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August 23, 1996

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Dear Abel:

For your information, enclosed is the District of New Mexico's Process Innovation Report, dated August 1996. This has been an intensive effort that will be an important aspect of the development of the electronic filing Advanced Court Engineering (ACE) project.

I hope this report will be of interest to you.

Best Regards,



Robert M. March  
Clerk of Court

/rw

Encl.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO



PROCESS INNOVATION REPORT  
AUGUST 1996

Robert M. March  
Clerk of Court

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# PREFACE

Since 1990, the United States District Court for the District of New Mexico has been engaged in vast changes in automation and improvement activities.<sup>1</sup> In May 1995, the District of New Mexico was chosen by the Judicial Conference and the Administrative Office of the United States Courts (AO) to participate in the first Process Innovation pilot. The AO provided the services of outside consultant James H. Brown of Strategic Innovation Associates during the initial stages of the pilot.

The purpose of the Process Innovation initiative was to implement changes in processes and structure, enhance human capabilities and create information systems to achieve significant improvement in performance and stakeholder satisfaction. It involved selecting aggressive future targets of performance, understanding where the present court environment falls short of these and then initiating changes and plans to reach these targets. This report outlines the projects targeted by the District of New Mexico's Process Improvement Task Force team, the methodology used by the team, how Process Innovation merged into the Advanced Court Engineering (ACE) Project, and ultimately, the benefits resulting from the Process Innovation initiative.

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<sup>1</sup>See *Appendix A*, A History of Innovation in the United States District Court for the District of New Mexico, dated January 22, 1996.

# NEW MEXICO KICKS OFF PROCESS INNOVATION

On July 19, 1995, the District of New Mexico began the Process Innovation effort by establishing the Process Improvement Task Force (PITF) team.<sup>2</sup> To learn the basics of Process Innovation and set the overall framework for future innovation, the PITF team committed to focus on and produce results in the following primary areas.

- **Produce a Case Opening Workflow Model;**
- **Determine Customer Needs for chambers, the Bar, employees and managers within the court;**
- **Produce a Five Year Future Vision Statement for the Court;**
- **Produce a Temporary Restraining Order Model; and,**
- **Merge the Advanced Court Engineering (ACE) Project With the Process Innovation Initiative.**

## *WORKFLOW PROJECT*

The primary purpose of the Workflow Project was to obtain the basic requirements for documents, case opening capabilities and the rules governing their flow through the judicial process, a procedure of vital necessity to the ACE Project. The PITF team formed this project to determine the document flows in the fifty-five most common “events” that comprise the judicial process and focused on gathering data about the seven major stages in each document’s flow.

In the first phase of this effort, two teams comprising four case supervisors each described document flow in five general categories of events. In the second phase, the effort focused on

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<sup>2</sup>Initially, the PITF team included members of the United States Bankruptcy Court for the District of New Mexico. However, the scope of the PITF project and team was reduced to include only the District Court because of the limited time and resources available to the project.

finding commonalities among the events by using various chambers for three to five related events. These descriptions gave the ACE project necessary information about the underlying rules and requirements for document distribution and the opportunities for Process Innovation.

## *DETERMINING CUSTOMER NEEDS*

In the Process Innovation process, the PITF team learned that a central issue was the “voice of the customer” as many innovations flows from a deeper understanding of what satisfies customers. A customer interview process strategy was then developed, using 2-person teams to interview, with one person asking the questions and the other acting as a scribe. The interview questions were:

1. What is your current perspective of the Court?
2. What are your needs of the Court?
3. What problems do you have in your interactions with the Court?
4. What is your future perspective of where you would like the Court to go?
5. What specifics can you give about the case opening process?

The following groups were interviewed:

1. District Judges
2. Magistrate Judges
3. District Judge’s Secretaries
4. Magistrate Judge’s Secretaries
5. District Judge’s Courtroom Deputies
6. Magistrate Judge’s Courtroom Deputies
6. Court Reports
7. Law Clerks
8. Judicial Operations
9. Administrative Services
10. Attorneys -- Plaintiff -- Firm
11. Attorneys -- Plaintiff -- Solo
12. Attorneys -- Plaintiff -- Out of Albuquerque
13. Attorneys -- Defense -- Firm
14. Attorneys -- Defense -- Solo

The customer interview process began in July 1995 and was conducted over the next three months. The team's initial experiences with the interviews were positive, and they all felt comfortable with the process. Jim Brown gave additional pointers, walking the team through the analysis process of the interviews, categorizing the comments into needs, attitudes and problems. Mr. Brown then assigned each team member the task of analyzing one interview that they had not conducted and color-coded the text for the three categories of comments.

Twenty-two interviews were completed by October 1995. The team analyzed the interviews in the three above categories of statements (needs, attitudes and problems). The entire group reviewed and agreed on a set of needs and corresponding "satisfiers" for the case opening process. This discussion produced a consensus about the important ways that the case opening process could deliver value to external and internal customers. The satisfiers for external customers in the self-serve category included: runners, drop-box, Attorney Manual, Local Rules, Pacer and the mail; in the personal category: the intake person, a helpful attitude, opportunity for corrections, and a demeanor of dignity and professional caring. The satisfiers for internal customers included judge selection, copy of docket sheet and file sent to judge, daily records run, sensitivity to chambers wishes, the personal touch in high profile cases getting timely notice to the assigned judge to the case, trustworthiness by judge in the process, statistics for the case, opportunity to see people and opportunity for received feedback. The client satisfiers included a sense of empowerment, the client gets a unique case number and judge, summonses are issued, a sense of immediate action, the client experiences dignity, professional character and demeanor of employees of federal court, the attorney's attitudes toward the court, and the dollars spent implying that the client is serious.

## *CASE OPENING MODEL*

The initial case opening model brainstorming by the PITF team took place on August 15, 1995. Jim Brown instructed the team on how to flowchart the case opening process and use the ABC Flowcharter computer modeling tool. The team formed a subgroup responsible for validating and quantifying the model. They selected a group of working level employees that spanned the case opening process from the time the case arrived at the Clerk's Office until the case was processed to the Records Section. They charged this working group with two primary functions:

1. Validate the draft case opening model produced by the PITF team and produce a final version that will serve as the "as is" baseline for the PITF project.
2. Quantify, by group estimates and by gathering specific data, various aspects of the process steps in case opening.

Starting on September 1, this group agreed to gather the following data:

- Volumes of different types of cases over a one year time span, from existing records;
- Overall case opening cycle time measurements, by case from the time stamp when the case is assigned a number to the time case is filed for the first time in Records. A log entry in the Records Center will capture the Records filing time;
- Group estimates of their average experience for the following types of data for individual process steps:
  - Time to complete each step
  - Number of hand-offs within each step
  - Errors and rework in a step
  - Delays within each step caused by various factors such as need to obtain approvals, missing information, etc.
  - Delays between steps
  - Number of different people involved in a step

The final version of the District of New Mexico Case Opening Process Model can be found at *Appendix B*.



## *FUTURE VISION STATEMENT*

The PITF team developed a future vision statement set in the imaginative style of a one-page cover story written for a national magazine in the year 2005. This statement energized Process Innovation efforts and centered on the overall theme of the District of New Mexico: “Set the benchmark for the 21st century American court.” Based on team discussions and the interviews that preceded the initial PITF session, the following ideas about the future vision emerged.

***Efficiency:*** “Do the right thing the right way the first time every time.”

***Effectiveness:*** “When the judge walks in, everything is ready.”

***Quality:*** “Our customers will experience the Court’s dignity.”

***Paperless Court:*** “I never have to ask for a file. Instant gratification. No pain to get documents. No wasted effort. Never have to make copies or fix jams. Freedom to do other things. Power in more hands. Quality of work and life.”

***Measurements of future success:*** Number of complaints, number of compliments, errors or reworks. Satisfaction measurement process, i.e., “Saved litigants half of the traditional cost of resolving cases.”

***Work environment:*** The jobs in the Clerk’s Office become less technician’s jobs and more “process management” jobs. Duties will be consolidated. People will ask, “How did we ever do our job then?” The judges will appreciate how effective the support people really are. Fewer meetings to resolve case problems -- systems move cases along.

***Judges’ perspective:*** Understands more clearly what makes cases move and slows them. Will do day-to-day role differently; understand the linkage between the quality of judicial decisions and case management process more clearly. “The attorney’s life will be easier.” “There will be a lot less busy work and more time for thought.” The new courthouse will be more flexible. Court costs will be lower because of increased effectiveness.

A first draft of the vision statement was drawn up by a team member, who then distributed a copy to the rest of the group. They then held a four-hour meeting, and edited the draft in a group brainstorming session without a facilitator present. Although some communication problems surfaced

Implementation planning. The team compiled a TRO Information Packet, a copy of which can be found in *Appendix D*, which has been fully implemented.

## ***THE ACE PROJECT***

The ACE Project began in early 1995 in the District of New Mexico and was soon recognized by the AO as a national pilot project. The project encompasses a comprehensive study of the current court systems in order to implement real and effective innovation through automation and operational changes. It will provide the capability for electronic filing over the Internet, reduced paper flow, enhanced case tracking, and World Wide Web (WWW) access to court records such as opinions, calendars, docket sheets and pleadings. The ultimate goal is to provide substantially better service and reduced costs for the public, litigants and the court. The project will allow attorneys and judges to file pleadings and orders electronically. The documents will be created on an attorney's computer and then transferred to the court using a commercial off-the-shelf package called Netscape Navigator or other comparable Internet browser.

In August of 1996, the District of New Mexico will begin internal testing of electronic filing of documents. In October, the United States District Court for the District of New Mexico, with the assistance of local attorneys, will start test filings of electronic pleadings through the Internet. The Consolidated Master Court Calendar and Case Docket Sheets will soon be made available to federal bar member attorneys anywhere in the world through the Internet at <http://www.nmcourt.fed.us>.

## ***PROCESS INNOVATION MERGES WITH THE ACE PROJECT***

The purpose of the Process Innovation initiative was to implement changes in processes and structure, enhance human capabilities and create information systems to achieve significant

improvement in performance and stakeholder satisfaction. The PITF team determined that what the District of New Mexico was searching for in Process Innovation directly coincided with the ACE Project. The ACE Project is an advanced technological effort that, through the use of automation and the Internet, changes and/or streamlines court processes. Therefore, the PITF team decided that the Process Innovation initiative should merge with the ACE Project.

The methodology that the PITF used will continue to be used where feasible and appropriate. Since both project teams contain the same team members, the team leader made minimal changes to the team structure. A major change is that the District Court invited representatives from the Bankruptcy Court to join the merged effort. The new team members are:

Robert M. March, Clerk, U.S. District Court  
John Greacen, Clerk, U.S. Bankruptcy Court  
Daniel Lucero, Project Manager/Chief Deputy, USDC  
Daniel Yoder, Systems Manager, USBC  
Rose G. Hart, Division Manager, USDC  
Richard Himes, IS Manager, USDC  
Mitch Elfers, IS Assistant Manager, USDC  
Marte Adams, Judicial Operations Manager, USDC  
Annette Armijo, Administrative Services Manager  
Karen Molzen, Senior Law Clerk  
Jim Rodriguez, Assistant Systems Manager, USBC  
Lana Merewether, PC Systems Administrator, USBC  
Ruth Willett, Court Services Division Analyst

Phase I is defined as the electronic transmission and retrieval of a document from an attorney to the court, which is then available internally and externally, with a digital file stamp. Phase I excludes case openings at this point. The following definitions are important in understanding Phase I:

***DEFINITIONS FOR PHASE I, ELECTRONIC TRANSMISSION***

“Electronic Drop Box” -- Transferring documents from law firms to the Court electronically and storing them.

“Electronic Coversheet” -- An electronic file attached to each electronic document that specifies certain important information such as the case name, document type, document abstract, links to the attached document and exhibits, date/time, etc..

“Electronic Access” -- The Court and law firms view electronic documents on the computer.

“Electronic Noticing” -- Transferring documents from the Court to law firms electronically and storing them. (This is not done in Phase I but is accomplished in a later phase of the ACE Pilot Project.)

### ***THE SCOPE OF PHASE I***

The scope of Phase I will include two chambers (one district judge, one magistrate judge) and two law firms involved in the Electronic Drop Box, Electronic Coversheet, and Electronic Access on one mutually chosen case. The documents will be transmitted to the Court and printed out so that manual case management can continue as usual. Paper copies of all documents will be routed in parallel with Electronic Access.

Phase I will continue until certain prescribed “success conditions” have been met, based on chambers and law firm satisfaction with the results of Phase I.

### ***KEY TASKS REQUIRED TO BEGIN PHASE I***

Phase I teams, team leaders and assignments have been appointed, as follows:

#### **Technology**

1. Deliver initial ACE technology (*Rich*, Mitch, Dan Lucero).
2. Insure user INTERNET capability, insure law firms can create PDF formatted documents and insure law firms have scanners to transmit exhibits (*Mitch*, Rose, Lana, Lisa Sanchez).

#### **Conformance With Rules**

3. Insure authenticated electronic documents conform with Court rules, including archiving and records retention, and clarify local rules for pilot, e.g., time stamping (*Marte*, Rich, Karen, John).

### **User Readiness**

4. Create internal simulation before chambers, law firms are exposed (***Karen***, Marte, Rich, Daniel Y., Margaret).
5. Insure “computer literate” chambers and attorneys for Phase I, including a backup plan (***Rose***, Ruth, Lana).
6. Insure chambers, law firms are willing to expend extra energy and are willing to be “missionaries” and insure political support (***Mr. March***, Mr. Greacen, Dan L.).

### **Meet User Requirements**

7. Define evaluation plan and “success conditions” for Phase I (***Mr. Greacen***, Mr. March, Karen, Marte, Rose).
8. Define Electronic Initial Screen (***Jim***, Rose, Marte, Rich).
9. Define quality control on ACE for electronic access (***Daniel Y.***, Marte, Rich, Karen, Lisa Sanchez, Margaret Armendariz).
10. Define District Court’s Attorney Screen, including events (***Rose***, Rich, Marte, Phyllis, Bonnie, Kim, Ruth).

The next stage of ACE will be to add the U.S. Bankruptcy Court docket information and bankruptcy filings through the same Internet location.

## ***BENEFITS OF PROCESS INNOVATION***

The PITF team underwent a considerable transformation in the Process Innovation initiative and grew from a group of individuals into one strong team committed to making the District of New Mexico the benchmark for the 21st century American court. The team concept has become especially important

in the ACE project. Due to the Process Innovation initiative, the PITF team now has more chance at optimum success with the ACE project.

The benefits derived from Process Innovation are numerous. The PITF team developed a great mission statement encompassing goals that will carry the District of New Mexico into and well beyond the turn of the century. The PITF team established a TRO process that is being successfully used at this time, and that was a vital necessity for this district. Phase I of the ACE project was defined and is being carried out at this time. The case opening model was an informative and important project as well. Because of the methodology and tools used in developing the case opening model, the PITF team learned how to take apart a process and put it back together again in a significantly streamlined version.

## *CONCLUSION*

Because of the Process Innovation initiative, the District of New Mexico PITF team has grown significantly. The ACE challenges facing the team, once thought to be impenetrable, are proceeding in a developed format, utilizing Process Innovation methodology. Phase I of the ACE Project is currently underway. Phase II and Phase III have been defined. Process Innovation has greatly benefitted the District of New Mexico as the PITF team is now completely prepared to meet the challenges of the future and insure the absolute success of the ACE project.

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**APPENDIX A**

**A HISTORY OF INNOVATION**  
**UNITED STATES**  
**DISTRICT COURT**  
**DISTRICT OF NEW MEXICO**  
**1/22/96**

**A HISTORY OF INNOVATION  
IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW MEXICO**



1/22/96



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## **Automated Judge Assignment Program**

This program was created to ensure parity, flexibility, and random selection in assignment of criminal cases. It was created in Microsoft Access utilizing the highly rated Jet Database Engine. By using Access as the design platform, the program can be easily modified to reflect any changes the Judges would like to institute. The original method of assigning cases was by rotation. Each District Judge would receive 150 defendants independent of where the grand jury returned. In Las Cruces Senior Judge Bratton would receive every third case. He was also limited to cases with 2 defendants or less. This created a problem for those assigning the cases manually. By automating the procedure this task was quickly handled by the computer.

This innovative program gives us the ability to create more meaningful reports, achieve greater accountability, and it speeds the assignment process by cutting down on labor. By having the divisional office use the same database as the main office we reduced assignment conflicts. The program automatically assigns a number and tracks the defendants for each Judge.

The system randomly assigns criminal defendants in the Albuquerque office to our active District Judges. It does so by weighting the number of defendants that each Judge has at the time of assignment. Thus, the Judge with the fewest defendants has the greatest chance of receiving the next Albuquerque defendant. In Las Cruces the Judges still follow a rotation pattern.

## **Magistrate Judge Case Management Program**

This program uses compiled data pulled nightly from ICMS and grew out of a motions monitoring program written for Magistrate Judges and law clerks. By reviewing the needs of a new Magistrate Judge and interviewing the more experienced Judges, we were able to build a program that has worked quite well for several of our chambers. There is a trend in our court of replacing secretaries with law clerks. Although this trend increases the availability of staff who can work on the substantive motions, it has created a problem in case management. The program was designed to fill in the gap created by not having a full-time secretary responsible for case management.

The program is created in Access and offers a friendly graphical user interface. By pressing a button the Magistrate Judge is able to bring up all his cases and go through them one docket sheet at a time. The Magistrate Judge is also able to attach notes to the case and, through OLE technology, send E-Mail right from the program to other concerned people in the court. By using control keys, similar to those in WordPerfect, the Judge is able to bring up schedules, a list of parties that have answered, and a Discovery Calculator. In the Discovery Calculator the Judge is able

to choose a track such as 120 days and the program will calculate deadlines. If the deadline falls on a Saturday or Sunday, then the program defaults to the next Monday. We have also built a special interface for monitoring Pro Se cases. The program has extensive reporting menus. By pressing a few simple buttons, a Magistrate Judge can have reports on all his inmate cases by stage and the status on all motions for those cases. We have also programmed in a Six-Month Motion Report so each chamber can track older motions on an on going basis. The program now has 16 reports and more are being added. Because the program was built using Microsoft Access we can create a new report in about 30 minutes. These reports are then put on-line for the other Magistrate Chambers. The reports have been extensively modified to fit the needs of the individuals using them. We now distribute two of the most useful reports every month to the different chambers.

### **Local Development of Case Management Program NM ~ ACTS**

The New Mexico Automated Case Tracking System was developed to help case managers address the Civil Justice Reform Act by providing a profile of the status of all cases for each magistrate and district judge chambers. NM ~ ACTS data is extracted from ICMS and loaded into a FoxPro database. Key case stages have been defined for each of seven case tracks (standard, complex, administrative, etc.) and the cases are listed in such a manner that those cases most overdue in terms of expected progress (determined by stage time goals) are highlighted (placed at the front of the list). In addition, NM ~ ACTS is an advanced case management tool. NM ~ ACTS has been a real boon to our judges. Before NM ~ ACTS, a judge could get a case report by case number. This would mean the oldest case would always be first and the newest case would be last. Many of the older cases are moving and much progress can be made in moving the newer cases that may be in a stage waiting for action from the chambers. So by concentrating on cases that have been in a stage too long a judge can see what cases may be stuck and take action before they become problem cases. Once a case is highlighted the judge can then see the relevant docketing entries for pending motions, scheduled events, answers, important documents such as orders, Court Room Deputy notes or those notes put in by our magistrates.

NM ~ ACTS provides case selection and reporting criteria. This means that a judge that wants to concentrate only on complex cases can do so easily. This has also turned out to be an excellent tool for our Pro Se Law Clerk. The Pro Se Law Clerk was interested in Pro Se cases that have been in a stage too long and also in all Pro Se cases that are in early stages. NM ~ ACTS turned out to be the perfect tool for this. In minutes the Pro Se Law Clerk is able to sort the cases the way he wants them. When a judge has a question, the Pro Se Law Clerk is able to quickly bring up that judge's Pro Se cases. NM ~ ACTS has become an integral part of case management in the district.

## **NM Court Calendar**

New Mexico's FoxPro court calendar was designed to replace the manual calendars of courtroom deputies. It allows them to schedule events which are then accessible by the court for reporting purposes (including NM~ACTS). It is also combined with information from ICMS to provide a list of scheduled events for the week which can then be tailored by case managers using a word processor. The report is a tremendous time saver and includes a list of plaintiffs, defendants, attorneys, and charges. This has allowed a Court Room Deputy to schedule a trailing docket of over forty cases in just a few hours. By having the information automatically pulled from ICMS much time is saved from switching between programs and there is less chance of costly mistakes. This central calendar is also used in several chambers by judges and law clerks to see what events are scheduled and when. This allows them to concentrate on the cases that require immediate action and better schedule their time. The newest innovation in the calendar program is the scheduling of courtrooms in our divisional offices. This allows a Courtroom deputy to quickly bring up the available times for courtrooms in a divisional office without getting out of the calendar program. The calendar program is probably the most popular and used program we have developed to date.

## **The New Mexico Advanced Court Engineering (ACE) Project**

New Mexico has begun a major software development effort to provide electronic document flow for filing, noticing, scheduling, automated docketing, internal routing, etc.. The goals are reduction of paper handled by the courts, a reduction in use of other resources through improved efficiency, and to launch the court into the future of automated case processing.

## **Local Enhancement and Development of Speedy Trial Report**

New Mexico developed a report which extracts data from ICMS and lists defendant speedy trial status including trial setting date, trial (P2) deadline, custody deadline, deadline warnings, and a list of open excludables. This is a critical report for New Mexico because of its heavy criminal case load.

## **BIOS**

So that Judges, chambers personnel and other agencies we regularly interact with know who we are, a book containing biographical sketches together with photographs of Clerk's Office personnel was assembled and distributed. Personnel had the option of providing their own photograph or having a photograph taken by a local photographer at special rates. The biographical sketches, which include information about education, hobbies and personal philosophies allowed us to know our colleagues

a little better.

### **New Courthouse**

A new Courthouse is being planned for Albuquerque which will house the Court Family exclusively. What makes this courthouse innovative and unique is the sharing of courtrooms and a common satellite library. The space is designed to accommodate fifteen judges sharing ten courtrooms. Chamber suites are located on the top two floors, accommodate seven and eight judges respectively and are secured from public access. The Collegial design creates an atmosphere more like that in a law firm and allows judges easy access to each other.

Courtrooms, common library and Grand Jury Suite are located on the three floors below the chambers suites. The courtrooms are "district" size capable of seating fourteen member juries.

### **Dropbox**

This District has always attempted to make it more convenient for attorneys to file papers. One way of providing convenient service is a drop-box available 24 hours a day at curbside for the filing of pleadings. The runners or attorneys save time, i.e., finding parking, entering the Courthouse and going to the Clerk's Office, and --if there is a line-- waiting for an available Clerk to process the document. All documents in the box prior to 8:00 AM get stamped as received on the previous business day.

The Clerk's Office also benefits from the drop-box. Papers that are deposited in the dropbox can be processed during less busy times and reduce the number of people coming to the counter.

### **Use of Externs**

The Clerk's Office and Franklin Business College have entered into a mutually beneficial agreement in which a condition of successful completion of their business program is an externship in our office. Because we must interview and train each candidate, we have had to examine established procedures and in some cases those procedures have been improved. Each extern receives valuable experience working in the Clerk's office and we receive assistance without expending funds. The University of New Mexico's Certified Paralegal Program encourages graduate students to serve an internship with a judge just as law students do. Chief Magistrate Judge Deaton is now using a paralegal for a three month period. We hope to continue this practice in the future.

## **Telephone Interpreting Project**

This innovation allows an interpreter in Las Cruces to provide simultaneous interpreting over two telephone lines into a courtroom in another location. The interpreter works at the hub unit (specialized equipment allows for simultaneous interpreting by phones) in Las Cruces and through the phone lines switches. This project has operated as a pilot for several years and has saved the government hundreds of thousands of dollars. Currently the project is using only Spanish interpreters, but the process is appropriate for use in any language.

This project has been successful in New Mexico where we have a heavy interpreting load. The Las Cruces interpreter finds that the judges tend to hold hearings in the mornings, and with the time differences, he can take care of several hearings a day. There are other courts that have interpreters that are less than fully utilized, and they could learn to use the system and provide translating with no additional salary costs. One of the biggest savings is reduced travel costs. In many court locations there are no certified interpreters available. This makes it necessary to bring an interpreter in from another location. These travel costs are extensive and sometimes they are incurred even though a hearing is canceled at the last moment.

Currently the interpreter in Las Cruces translates for courts in: Anchorage, Alaska; Omaha, Nebraska; Oxford, Mississippi; Yosemite, California; Beaumont, Texas; Madison, Wisconsin; and Knoxville, Tennessee. Another innovation to this project has been designed. Rather than stationing the hub in another court and locale, it is possible to send out a small unit --briefcase size-- that controls the hub and allows an interpreter in a remote location to take advantage of the hub. Several of these units could be built and sent to courts that have interpreters who speak 'exotic' languages.

## **Communication Network**

Because communication is essential to successful innovation, establishing an intercourt communication network to facilitate change and share information became a priority. The network was established with the scheduling of meetings at regular intervals in every sector of the Courts. Judges meet on a regular basis and those meetings are attended by the Clerk. The Clerk, in turn, conducts weekly Management Team meetings and weekly meetings for all personnel.

Judicial Operations Division and Administrative Services Division each hold a weekly meeting of all members of the Albuquerque office and connect by conference call with Santa Fe and Las Cruces offices. These meetings are open to members of all divisions and are used to resolve problems and disseminate information. For the

same reasons, Courtroom Deputies meet for lunch each month and Courtroom Deputies and Case Supervisors from Operations meet for lunch quarterly. From networked information and 'brainstorming' sessions, the court seeks to solve common problems and to create a foundation for mutual understanding, respect and shared goals.

### **Use of Magistrate Judges**

The District of New Mexico was one of the first to use Magistrate Judges to handle discovery matters in civil cases. Magistrate Judges in this District conduct settlement conferences, handle all civil pre-trial matters, bankruptcy appeals, social security appeals, state and federal inmate habeas corpus cases and inmate civil rights cases in addition to felony initial presentments, detention hearings, arraignment proceedings and all misdemeanor cases. Because of a heavy criminal caseload, New Mexico has recently been authorized under the Recall Retired Magistrate Judges Program, to utilize Magistrate Judge Robert DeGiacomo in that capacity. Judge DeGiacomo conducts settlement conferences, conducts misdemeanor trials and performs any other duties as a Magistrate Judge as needed.

### **Monthly Reports**

Monthly reports for criminal and civil cases are generated for each judge using the ICMS data base. The reports document case filings, transfers, terminations and pending caseload. Judges and chambers personnel use these reports as a management tool and as a means of measuring efficiency of case management processes. The statistics generated by the monthly reports are a basis for producing a District-wide Activity Report. This report tracks case activity and caseload by Judge and presents the data in graphs. This visual report is another way of managing the District's caseload and to ensure equitable allocation of cases and resources.

### **Standardization of Procedures**

Interviews with attorneys, Court personnel and judges revealed a need and desire to standardize case management procedures where possible. Attorneys practicing in Federal Court found it confusing to keep track of the different formats and requirements of each Magistrate Judge and District Judge. Clerk's Office personnel often had difficulty properly identifying events for docketing purposes and keeping the proper formats available for attorneys. Magistrate Judges consulted and produced one form for notifying counsel of the Magistrate Judge referral, of deadlines for submission of the Initial Pre-Trial Report and of instruction for compliance with discovery requirements. In addition, Magistrate Judges have standardized the Initial Pre-Trial Report form. This format is now available to parties in paper form and on disk at the Clerk's Office.



District Judges are working on standardizing the form for the final Pre-Trial Order and when finalized, this form will also be available in paper form and on disk at the Clerk's Office. Standardization where possible reduces the possibilities of error on the part of personnel and practicing attorneys. To further assist the bar and parties practicing in Federal Court, an Attorney's Manual has been compiled and is available free of charge at the Clerk's Office.

### **Management Team**

The management team was established on the premise that every successful organization has at its foundation a team of players prepared to offer their individual skills and talents to ensure the continued growth and progress of the organization. The District of New Mexico's management team includes Clerk's Office Managers and the Chief Judge's career law clerk. The team shares in major decision making and in the development of goals to serve the mission of the court. The inclusion of representatives from each division and chambers provides open and expanded lines of communications. This helps assure that the impacts of a decision, on all divisions, are understood prior to making a decision. Many of our Court's innovations are a direct result of the creative problem solving and defined objectives contributed by the management team.

### **Document Flow Study**

Because the District of New Mexico's policies are particularly friendly to the introduction and implementation of automation into all areas of Court operations, re-engineering processes within the system seemed to follow naturally. With the support of Chief Judge Conway and the other judicial officers, Mr. Robert M. March as Clerk initiated a plan to fully re-engineer and automate the Court. He hired people with extensive backgrounds in automation and built an Information Services Division consisting of programmers and analysts. He hired and promoted managers who were computer literate and encouraged all managers to become comfortable using computers in the general operation of their divisions.

Now that automation is generally accepted, we commence the greater challenge of examining current processes and procedures -- evaluating them for efficiency, checking for redundancies and inconsistencies. A few months ago an in-house Electronic Filing Task Force was formed. At the initial meeting it was determined that: (1) a flow chart would be built based on the paper trail beginning with receipt at Intake (2) all personnel should have some role in the study (3) that Judicial Operations would take the first "leg" of the study (civil docketing events). The most common civil docketing events were reviewed by the Task Force and placed into ten categories based on function and action triggered by the event. For instance, one category was named "initiating document". This category included complaints,

petitions, removals, etc. as each document was capable of adding parties and issues and triggered specific actions regarding docketing and distribution. (The remaining categories are: order, motion, transcripts, notice, service, answer, appearance, sealed, and appeal.)

Two teams consisting of Judicial Operations personnel were selected. The process of examination began almost immediately and found that two of the most common docketing events were "Notice to take Deposition" and "Certificates" of completion of depositions. These two events accounted for approximately 6-8,000 docket entries. The teams asked if it was really necessary to docket the events. This query was passed on to Chief Judge Conway and Judge Hansen. The matter was subsequently discussed at a judge's meeting and Administrative Order 95-78 was entered 4/18/95 by Chief Judge Conway discontinuing acceptance for filing of Notices to take Deposition and Certificates of completion of deposition. The data for this portion of the study has been gathered and put into written reports. Later the data will be transferred to a visual model.

Phase three of the Document Flow Study has been completed in which Courtroom Deputies considered the same categories of documents and tracked their progress and processes through Chambers from the Clerk's Office. Phase four is now underway. The data is being studied and will subsequently be placed in a visual model. The Study will continue until the paper and process trail is complete.

### **Special Judge Assignments**

The District Court in New Mexico has developed a procedure whereby District Judges are assigned as liaison Judges to the Chief Judge and the District Court to facilitate decision making in a number of areas that need close attention. These assignments are made by the Chief Judge and include the following areas:

Chief Judge Conway- Personnel Liaison Judge and Security Liaison Judge.

In addition to all of Chief Judge Conway's duties as the Chief Judge he also serves as the liaison for all matters pertaining to personnel and security.

Judge Parker - Space and Facilities Liaison Judge and chairs the CJRA Advisory Group.

Judge Parker is consulted on all Space and Facilities Projects in the District. All of the District Judges are involved in the design of the new Federal Building in Albuquerque, New Mexico, however, Judge Parker oversees all Space and Facilities Projects. In addition he chairs the CJRA Advisory Group.

Judge Hansen - Automation/Information Services Liaison Judge

This includes representing the Chief Judge at all meetings concerning Automation and Information Services projects in the District Court including the ACE Committee (Advanced Court Engineering Project); the PI Project (Process Innovation); and the NM~ACTS Project (New Mexico Automated Case Tracking System).

Judge Vazquez - District Of New Mexico Rules Liaison Judge

Judge Vazquez serves as the Chairperson of the Rules Committee for the District. This process involves multiple reviews of all of the Rules of the Court, including approval by the other Judges, the Bar, and the 10th Circuit Judicial Conference.

### **Voir Dire Juror Questionnaire**

Sending out a voir dire questionnaire to potential jurors allows us to obtain information from jurors just once that would have to be sought by the attorneys in the courtroom for each trial. This is basic information that attorneys need to assist them in the selection of jurors. Although this process requires additional work for the person who handles juror selection, it saves jurors from repetitious examinations, and in-court time - a worthwhile tradeoff. Moreover, the questionnaire procedure is helpful to the attorneys as they are better able to prepare for jury selection. Working in cooperation with the Bar and the United States Attorney, the Clerk's Office is putting together a more comprehensive voir dire questionnaire.

### **Selection of Multiple Juries- Efficient Use of Jurors**

When a panel of jurors is brought in for jury selection, this group of jurors is used to pick several juries at one time. This process has unique advantages that are both time and cost saving. Jurors are paid for each day of service, including days they report for jury selection. By picking multiple juries simultaneously, a juror may be selected for more than one trial but have spent only one paid day during selection. Jurors also seem to appreciate the more effective use of their time as well. In single case jury selections from the same panel, routine questions must be repeatedly asked of panel members. Yet the judges and attorneys need only ask certain voir dire questions once of each juror in a mass jury selection. Attorneys report that the multiple jury selection process goes smoothly and allows them to obtain more information, both in quantity and in quality, on prospective jurors for better exercise of their peremptory challenges.

Methods such as multiple jury selection have enabled our district to be among the best in the country at the efficient utilization of jurors. Because we have a large

number of criminal juries requiring fourteen (14) jurors, the procedure permits us to make effective use of one of our most valuable resources - that of "people" resources - the jury. Prospective jurors also seem to appreciate our efforts to assure that their time of jury service is spent meaningfully.

### **Highspeed Data Lines, Internet Access and Network**

High speed lines were installed to transfer NM~ACTS information to our divisional offices. They have given us a number of additional bonuses. Primarily, we are able to use network programs or databases with windows applications from a remote site such as a divisional office. This was not possible with standard data transmission lines. We also gained the following:

- (1) Easier and faster sharing of information, e-mail, etc.
- (2) Docketing in division offices is much faster and more reliable than with the 9600 baud lease lines.
- (3) The computer personnel are able to log on to any employee's computer from any location in the District allowing them to make repairs that would otherwise require a trip or extensive phone conversations.
- (4) Software is run from the network, saving extensive time and money in upgrading software that would normally be on individual machines.

Internet access is provided via a 56K dedicated frame relay line. This connection provides high speed access to databases located worldwide (i.e., Lexis, Westlaw and various World Wide Web sites). All access to and from the Internet is monitored and restricted by a firewall system designed by Trusted Information Systems.

### **Preparation of Documents in Courtroom**

In the magistrate judge's courtrooms computers are installed that allow staff to create release forms in the courtroom. The courtroom deputy can create a Judgment and Commitment on-the-spot. This eliminates the need to move a prisoner to another location for the purpose of processing paperwork and releasing the prisoner from custody. The magistrates also have a heavy petty offense and misdemeanors calendar which is handled by the Central Violations Bureau (CVB). Forms for CVB processing can now be generated in the courtroom eliminating either an additional mailing or return to Clerk's office.

## **Pro Bono Panel**

When a person files a civil complaint without the aid of an attorney, *it presents the court with special problems*. The party may not as effectively present his case as an attorney might. He may not be as familiar with the rules of procedure and the general workings of the court as an attorney. A pro se litigant often needs more attention and therefore uses more resources of the court in terms of judge time and staff time.

By creating a panel of attorneys and funding some of their expenses through the Bench and Bar Fund, representation can be made available to qualifying pro se litigants. This will assist in providing quality representation for the client as well as assisting in efficiently processing the case.

## **Real-Time Court Reporting**

Simultaneous, or "real-time" court reporting uses the latest computer technology to provide virtually instantaneous transcription by the court reporter in an electronic form immediately accessible to the judge and attorneys in the courtroom. When there is a dispute as to the content of any prior testimony, a searching capability permits the court and attorneys to readily access that portion of the transcript for an accurate reflection of the evidence received at a trial or hearing. Thus, a judge and the parties are no longer required to rely upon their memories of the testimony. Instead, they will rely upon the record as it will be presented to the appellate court, in the case of an appeal.

Real-time reporting should permit the judge to make more informed and better rulings during the trial. Moreover, the delays inherent in producing a transcript for an appeal, especially in protracted litigation, are almost eliminated. The simultaneous "rough" transcript product requires minimal effort to produce a quality final transcript of the proceedings. The court reporter may choose to provide "daily copy" of the transcript enabling the attorneys to review testimony and thereby assisting them in fashioning their examinations of later testimony of the same witness or witnesses yet to testify.

Additionally, via access to our network, judges and attorneys will be able to use E-Mail and computer-assisted legal research tools such as Westlaw. While in court, the judge and counsel will have the capability of readily accessing a cited case on his computer screen and then checking the decision's applicability to the case and the cited decision's continued viability. The support of our New Mexico Bench and Bar, and our court reporters' willingness to be "re-trained" to provide real-time reporting, have been integral to achieving success in this area.

## **Bar Association of the United States District Court for the District of New Mexico**

A Federal Bar Association has been developed to open a new line of communication between the bench and bar. The association will focus on needs of the attorney who practices partly or exclusively in federal court. We anticipate that the bar association will contribute some basic orientation, education and training for attorneys in areas such as the procedural practices of federal district court. We hope that the association will promote and foster a more collegial atmosphere among the judges and attorneys and strengthen their commitment to the fair and prompt delivery of justice.

### **Revision of Our Local Rules**

A transformation of our local rules was undertaken to remove antiquated provisions, to improve procedures and to articulate the rules more clearly to avoid confusion with their dictates. The rules were rewritten to eliminate much of the "legalese" terminology and replace them with plain-English provisions. Attorneys and court support staff were interviewed and consulted as to how the rules affected their work. An extensive process sought to assure that the rules did what they were supposed to do, and what people wanted them to do.

One specific example of an innovative rule concerns the adoption of a new motions filing practice. This variation of the so-called "New Jersey Rule" requires attorneys to submit as a single package the motion, response and reply briefs. Thus, there is but one package to docket, eliminating the steps of docketing and monitoring an individual motion, response and reply separately. Additionally, extensions of time or an option to expedite the briefing schedule will be determined by the attorneys. The the current practice of requiring motions for many extensions of time, even when they are unopposed, will be eliminated. Another example of innovation in this line is the elimination of the requirement for the filing of depositions, Notices to take depositions, certificates of completion of depositions and deposition transcripts. This saves attorney time and docketing time. The elimination of unnecessary paperwork will save time and energy for both attorneys and the court to deal with the more substantive, meaningful issues in a case.

The rules seek to implement innovations that may result from many changes envisioned in different areas of the court. A flexible rule was developed to permit electronic service of documents which will allow attorneys to send documents to each other by fax or E-Mail. Indeed, even the Court will be able to send notices or orders electronically when it becomes technically possible and sufficiently protected from possible alterations. Such electronic delivery systems will save money not only in paper supplies and postage, but also in time-consuming handling costs to the attorney and to the court.

## **Training Facilities**

The District Court for the District of New Mexico has developed an in-house training center for use by all Court Family agencies. This facility is equipped with a networked computer system that is accessible to the LAN (Local Area Network) installed in the building. This allows our employees to access all of the system programs including NM~ACTS, PACER, CHASER, and CFS. In addition, it also allows access to all commercial software which the Court has licenses for including WordPerfect, Excel, Harvard Graphics, and many other off the shelf software packages which are only used by key personnel.

The facility also has an overhead projection system which is hooked up to our multimedia interactive computer system and the VCR. The multimedia interactive computer system was purchased through funding from the Federal Judicial Center and the Administrative Office of the U.S. Courts and was a joint purchase between the U.S. District Court, the Probation Office, and the Pretrial Services Office. The multimedia system at present has CD's (computer disks) which allow either individual or group training on an overview of the Federal Court System; the Windows operating system; and the WordPerfect data processing software. These training sessions can either be shown on an electronically controlled projection screen or on the computer screen itself. In addition the system has been enhanced with a sound system which allows for exact acoustical control of the center.

The entire system including furnishings will be taken with our Court to our training facility in the new Federal Building scheduled for completion in August of 1998.

## **Local Training**

Our Court has developed numerous comprehensive in-house training programs that have proven successful in maintaining a well-trained staff. Our Judicial Operations Divisions has developed in-house training programs for individuals who need to learn the ICMS Criminal and Civil docketing procedures. The Information Services Division has developed in-house training programs for use of NM~ACTS. NM~ACTS was developed by Richard Himes at the direction of the Clerk of the Court, Mr. Robert M. March. This program allows us to monitor all cases in the District by Judge, status of case, time over or under the CJRA time limits, and many other categories. The Administrative Services Division has developed training in the usage of CFS (the Court Financial System) and has provided this training to the Probation Office personnel, the Pretrial Services Office personnel, and the Bankruptcy Court personnel. This training and the access to the LAN have provided all offices with access to CFS and the offices now enter all of their own purchase orders and vouchers into the system, and have the capability of running their own reports from their own offices. Several other training

initiatives are now under way.

### **Opinion Retrieval System**

The judges electronically store their filed memorandum opinions for later retrieval using the powerful ISYS for Windows searching software. This opinion retrieval system ("ORS") enables legal researchers to review our judges' "unpublished" opinions to see how any of them may have ruled on an issue. Moreover, a new law clerk can instantly determine whether his or her judge has previously ruled on an issue that would be inconsistent with a contemplated decision. The ability to "cut and paste" from one document to another provides for accurate quoting and quick retrieval of information, resulting in a money and time savings for law clerks, for judicial officers and potentially for attorneys who can cite to previously filed but unpublished opinions of the district court.

The district court is contemplating expanding this same searching technique to access such valuable information as previously used individual jury instructions or instruction packets and in-chambers bench memoranda. Our Tenth Circuit branch librarian, Laura Goldsmith, actively supports our efforts by maintaining the integrity of the database and entering consistent information for field searching capability to enhance the software's applicability and ease of use. The AO has recently made our ORS program available to over 100 federal courts nationwide.

### **Centralized Records Section**

In the past, court files had been kept in various locations throughout the Clerk's Office and in District Judges' chambers. Many of the Magistrate Judge's criminal cases and magnetic tapes of court proceedings were housed separately in file cabinets in Magistrate Judges' Chambers and in Magistrate Courtroom Deputies' offices. It was determined that it would be beneficial if all of the files could be located in one centralized location thereby eliminating confusion as to the location of a file, and increasing its accessibility. In addition, Check-out procedures have been implemented to allow Records to track location of a file.

### **Records Proper Process**

The procedures for the processing of state court Records Proper had long been a cumbersome one that was frequently changed and undocumented. Simplified, documented procedures were implemented, resulting in less confusion for all personnel and a more easily managed system for the Records Section to monitor. The new procedures require chain of custody signatures and centralized storage of the records.



## **In-House Computer Maintenance**

The U.S. District Court in New Mexico has actively recruited specialists for its automation team. The System's Manager is a highly proficient programmer in several languages and has developed many in-house programs in C language for the UNIX server. These programs include speedy trial reports, daily docket reports, as well as many others. All the programs have greatly aided case management at all levels and decreased time spent maintaining the file server.

NM ~ ACTS and the court calendar program were created in-house using FoxPro 2.5. The current project in development is an electronic document distribution program in Microsoft Visual C++ (see ACE). Additionally, in-house repair of printers, laptops and computers has resulted in thousands of dollars in savings. Down time from hardware failures has dropped from weeks to mere hours. The financial savings have been invested in upgrading the court computers decreasing the time it takes people to perform their work. Functions that used to take law clerks approximately one-half hour now take less than three minutes. These benefits from having in-house experts have not only saved money and time, but have also created a better working environment.

## **Attorney Handbook**

At the request of the Clerk of the Court, an Attorneys Information Manual was compiled to provide basic administrative and procedural information to newly admitted attorneys. Among other things, the manual contains a telephone directory for offices in Albuquerque, Santa Fe and Las Cruces with job titles to aid users in selecting the best person to could assist them in telephone inquiries. Copies of forms and commonly used formats for pretrial and trial use are included as well as basic information regarding fees for filing and other services. The Handbook is regularly updated and supplied to any attorney free of charge who is admitted to practice in New Mexico.

## **Copy Center**

In a joint effort with the United States Bankruptcy Court, a contract was issued to the Paper Chase Copy Center to provide for the copying needs of the public and large requests from the Court. This allows our employees the streamlining and increased efficiency of processing copy requests. Copies are requested by letter, fax, or on site by filling out a request form. The file is pulled and the copy request attached to the file. The files are picked up from the U.S. District Court Clerk's Records Section twice daily by Paper Chase Copy Center personnel and then returned on the following trip to our offices, or within the next 48 hour period following receipt of their request. Copies are billed directly to the public and they telephone the public

when the request is ready for pick-up from their offices. This process has allowed the Records Section personnel to operate more effectively.

### **Law Clerk Orientation Seminar**

For the first time, law clerks for all district and magistrate judges met in 1995 for a two-day orientation seminar to better acquaint themselves with the district court procedures and available resources. Initial presentations were given by the clerk's office and other supporting agencies - pre-trial services, probation and the marshal's offices - with whom the chambers has contact. Panel discussions and further presentations outlined the role of the law clerk in the court's operations and included an emphasis on ethical considerations. Automation services staff along with our 10th Circuit branch librarian covered the new and extensive resources available to law clerks and provided training in the latest automation programs used by our court.

More than 95% of our law clerks attended the seminar and felt that the information given in the presentations and distributed materials served as valuable networking tools for the future. Uniformly the participants expressed a desire for continued sessions on at least an annual basis, citing a new camaraderie and team spirit, with an eye to continued improvement of the caliber of the service law clerks can provide to the system.

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**APPENDIX B**

**CASE OPENING MODEL**



# APPENDIX C

## FUTURE VISION STATEMENT



# ***FUTURE VISION STATEMENT***

## ***SETTING THE BENCHMARK FOR THE TWENTY-FIRST CENTURY AMERICAN COURTS***

The United States District Court for the District of New Mexico has given real meaning to "reinventing government." The District of New Mexico is one of 94 district courts that comprise the largest section of the highly traditional third branch of government. Through innovation, commitment, teamwork and hard work, the District of New Mexico has revolutionized the judicial process. It is recognized as the most efficient and effective court in the federal judiciary.

The in-the-field redesign process began with the commitment, foresight and encouragement of the Judges and Clerks of Court and the backing of the Administrative Office of the United States Courts (AO). The long journey commenced with a fresh vision of efficient, cost effective and quality delivery of justice in today's world. A willingness on the part of court employees to examine old procedures and invent new ones served as the key to innovation. Evaluation and insight contributed by the public, the Bar and court employees provided the springboard for truly innovative change.

Achievement of such a grand vision was aided by state-of-the-art automation, driven by the court's Advanced Court Engineering (ACE) effort. An in-house creation, the ACE system electronically transmits, receives, files and docket events that once required a paper form in order to be processed. ACE immediately captures accurate information at the source and makes it readily available for retrieval by anyone via the Internet. A partnership with attorneys in New Mexico enabled a rethinking of roles in the process. By directly contributing information to the court's databases, attorneys have eliminated duplication of effort by court staff, freeing them to focus on expedient, high-quality dispute resolution process.

The new federal courthouse, built during the redesign process, is a showcase for this philosophy and the associated technology. The collegial design, featuring shared courtrooms and a centrally located library, saves space, resources and taxpayers' money.

The results? Significantly reduced cost to court users through a streamlined, simplified process which practically eliminates time-consuming and expensive handling of paper. Matters are resolved in record time. Judges and attorneys have been freed to address the merits of controversies in a more thorough and direct manner. Over 75% of the parties report satisfaction with the process: that they received prompt, courteous and fair service, giving their "day in court" true meaning. The team characterized the service vision that inspired these results as striving to deliver "revolutionary and meaningful" services to their customers.

The court's accomplishments have been recognized with awards from the Director of the Administrative Office of the United States Courts and from the National Association for Court Management. Other judges and court administrators regularly visit the court to see its operations. The president of the New Mexico State Bar puts it this way: "The court is a model for the nation in working together with the bar to make changes for the good of the people of New Mexico."

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# APPENDIX D

## TRO PACKET

## **TRO PROCEDURES - JUDICIAL OPERATIONS**

1. When phone call comes into Operations, it is directed to the designated TRO Intake person or back up at Intake for implementation of the following "TRO Team" (TROT) procedures.
2. Caller is reminded of paperwork necessary for TRO, i.e., cover sheet, original + two of the following: complaint, motion and proposed TRO, information sheet for TRO & notice of setting.
3. Caller is asked: names of parties and attorneys; the earliest a hearing must be held; the latest a hearing could be held; how long the hearing would take. Caller is also asked to fax the completed TRO information sheet to the Clerk's Office.
4. Case is assigned a number and judge internally. This is not passed on to caller. Folder is set aside to await filing of TRO.
  - a. Designated TRO Intake person calls designated TRO Operations Manager to advise her of prospective judge assignment.
  - b. Designated TRO Operations Manager calls Courtroom Deputy or designated chambers' contact person. The chambers contact person will indicate at that time whether or not Judge is available to hear the matter. If the Judge is available, the designated TRO Operations Manager will advise the Intake person to formally open case. (Designated TRO Operations Manager briefs Clerk, or, in his absence, the Chief Deputy, on the nature of TRO. Depending on the nature of the TRO, and in the best interests of the Court, the Clerk may alter these procedures.) If the TRO is refused, the designated TRO Operations Manager will ask Intake to re-assign the case to the next judge on rotation in the case assignment system and follow the outlined procedures until the TRO is accepted by a judge's chambers.
  - c. If the TRO is accepted, designated Operations Manager will notify designated chambers' contact person whether counsel faxed a copy of the TRO information sheet.
5. Attorneys come in with TRO and TROT intake person notifies designated TRO Operations Manager. If no warning call has been received, the designated Intake person will check for necessary components of TRO package, assign case number and Judge internally, and notify the designated TRO Operations Manager ( see 4a).
6. In cases where an Albuquerque Judge is assigned, the designated TRO Operations Manager comes to the counter, retrieves the two copies of TRO packet and calls the courtroom deputy or other designated contact person in the assigned judge's chambers. The chambers' contact person will indicate at that time whether or not Judge is available to hear matter within ten days. If the Judge is available, the chambers' contact person will inform the designated law clerk of the TRO and he or she will then collect the copies of the TRO packet from the designated TRO Operations Manager, who will then advise the Intake person to formally open the case. Chambers staff will

be informed of which attorneys are in the Clerk's office and ask for instructions, if any, to pass on to them. Should the selected judge's designated TRO contact person refuse the TRO, the Intake person will re-assign the case to the next judge on rotation in the case assignment system. The newly selected chambers will be contacted and the identical procedure followed as outlined above.

7. If necessary, the original file and contents, once opened will be placed in the Courtroom Deputy's box, or delivered to chambers.

8. In cases where a Santa Fe Judge is assigned, the designated TRO Operations Manager comes to counter, retrieves a copy of the TRO packet and calls Courtroom Deputy or other designated contact person to advise him or her of the TRO filing and the proposed Judge assignment. If the Judge is available to hear the matter, the designated TRO Operations Manager will fax the TRO copy set to the Courtroom Deputy and notify Intake person to formally open case and assign it to the judge. The designated TRO Operations Manager should also receive instructions from the Courtroom Deputy to pass on to attorneys waiting at counter.

9. In Santa Fe TRO cases, once the original file is opened, it should be sent to the Judge assigned in the daily mail, unless the filing occurs after 3:00 P.M., in which case the original file will be FED EXED to Santa Fe, if deemed necessary by the receiving chambers.

### **TRO PROCEDURES - IN CHAMBERS**

1. The designated contact person in chambers lets the assigned law clerk know that a TRO has been accepted and determines when a hearing can and should be held.

2. The chambers will receive two copies of the pleadings associated with the TRO - one for the judge and one for the law clerk - for their scrutiny and research.

3. Law Clerks are encouraged to take advantage of the "outline" on general law of temporary restraining orders (attached and located at "O:\geninfo\tro.std" on the network) in their research and supply a copy to the judge by the hearing.

4. Any glitches in the above procedures should be noted and reported to either Marte Adams in operations (8050) or to Karen Molzen in Chief Judge Conway's chambers (8041) so that the TRO Team can address them and make appropriate changes.



**DESIGNATED CONTACTS FOR IMPLEMENTATION OF TRO PROCEDURES**

**INTAKE:Kim Dapson**

**INTAKE BACKUP: Joe Murphy**

**OPERATIONS:Marte Adams**

**OPERATIONS BACKUP:Phyllis Rael**

**JUDGES' CHAMBERS:Courtroom Deputy (except Judge Mechem's Chambers -  
Charlotte Bates)**

**CHAMBERS' BACKUP:**

**Judge Conway - Karen Molzen  
Judge Parker - Dean Tuckman  
Judge Hansen - Mary Lebeck  
Judge Vasquez - Tina Robles  
Judge Mechem - Linda Vanzi  
Judge Campos - Lynn Eby  
Judge Black - Kristen Morgan-Tracy  
Judge Bratton - Ofelia Garcia**

**PROCEDURES FOR FILING A MOTION FOR TEMPORARY RESTRAINING  
ORDER (TRO) IN U. S. DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO**

As part of our process innovation project, the U. S. District Court for the District of New Mexico has instituted new procedures for processing a TRO request. Your compliance with these procedures will enable us to better handle your applications for TRO.

1. Please call ahead to Intake in Albuquerque at 248-8052 and ask for the TRO Intake person.
2. You will be asked by the TRO Intake person:
  - (a) to fax a copy of the TRO information sheet to the Clerk's Office at (505) 248-8124;
  - (b) to identify the parties and attorneys involved in the matter;
  - (c) the earliest a hearing should be held;
  - (d) the latest a hearing could be held; and
  - (e) the estimated length of the hearing.
3. When filing for a TRO in a new case, we require that you provide the Clerk's Office with a civil cover sheet and an original and two copies of the following: TRO information sheet, complaint, motion for TRO, proposed TRO and notice of hearing. Both copies of these items will be provided to the judge's chambers for their use and you will not be required to supply additional copies.

A designated TRO liaison in the Judicial Operations Division of the Clerk's Office will notify the Chambers assigned to the TRO, supply all necessary paperwork to Chambers' personnel and transmit their instructions to counsel filing for the TRO.

**Please keep in mind the earlier in the day you request a TRO, the more smoothly and quickly we can process your TRO application.**

The civil cover sheet, TRO information sheet form and a notice of hearing form can be obtained from our Clerk's Office in Albuquerque, Santa Fe and Las Cruces.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

\_\_\_\_\_  
Plaintiff(s),

vs.

Case No. \_\_\_\_\_

Date Filed: \_\_\_\_\_

\_\_\_\_\_  
Defendant(s).

**INFORMATION SHEET FOR T.R.O.**

Attorney(s) for Plaintiff(s): *(include phone #)* \_\_\_\_\_

Attorney(s) for Defendant(s): *(include phone #)* \_\_\_\_\_

Nature of Underlying Claim: *(contract, tort, environment, etc.)* \_\_\_\_\_

Jurisdiction: *(Cite Statutes)* \_\_\_\_\_

Precise statement of activity sought to be restrained or compelled:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**HEARING:**

Estimated Length of hearing: \_\_\_\_\_

Request hearing be set for: *(check one)*

Today       Tomorrow       Within one week       Within Ten Days

Action required within time frame checked above because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**NOTICE:**

Are all parties represented by counsel at this time?       YES       NO

Have the opposing party(ies) and their attorney(s) been notified?       YES       NO

If answer is yes, when? \_\_\_\_\_

If answer is no, why not? \_\_\_\_\_

Notice given by:  phone     fax     letter     in person    /or other \_\_\_\_\_

# Outline of General Law on TRO's

## I. TEMPORARY RESTRAINING ORDER

Elements as set out in the 10th Circuit in accordance with Rule 65:

(1) substantial likelihood that the movant will eventually prevail on the merits;

(2) a showing that the movant will suffer irreparable injury unless the injunction issues;

(3) proof that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and

(4) a showing that the injunction, if issued, would not be adverse to the public interest."

Fed. R. Civ. P. 65(b); Lundgrin v. Claytor, 619 F.2d 61, 63 (10th Cir. 1980).

Under Rule 65(b) a temporary restraining order may be granted without written or oral notice to the adverse party only if (1) it clearly appears from the specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party can be heard in opposition, **and** (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting the claim by notice should not be given.

If granted without notice, the TRO shall:

- be indorsed with the date and hour of issuance;
- be filed and entered of record;
- define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, unless good cause is shown why an extension should be given.

**and** the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and take precedence of all matters.

## **II. MANDATORY AS OPPOSED TO PROHIBITORY INJUNCTION**

Where a movant seeks a mandatory rather than a prohibitory injunction, which would alter rather than preserve the status quo, he is subject to a higher burden. See SCFC ILC, Inc., v. VISA USA, Inc., 936 F.2d 1096, 1097 (10th Cir. 1991).

If a requested preliminary injunction disturbs the status quo, is mandatory<sup>1</sup> as opposed to prohibitory<sup>2</sup>, or affords the movant substantially all the relief the movant may recover at the conclusion of a full trial on the merits, it is disfavored and the movant must show that the traditional four factors stated above "weigh heavily and compellingly" in his favor, in order to obtain the requested relief.

SCFC ILC, Inc., 936 F.2d at 1097. See also Citizens Concerned for Separation of Church and State v. Denver, 628 F.2d 1289, 1299 (10th Cir. 1980) cert. denied, 452 U.S. 963 (1981)(it is fundamental that mandatory injunctive relief should be

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<sup>1</sup> One which (1) commands the defendant to do some positive act or particular thing; (2) prohibits him from refusing (or persisting in a refusal) to do or permit some act to which the plaintiff has legal right; or (3) restrains the defendant from permitting his previous wrongful act to continue operative, thus virtually compelling him to undo it. Black's Law Dictionary (5th ed. 1983). Mandatory injunctions are more burdensome than prohibitory injunctions because they affirmatively require the nonmovant to act in a particular way, and as a result they place the issuing court in a position where it may have to provide ongoing supervision to assure that the nonmovant is abiding by the injunction. SCFC ILC, Inc., 936 F.2d 1096 at 1099.

<sup>2</sup> An order of a court in the form of a judgment which directs one not to do a certain thing; sometimes called a restraining order. Black's Law Dictionary (5th ed. 1983).

granted only under compelling circumstances inasmuch as it is a harsh remedial process not favored by the courts).

The main purpose of a preliminary injunction is to preserve the status quo pending the outcome of a case and enable the court to render a meaningful decision on the merits. Tri-State Generation & Transmission Asso. v. Shoshone River Power, Inc., 805 F.2d 351, 354 (10th Cir. 1986). A preliminary injunction that alters the status quo goes beyond the traditional purpose for preliminary injunctions, which is only to preserve the status quo until the trial. SCFC ILC, Inc., 936 F.2d at 1099.

The status quo is not defined by the parties' existing legal rights; it is defined by the reality of the existing status and relationship between the parties, regardless of whether the existing status and relationships may ultimately be in accord or not in accord with the parties' legal rights. VISA, USA, Inc., 936 F.2d at 1099.

The basis for injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies. Sampson v. Murray, 415 U.S. 61, 88 (1974) quoting Beacon Theaters, Inc., v. Westover, 359 U.S. 500, 506-07 (1959). A preliminary injunction will usually be denied if monetary damages are sufficient to compensate a plaintiff. Tri-State Generation & Transmission Asso. v.

Shoshone River Power, Inc., 805 F.2d 351 at 355. Thus, a movant must show not only that it will be injured by the failure to issue the preliminary injunction, but also that money damages are not adequate to compensate that injury. Id.

A preliminary injunction is an extraordinary remedy; it is the exception rather than the rule. GTE Corp. v. Williams, 731 F.2d 676 (10th Cir. 1984) cert. denied, GTE Corp. v. Williams, 498 U.S. 998 (1990). In determining whether such an injunction is warranted, a court must be guided by normal equitable principles and must weigh the practicalities of the situation. Id. Because it constitutes drastic relief to be provided with caution, a preliminary injunction should be granted only in cases where the necessity for it is clearly established. United States ex rel. Citizen Band Potawatomi Indian Tribe v. Enterprise Mgt. Consul., Inc., 883 F.2d 886 (10th Cir. 1988).