

Recommendations by the Executive Committee
of the Judicial Conference

Program to Address the Problems of Cost and Delay in Civil
Litigation and to Improve Case Management

Recognizing that substantial concern has been expressed about expense and delay in civil litigation, the Executive Committee recommends that the Judicial Conference of the United States adopt a program that includes the measures and reflects the principles set forth in this statement.

1. The Chief Judge of each district court, after consulting the other judges of the district, shall appoint an advisory group of lawyers and representative clients that shall help the court assess current docket conditions and consider different measures that might be implemented to reduce cost and delay and to improve case management practices.

2. Working with guidelines that shall be established by the Judicial Conference, each advisory group shall promptly complete a thorough assessment of the civil and criminal dockets in its court, describing not only current conditions, but also trends in filings and in demands on the court's resources.

3. Each advisory group shall attempt to identify the principal sources of cost and delay in civil litigation, focusing not only on court procedures, but also on how lawyers and clients approach and handle the litigation process.

4. Having assessed current conditions and identified principal sources of cost and delay, each advisory group shall recommend measures which it feels, given the particular character of needs and circumstances in its district, hold some promise of reducing cost and delay and of improving the delivery of case management services. These packages of recommendations should be balanced to include significant contributions not only by the court, but also by lawyers and clients.

5. Each district court shall carefully consider the report of its advisory group and shall implement the recommendations that the court concludes would be feasible and constructive and that are authorized under 28 U.S.C. Sec. 2071.

6. The reports and recommendations of each advisory group, and a copy of the measures implemented by each district court, shall be forwarded to the Judicial Conference, the council of the circuit in which the district court is located, and to a circuit-wide committee composed of the chief district judges of the circuit (or a judge designated by them). The committee of chief district judges shall review the reports and recommendations, and shall

consider the measures implemented, then may suggest for the district court's consideration additional measures or modifications in procedures or programs that have been adopted.

7. If the Judicial Conference is not satisfied with the way a district court has responded to current conditions or to the report and recommendations of its advisory group, the Conference may request the court to take further action.

8. The responsibilities that have been the province of the Conference's Judicial Improvements Committee will be divided between two new committees, one on Automation and Technology and the other on Case Management and Dispute Resolution. The Committee on Case Management and Dispute Resolution will oversee development of the criteria (guides) that will aid the district court advisory groups in assessing current conditions. In addition, this committee will oversee the preparation of a document that describes and explains a wide range of different measures that courts might consider adopting in response to cost and delay problems, including different approaches to case management, cost containment, and alternative dispute resolution programs. As part of this process, the committee will develop two or more model civil expense and delay reduction plans. After the reports and recommendations from all the district advisory groups have been submitted, and the courts have decided which measures to implement, this committee will oversee the preparation of a comprehensive report that describes current conditions and trends in the district courts, the range of ideas that have been generated for responding to those conditions, and the measures that have been adopted. This committee will have continuing responsibility to study and recommend ways to improve case management and dispute resolution services in the district courts.

9. The Judicial Conference will conduct a demonstration program in up to five volunteer districts of different sizes and case mixes to experiment with different methods of reducing cost and delay (including ADR programs) and different case management techniques.

10. The Judicial Conference will arrange to have careful evaluations done of as many of the measures adopted by district courts as possible. It also will evaluate the results of the demonstration programs. Building from these sources, the Conference will arrange to have published (and periodically updated) a Manual for Litigation Management and Cost and Delay Reduction, describing and analyzing the most effective techniques and programs.

11. Every three years, each district court shall reconvene its advisory group, which shall evaluate the impact of measures previously adopted, reassess current conditions, and recommend adjustments or additions to existing practices, rules, or programs. These reports and recommendations shall be given due consideration

by the district courts, shall be reviewed by the circuit-wide committees of chief district judges, and shall be forwarded to the Judicial Conference, for review by its Committee on Case Management and Dispute Resolution.

12. The Judicial Conference, working through the Federal Judicial Center and the Administrative Office of the United States Courts, will add substantial new training programs for judicial officers and appropriate court staff in case management techniques and in other measures that courts could implement to reduce the cost and to expedite the processing of civil litigation. These training programs will be updated regularly to reflect the most current learning from the various measures implemented by the district courts and from the Conference's demonstration programs. The Director of the Federal Judicial Center, or his designee, shall serve as an ex officio member of the Conference's Committee on Case Management and Dispute Resolution.

13. The Administrative Office of the United States Courts shall ensure that the district court's automated dockets provide ready access to complete data about the status of each case and the kinds of demands it has made on court resources.

14. The Conference's Committee on Case Management and Dispute Resolution should regularly communicate its findings and recommendations about programs, procedures and practices to the Conference's Advisory Committee on Civil Rules. The Committee on Case Management may suggest possible amendments of the civil rules for consideration by the Advisory Committee. For these two committees to work together most effectively, a member of the Advisory Committee on Civil Rules should also serve as a member of the Committee on Case Management and Dispute Resolution.