

*AM*

**UNITED STATES DISTRICT & BANKRUPTCY COURTS  
DISTRICT OF IDAHO  
U.S. COURTHOUSE, BOX 039  
550 W. FORT STREET  
BOISE, IDAHO**

**CAMERON S. BURKE**  
Clerk

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**Jerry L. Clapp**  
Court Consultant

May 8, 1991

Administration Office of the U.S. Courts  
Duane R. Lee, Chief  
Court Administrative Division  
Washington, D. C. 20544

Re Judicial Improvements Act of 1990

Dear Duane;

Cam Burke suggested we send copies of our Advisory Committee minutes to someone in your division. I knew you could route it in the right direction.

Best regards,

*Jerry L. Clapp*  
Jerry L. Clapp, Reporter  
Idaho Advisory Committee

JLC/mn  
encl

**CLERK'S CERTIFICATE OF MAILING**

I certify that a copy of the attached document was mailed to the following named persons:

All members

Chief Judge Harold L. Ryan  
HAND DELIVERED

Chief Judge Alfred C. Hagan  
HAND DELIVERED

Judge Jim D. Pappas  
HAND DELIVERED.

Senior Judge Marion J. Callister  
HAND DELIVERED

Magistrate Stephen M. Ayers  
P. O. Box 576  
Coeur d'Alene, ID 83814

Magistrate Stephen S. Dunn  
P. O. Box 991  
Pocatello, ID 83204

DATED this 27 day of March, 1991.

**JERRY L. CLAPP, Clerk**

By: Glenda Longdirect

**CIVIL JUSTICE REFORM ADVISORY COMMITTEE  
FOR THE DISTRICT OF IDAHO**

MINUTES OF MARCH 22, 1991

REGULAR MEETING NO. 1

The committee was called to order by Chairman Honorable Edward J. Lodge at 12:00 noon.

Those present identified themselves and explained the areas of their expertise. (attendee list attached.)

Mr. Michael E. McNichols and Mr. Richard Fields were excused from this meeting.

After reviewing a film by the Federal Judicial Center and an up-dated statistical review by Mr. Burke, the committee entered into a general discussion regarding it's goals, obligations, and the conduct of it's business.

The possibilities of being an "Early Designation District" were reviewed and while generally favored, it was determined that no final decision on this matter was necessary at this time.

Terms of the committee members were assigned by lot for 2, 3, or 4 year terms (see attached attendee list) and the committee agreed to meet once a month for a full day. It was agreed that Mr. Burke serve as the facilitator and Mr. Clapp was appointed reporter for the committee. The committee requested an agenda prior to each meeting. Members expressed approval of an action plan approach with goals, deadlines and specific assignments. The committee agreed that the Bankruptcy Court for the District of Idaho should be included in this report subject to the approval of Chief Judge Hagan

(Judge Hagan subsequently strongly endorsed this inclusion). The Clerk's office will provide all available resources to the members of this committee.

Those in attendance agreed that the courts and attorneys would be fully open to constructive criticism and that any source could be interviewed for information. All agreed that we wanted to put forth a quality product which was an honest assessment of the problems experienced in the legal community.

The committee agreed that a non-lawyer member of the public should be included. Potential names are to be submitted to Mr. Burke by April 10, 1991.


Preliminarily each member of the committee will discuss with litigants, colleagues, and members of the public any problems resulting in cost or delay in the following five areas:

1. Court practices
2. Attorney practices
3. Pro se litigation
4. U. S. litigation
5. Complex cases

The substance of such inquiry shall be submitted in writing to Mr. Burke by April 10, 1991 by each member of the committee for inclusion into the next meeting. At that time assignments of each member to a pertinent subcommittee will be discussed.

The group agreed that the committee would next convene at 9:30 am on April 19, 1991 in Courtroom No. 2 at the U. S. Courthouse in Boise, Idaho. It is anticipated the meeting will last one full day.

Meeting adjourned at 2:45 pm.

  
Jerry L. Clapp, Reporter  
Advisory Committee

JLC/gl

**CIVIL JUSTICE REFORM ADVISORY COMMITTEE  
FOR THE DISTRICT OF IDAHO**

**MINUTES OF APRIL 22, 1991**

**REGULAR MEETING NO. 2**

The committee was called to order by Chairman Honorable Edward J. Lodge at 9:30 A.M. Mr. Michael E. McNichols was excused from this meeting.

The Minutes of the first meeting were approved.

Mr. Burke reported upon his recent National Meeting of U. S. Clerks and the most recent developments affecting this Committee. Travel expenses of members will now be reimbursed. A 5.2 million dollar budget has been signed into law by President Bush to cover the various expenses of this Committee and the Reporter. Based upon existing information, the Reporter and Clerk were directed to proceed with a preparation of a budget.

The group unanimously agreed to proceed to become an "Early Designation District". Mr. Burke was instructed to advise appropriate authorities of this decision and asked to prepare a budget by May 1, 1991.

The group had a general discussion regarding the roles of the Reporter and the Clerk.

Problems aired at meeting by members:

Pat Miller

1. Court should become involved in the case at an early stage.
2. Non compliance with the local rules is a problem.

Guy Hurlbutt

1. A need for better case flow management , including early entry of Magistrate or Judge into settlement discussions.
2. Attorneys need to pay more attention to Local Rules re; time limits etc.

Celeste Miller

1. Lack of knowledge and inconsistency of what Courts expect.
2. Need clear idea of how Federal Court works and what is expected of counsel.

Trudy Hanson Fouser

1. Filings should be accompanied by all required documents to avoid delays for not having all necessary pleadings.
2. A hand book of Federal Court practices would benefit attorneys practicing in Federal Court.

Maurice Ellsworth

1. Pro Se complaints should go through a screening process before being allowed to file a complaint.
2. Pending motions should be ruled on sooner.

Bill Olson

1. Attorneys want an early trial date proceeded by a definite planning schedule which is enforced by the Court.

Dick Fields

1. Narrowing the issues will eliminate unnecessary discovery.

Bill Hollifield

1. Need more effective use of pretrial and telephone conferences.
2. Attorneys and Court should stick with schedule set.

Randy Smith

Mr. Smith and Mr. Olson prepared and circulated a questionnaire among members of the Bar in Eastern Idaho. His report reflected the results of that questionnaire.

1. Want to eliminate part time Magistrates.
2. Would like Local Rules to include limiting the number of pages submitted in briefs and have more oral presentation.
3. Have 12 person jury and allow 9 to decide.
4. Allow faxed documents in Federal Court.

5. Clerk's Office exceed their authority by rejecting documents.
6. Raise diversity jurisdiction again.

John Lezamiz

1. No enforcement or penalty for failure to narrow the issues.
2. No recovery of expert witness fees is a problem--especially when forced to retain by reason of uncooperative litigants or counsel.
3. No awarding of atty fees for unnecessary motions and discovery abuse.
4. Some procedure during settlement conference to narrow issues such as use of experts and special procedures for complex cases.
5. Be allowed to take discovery depositions prior to filing of the case, perhaps precluding need for filing of the case.

Judge Williams

1. Get Judges involved early in the case and take a more active role.
2. Education of Bar about rules and enforcement of rules.
3. Punitive damages take an inordinate amount of time and should be dealt with early on.

Jerry Clapp

1. Deficiency's in Judge's reporting motions under advisement for 90 days.
2. Judges operating independently without any consistency.
3. Death penalty cases and pro se litigation. State attorneys are not filing briefs, etc. timely.

Craig Meadows

1. Attorneys not able to schedule their own motions for hearing in Federal Court.
2. Need for more Judges.
3. Court to play stronger role in setting cases for trial
4. Attorneys spend much wasted time on punitive damages.

5. Ivory Tower syndrome intimidates many lawyers. Need better public relations to give attorneys better understanding of the Federal Court.
6. More use of settlement conferences.
7. Explore State Court proceedings on "Settlement Week"

Howard Beledoff

1. After settlement--trouble obtaining compliance with stipulated judgments after the case has been completed.
2. Be sure local rules are realistic.
3. Pro-se litigants--insensitivity toward inmate problems. Need better assistance such as law-clerks to aid inmates prior to filing actions. Pro-se law Clerk at court level would help.

Cameron Burke

1. Should explore differentiated case management procedures.
2. Explore adjunct settlement procedures.
3. Look at alternative dispute resolution procedures--arbitration, mediation, etc.

Judge Lodge

1. A method by which attorneys would narrow issues prior to submission to the Court.
2. Create pro-bono panel for pro se litigants.

General Discussion

The Committee agreed to delay appointment of a lay person to the Civil Justice Reform Act Committee and further agreed to interview persons at the next meeting regarding their experiences with the courts and lawyers. Names of such persons as well as suggestions for appointment to the Committee are to be submitted to Mr. Burke by May 3, 1991. The lay member of the committee will be selected at the next regular meeting.

The group then held a general discussion regarding the above listed problems. The consensus of the group suggested that the lawyers and federal courts in Idaho were functioning quite well but constructive suggestions would be well received and attended to. Additional problem areas identified included the following: there are too many defense depositions; medical experts are the biggest cost producing item; lawyers want oral argument on summary judgment motions; and general problems with sentencing guidelines.



Both the proposed questionnaire and the budget are attached for your immediate comments.

The next scheduled meeting is set for May 10, 1991 at 9:30 a.m. The following meeting is set for June 6, 1991 at 9:30 a.m.

*Jerry L. Clapp*  
*Reporter*