govt can bring pressure on AUSA to settle at amount lower than Relator’s view of case, so value for both Relator and Defendant to stay in communication
* Why are these cases so dangerous? (2 minutes)
  + Damages models—takes away on defense side the value of a compromise verdict because automatic trebling, fees, costs. Defendant almost has to win it clean or end up with sizeable judgment.
* Settlement requirements (3 minutes)

***FRAND – breach of contract, not patent – Ted Stevenson, Judge Payne, Leon Carter (state court removal, patent mentioned) – 7 minutes***

* Reminder that they’re contract cases, not patent cases
* HTC v. Ericsson – Recent EDTX case appealed to 5th Circuit, affirmed no jury instruction on patent concepts
* Other examples:
  + Samsung/Ericsson
  + Ericsson/Apple
  + Samsung/Apple
* Impact on license negotiations
* Prediction – more cases like these in the future
* 5th Circuit said: Contract action. Concepts of damages in patent infringement aren’t applicable.

***Non-patent IP Cases – 11 minutes***

* NDA considerations and related causes of action – Travis DeArman (3 minutes)
  + Examples of information that is confidential when disclosed, but wouldn’t qualify as a trade secret, e.g., provisional patent applications
  + Non-trade secret causes of action that arise out of NDAs, depending on information protected by NDA—overlap with patents, breach of contract, and the potential that what once was confidential is no longer subject to NDA obligations
* Trade secret litigation – Brett Johnson, Judge Mazzant (4 minutes)
  + Early trade secret identification
    - Pros and cons
    - Trends in EDTX
* Recent developments in Trademarks – Leon Carter (4 minutes)
  + New SCOTUS case re “innocent” trademark infringement damages
  + (other recent SCOTUS cases in past 2 years re trademarks)

***1983 Civil Rights Cases – Leon Carter, Judge Kendall – 3 minutes***

* ***Many IP lawyers wanting to get trial experience. This is a way to do that.***
  + NDIL program – lawyers required to take appointment every 2 years