

FJC Review of CJRA Reports and Plans

Prepared for the Judicial Conference Committee on Court Administration and Case Management

District: Middle District of Pennsylvania

Date: October 20, 1993

The district is authorized six judgeships (four of which are filled) and three full-time and two part-time magistrate judges. It has three senior judges.

Summary of Conditions in the District

The district has a number of local rules designed to enhance case management, including requirements for signature of counsel and client on all requests for continuance; issuance of a scheduling order in all civil cases; monetary sanctions for discovery abuse; and presence of counsel for every party at the pretrial conference. The advisory group reported that the court is functioning well.

The caseload statistics seem to bear this out: Civil case filings have decreased over the last five years, dropping 20% in SY91; the pending caseload has dropped as the court has for the past four years been terminating more cases than are filed; the median time to disposition has dropped to six months; and the criminal caseload, which had been rising, dropped in SY91.

The advisory group felt, however, that slight modifications to the current case management practices could enhance the court's already efficient practices. In interviews with the judges, for example, the advisory group found consensus on several issues: suggestions for more encouragement of voluntary early discovery (although most judges felt discovery is not abused); concern about growing lack of collegiality among lawyers; strong need to plan for caseload growth, particularly in prisoner cases; and expansion of magistrate judge duties. The advisory group also surveyed attorneys, who reported that excessive delay and cost do not exist in the district. The survey results suggested several modifications in practice, however: tightening up on discovery; uniform scheduling orders; expansion of ADR; more awareness of the magistrate judge role; court-initiated settlements; and party signatures on requests for continuances.

Summary of the Court's Plan

Case Management

In response to the advisory group's recommendations, the court adopted a number of refinements to its case management practices, including differential treatment of civil cases. Within 120 days of filing (or as soon thereafter as possible), an initial case management/scheduling conference will be held in all cases to arrange for treatment that is specific to the case and its facts. Prior to the conference, lead counsel will meet and confer (by telephone if more than 100 miles apart) to discuss the matters to be set forth in a case management/discovery plan, which must be filed and served at least 14 days prior to the initial case management/scheduling conference. The plan must contain a concise

and complete case management/discovery plan. The plan includes a standard form for the attorneys' case management/discovery plan.

At the initial case management conference the case will be assigned to one of four case management tracks (fast, expedited, standard, or complex). The court will look to the case management/discovery plan filed by counsel to identify the principal factual and legal issues, to consider referral to ADR, to determine limits on discovery (both deadlines and numerical limits on discovery tools), to ensure compliance with disclosure requirements, and so on. The court will issue a scheduling order to confirm the elements agreed upon.

To further control discovery, the court will modify a local rule to require certification of a good faith effort when a discovery motion is filed.

Alternative Dispute Resolution

The court directed the advisory group to review arbitration as part of the court's annual assessment. The court will consider adopting an arbitration program if the caseload warrants and if authorization and funding are available from Congress.

The plan also authorizes summary jury trials and a mediation program. The mediation program will use outside neutral attorneys who have received formal mediation training. Cases will be referred at the discretion of the court, and the parties will pay the reasonable prevailing fee. The court proposes a continuing legal education program for the mediators.

The court also adopted a settlement officer program that will use senior judges, magistrate judges, or an outside neutral. The settlement officer should intervene early in the case process, with the goal of sparing litigants the cost of discovery as well as trial.

The court will develop an informational pamphlet to publicize ADR availability. All ADR programs will require attendance by counsel and parties with authority to settle. The court may also require the mediator or settlement officer to prepare written reports and/or recommendations for the assigned judge.

Other Plan Provisions

The court adopted several other measures, including a nine-point Code of Professional Conduct. The court will also establish local training programs to facilitate bench-bar interaction through seminars and will prepare a method for providing litigants basic case processing information.

The court developed a list of continuing functions for the two staff positions originally created to assist the advisory group. These duties include managing the implementation of the CJRA plan, inquiring into the status of all cases pending more than three years and all motions awaiting decision for more than six months. The court will give basic case information to the bar and the public.

Implementation

The plan is applicable to all civil cases filed after January 1, 1994. Individual judicial officers may apply the plan to pending cases at their discretion. Several case types are excepted from the plan: social security, prisoner, pro se, and U.S. government loan cases.

Consideration of §§ 473(a) and (b)

The court states in the plan that it has considered all the principles and techniques of §§ 473(a) and (b).

Comments

The plan adopts 15 of the 16 recommendations of the advisory group and explains its rejection of one recommendation. The plan is responsive to the conditions in the district and the requirements of the statute. It seems to be comprehensive, especially in light of the district's favorable condition. Two additional judges and this plan should help the court maintain this condition.

Conclusion and Recommendation

I do not see a need to ask the court to consider additional provisions or to make any changes in the plan, and I therefore recommend acceptance of its plan.

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