

FJC Review of CJRA Reports and Plans

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

District: Eastern District of Missouri

Date: January 7, 1994

The court is authorized eight judgeships, including two new ones in 1990. Two positions are currently vacant. The court has seven magistrate judges.

Summary of Conditions in the District

The advisory group analyzed the court's caseload, interviewed the judicial officers, and received bar comment after placing notices in newspapers. From the analysis of the docket the advisory group concluded that the court is "drowning" in cases due to the convergence of increasing case filings and judicial vacancies. The caseload analysis showed that:

- There have been two major filing trends since SY87: (1) Prisoner filings have doubled and are now 34% of the civil docket; (2) tort and contract filings have dropped substantially.
- The percentage of civil cases resolved with no court action has declined dramatically since SY87; thus more cases are requiring attention from the judges.
- The time from issue to trial has risen and in SY92 was 20 months.
- Criminal cases represent 10% of the filings but 30% of the trials.
- Since SY87, the court's total filings have risen slightly, but terminations have decreased and thus the number of pending cases "have risen at an alarming rate." At the same time the number of cases terminated per actual judge has increased, indicating the judges are each working harder.

Based on the docket analysis, its interviews with the judicial officers, and comments received from the bar, the advisory group identified the following as interfering with efficient case processing:

- Judicial vacancies and the volume of cases filed. As a result, the judges "simply lack the time to be any more involved in case management" or, when the criminal docket is demanding, to provide timely rulings on motions.
- Criminal docket. Though criminal filings are only 10% of the docket, they must come before civil cases and they require more time than in the past for sentencing.
- Prisoner filings. In addition to volume, these cases consume excessive time because prisoners file many, often redundant, motions and because under current procedures a case is handled by a pro se law clerk, then a magistrate judge, and then a judge.
- Pretrial case management and use of magistrate judges. (1) In the past the civil calendar was driven by a firm trial date, but these dates now cannot be met because of criminal cases, leading to multiple trial preparations and reducing the incentive to settle. (2) Lack of predictability and uniformity in judges' practices and use of magistrate judges, resulting in duplication of effort (e.g., matters handled first by a magistrate judge, then a judge). (3) Delayed rulings on motions.

- Attorney practices. Cost and delay are increased by abusive discovery, unwarranted summary judgment motions, and failure to make a good faith effort to resolve discovery disputes before filing motions (as required by local rule).
- New legislation. The sentencing guidelines cause cost and delay in civil cases.

Based on these findings the advisory group made ten recommendations.

Summary of the Court's Plan

In response, the court adopted a plan "designed to address those principal causes of cost and delay ... with which the Court concurs and which are under the Court's control." Therefore, the court's plan is limited to implementation of a standardized pretrial case management plan, reform of pretrial litigation practices, and processing of prisoner cases, and does not address such matters as judicial vacancies or the impact of legislation.

Case Management and Discovery/Disclosure

To make better use of magistrate judges, improve pretrial management of cases, control discovery, and expedite motions rulings, the court adopted the following provisions:

1. Case Assignment. All civil cases will be randomly assigned at filing to judges and magistrate judges. The expected benefits are: (1) distribution of cases across all judicial officers, which will reduce the caseloads of the district judges and will permit them to engage in pretrial case management; (2) elimination of the delays inherent in judicial review of magistrate judge decisions; and (3) creation of a uniform and efficient caseflow system because a single judge will handle all facets of a case. Party consent is required for assignment to a magistrate judge.

2. Differential Case Management. The court will adopt a case management system for managing each case according to its individual requirements. Cases filed on or after January 1, 1994 will be assigned to one of five tracks based on factors such as the time required for pretrial events, the preparation required for discovery and disclosure, and the degree of court involvement needed. The tracks are:

- expedited: disposition within 12 months;
- standard: disposition within 18 months, uniform scheduling order;
- complex: disposition within 24 months, individualized case management plan, parties to design a detailed case management plan, periodic conferences, and trial date set later when case readiness is known;
- administrative: disposition in accordance with court's ability to issue prompt orders, uniform scheduling order; and
- pro se prisoner: depending on the demands of the case, disposition may be within 12 months (routine claims) or up to 24 months (e.g., class-wide claims).

Parties in all civil cases, except prisoner pro se cases, will file a track information statement with their complaint, and the clerk's office will make an initial assignment. In standard and complex cases, the assigned judge will hold a scheduling conference in person or by telephone. For other cases the clerk's office will issue scheduling orders that are binding unless altered by the judge. The clerk's office will monitor compliance with scheduling orders and noncompliance can lead to dismissal.

3. Case Scheduling, Early Judicial Involvement. Parties in all standard and complex track cases must meet either in person or by telephone to prepare a joint proposed

scheduling order within 30 of appearance of all defendants. Within 40 days of appearance of all defendants, plaintiff is responsible for submitting the proposed scheduling order to the court. Within 14 days of submission the assigned judge will schedule a conference and after the conference will issue an order setting: dates for disclosure; limits on the number of interrogatories and depositions; deadline for filing dispositive motions; dates for additional pretrial conferences to dispose of unresolved issues, including outstanding motions; and trial date. The judge may establish a procedure to use telephone conferences to resolve discovery motions. The judge may make an ADR referral at or after the scheduling conference and may stay other proceedings until the ADR is completed, but every case will have milestone dates, including for the ADR process, and compliance will be monitored.

4. Discovery. The court decided, as the advisory group recommended, not to implement the mandatory initial disclosure provisions of FRCP 26(a)(1). The court retains the authority to order parties to disclose information. The amount of disclosure and discovery will be determined on a case-by-case basis through use of pretrial case management conferences and scheduling orders.

5. Motions. To avoid delays caused by unresolved motions, the moving party shall notify the clerk of any motion not decided within 60 days of submission.

Alternative Dispute Resolution

The court adopted, as recommended by the advisory group, ENE and mediation. The plan authorizes the judicial officers to refer cases either after the parties request ENE or mediation or by order of the judge after the initial scheduling conference. The court will create a panel of neutrals.

Implementation

The plan was adopted on November 30, 1993 and applies to cases filed on or after January 1, 1994. If a local rule conflicts with the plan, the plan will govern. Consultation with the advisory group will continue and the plan may be amended at any time. For each provision adopted, the court spelled out the process by which it would be implemented.

Consideration of §§ 473(a) and (b)

The court stated at the outset that it had considered each case management principle and technique set out in the statute. The plan, together with an existing local rule, includes every provision of the statute except client signatures on requests for extension of time.

Comments

The advisory group provided a careful analysis of conditions in the district and developed recommendations specifically focused on the problems identified. One of these is not commonly found among the federal courts: inclusion of magistrate judges in the assignment of newly filed cases. This provision, however, speaks directly to a major concern of the group, the redundant use of judicial resources, which must be particularly problematic in this district because of the large prisoner caseload (34% of the civil docket).

In its plan the court adopted nearly all of the advisory group's recommendations, including its most radical one, inclusion of magistrate judges in the assignment of cases.

The court did not, however, accept two recommendations nor explain their rejection of them: Monthly "law days" for bench rulings on non-dispositive motions and a request that after a year of experience with the plan the court consider adoption of a settlement week procedure. Also, as the court noted in its introduction to the plan, it did not include in the plan items over which it has no control (e.g., volume of filings and additional judicial and staff resources).

Conclusion and Recommendation

This is generally a responsive and innovative plan. I recommend that the committee accept this plan, although the committee may wish to ask the court why it rejected two of the advisory group's recommendations, particularly the one designed to provide earlier rulings on motions.

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