

**District of Arizona  
Report of the Advisory Group  
Expense and Delay Reduction Plan**

**Summary**

**PART ONE: REPORT OF THE ADVISORY GROUP**

**I. Assumptions; Miscellany; and Background**

- A. This district is one of the largest in land area in the country (113,642 square miles), and contains one of the highest percentages of federal land (71%). Its features include large Indian reservations (Hopi, Navajo, and Mojave), two Air Force bases, and one of the nation's busiest international ports of entry in Nogales.
- B. The district contains three major military installations and seven state prisons.
- C. The district maintains two primary divisions located in its major population centers: Phoenix and Tucson. Trials are also heard by magistrate judges in Prescott, Globe, and Yuma.
- D. The district has eight authorized Article III judgeships, all of which are currently filled (i.e., no vacancies). There are two full-time, one part-time and one recalled magistrate judges, and two active senior judges.
- E. The advisory group conducted interviews of all judicial officers. It also interviewed Clerk's Office staff and law clerks. Data analysis was performed utilizing court data and national data.
- F. The district has fully implemented ICMS civil and criminal systems. Pacer is also currently running in this district.

**II. State of the Docket**

- A. Criminal prosecutions consume 30.1% of the total docket.
- B. Pro se cases account for 26.9% of the docket.
- C. Civil litigation constitutes a diminishing portion of the workload of this district, as well as a diminishing percentage of trial activity.

- D. The district has been burdened by both numerous complex civil cases and death penalty cases which have contributed to both litigation cost and delay.

### III. Causes of Cost and Delay

- A. The limited capacity of the court to try civil cases due to criminal caseload growth.
- B. The docket congestion compounded by the imposition of the Sentencing Guidelines.
- C. The apparent consumption of a substantial portion of the docket by pro se cases.
- D. The pretrial burdens in time and judicial resources of complex civil cases.

### IV. Recommendations

- A. A case assignment system should be adopted which would allow each judge to set aside 45 days twice each year for the purpose of trying only civil cases to insure firm civil trial dates. During an appropriate preceding period, the judge would take no new criminal matters that would infringe upon the upcoming civil docket. Weekly law and motions calendars on Mondays would be retained and one week of the period would be used to handle criminal matters.
- B. Local Rule 42 (local pretrial procedures calling for, among other things, a mandatory joint pretrial conference at which trial dates are set) should be abolished, and the more flexible case management approaches of Local Rule 14 and FRCP 16 should replace it to augment the need for early, firm trial dates in civil cases.
- C. The court should devise and implement a differentiated case management system that will place cases on an appropriate litigation track for expedited case management when such management would be efficient.
- E. The judges should adopt disclosure as part of the discovery plan in individual cases.
- F. The greater use of magistrate judges should be achieved through the conferring upon them of additional responsibilities including pretrial case processing and perhaps administration of a system of court annexed alternative dispute resolution.

- G. The court should specifically adopt local rules regarding the initial implementation of an Alternative Dispute Resolution option for the District.
- H. The court should adopt aspirational rules of civility such as those recently adopted by the Seventh Circuit, avoiding a code that would lead to satellite litigation.

## **PART TWO: THE COURT PLAN**

### **I. Plan Provisions**

- A. Differentiated Case Management (DCM): the court will adopt a five track DCM system. This will be accomplished following the drafting of a local rule and public comment hearings. The five tracks will be: expedited, arbitration, prisoner pro se, standard, and complex.
- B. Early and On-going control of the Pretrial Process: a number of principles of the Act are specifically incorporated:
  - 1. the required submission of a joint pretrial statement and appearance at a scheduling conference;
  - 2. the enforcement of deadlines established by the court's scheduling order; and
  - 3. standard scheduling orders to be issued in all cases.
- C. Discovery/Case Management Conferences: these conferences will be provided for within the local rule governing DCM tracks for standard and complex cases.
- D. Voluntary Exchanges of Information: until adoption of a mandatory policy, the court will evaluate the need for disclosure on a case by case basis.
- E. Discovery Motions: the court restates the prohibition on discovery motions of Local Rule 11(j) requiring the certification by counsel of good faith attempts to resolve all discovery disputes prior to their submission to the court.
- G. Alternative Dispute Resolution: the court supports the use of such mechanisms such as the existing arbitration program, and will next consider mediation

within a specific development and implementation schedule extending through July, 1994 for mediation, and July, 1995 for ENE.

H. Litigation Management Techniques: the following are reaffirmed or adopted:

1. joint discovery/case management plans may be required at the discretion of the judge;
2. parties at pretrial conferences must be represented by attorneys with the authority to bind;
3. a request for the extension of deadlines must indicate how many motions or stipulations for extensions have been filed previously;
4. early neutral evaluation is included in the ADR implementation plan;
5. when required by the court, representatives for the parties with authority to bind shall appear in person or be available by telephone at any settlement conference; and
6. other features:
  - a. the court will give consideration to the rotation or sequestration of judicial time for civil case as recommended by the Advisory Group; and
  - b. the court adopts the "Proposed Standards of Professional Conduct within the Seventh Federal Judicial Circuit," to be administered by a peer review committee.