

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA  
OFFICE OF THE CLERK  
OKLAHOMA CITY, OKLAHOMA 73102  
(405) 231-4792 • FTS 736-4792

ROBERT D. DENNIS  
CLERK

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JAN 17 11 20 AM '91  
ADMINISTRATIVE OFFICE  
OF THE U.S. COURTS  
COURT ADMINISTRATION  
DIVISION

January 23, 1992

Mr. Abel Mattos, Chief  
Programs Branch  
Court Administration Division  
Administrative Office of the  
United States Courts  
Washington, D.C. 20544

Re: Civil Justice Reform Act Advisory Group for the Western  
District of Oklahoma

Dear Mr. Mattos:

Enclosed please find the following materials produced by the  
Advisory Group for the Western District of Oklahoma:

1. Revised Administrative Order appointing the Court's Civil  
Justice Reform Act Advisory Group, dated April 17, 1991
2. Minutes of all Advisory Group Meetings
3. Questionnaires generated by the Advisory Group
4. Correspondence of the Advisory Group

We have previously provided you with copies of this Courts'  
Information and Guidance for the Advisory Group, Report of the  
Advisory Group, and the Civil Justice Delay and Reduction Plan.

Thank you for your cooperation in this matter.

Sincerely,



Robert D. Dennis  
Court Clerk

RDD/cm  
Enc.

Duke  
CJRA -  
Advisory Group  
- OKC.

file

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**DOCUMENTS PREPARED BY THE  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP**

January 23, 1992

1. **Revised Administrative Order** appointing the Court's Civil Justice Reform Act Advisory Group dated April 17, 1991

2. **Meeting Minutes:**

May 7, 1991  
August 20, 1991  
August 23, 1991  
September 6, 1991  
September 12, 1991  
September 18, 1991  
October 16, 1991

3. **Questionnaires Used:**

- a. Agenda for May 7, 1991 Organizational Meeting of Advisory Group containing Lawyer Member Assignments
- b. May 13, 1991 letter of Chairman to Advisory Group Members requesting information
- c. Questionnaire to Members of the Advisory Group, dated July 2, 1991
- d. CJAG Questionnaire to Party
- e. CJAG Questionnaire to Attorney

4. **Correspondence of Advisory Group:**

02-04-91 Judge Thompson to CJAG Members  
03-27-91 Joseph Biden to Judge Thompson  
04-15-91 Judge Thompson to CJRA Members  
04-25-91 Judge Thompson to CJRA Members  
05-13-91 Peter Bradford to CJRA Members  
06-02-91 Peter Bradford to CJRA Members  
07-11-91 Ann Marshall to Judge Thompson & Peter Bradford  
07-24-91 Peter Bradford to CJRA Members  
08-13-91 Peter Bradford to CJRA Members  
08-13-91 Ann Marshall to Judge Thompson  
08-21-91 Peter Bradford to Attorneys w/ Questionnaires  
08-21-91 Peter Bradford to Parties w/ Questionnaires  
08-23-91 Peter Bradford to CJRA Members  
08-28-91 Peter Bradford to All Judges WDOK including Bankruptcy and Magistrate Judges  
08-28-91 Peter Bradford to CJRA Members  
09-13-91 Peter Bradford to CJRA Members  
10-03-91 Peter Bradford to CJRA Members  
10-10-91 Judge Irwin to Peter Bradford  
10-21-91 Peter Bradford to Judge Thompson  
10-22-91 Peter Bradford to CJRA Members  
10-23-91 News Release

1  
**DOCKETED**

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

**FILED**

APR 17 1991

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.

BY ep, DEPUTY  
MISC. NO. 22

IN THE MATTER OF MISCELLANEOUS )  
ORDERS OF THE COURT, )

**REVISED ADMINISTRATIVE ORDER**

This court's Administrative Order of February 4, 1991, appointing the court's Civil Justice Reform Act Advisory Group, is hereby revised as follows:

**Four Year Term**

Peter B. Bradford  
Judy Hamilton Morse  
Emmanuel Edem  
Glen D. Huff

**Three Year Term**

Sue Wycoff  
Stephen P. Friot  
Garvin A. Isaacs  
Michael McGuire

**Two Year Term**


Roy J. Davis  
Anthony M. Massad  
Steven A. Novick  
James G. Harlow

**Ex officio, non-voting members:**

Ralph G. Thompson, Chief Judge  
Lee R. West, U. S. District Judge  
David L. Russell, U. S. District Judge  
Wayne E. Alley, U. S. District Judge  
Layn R. Phillips, U. S. District Judge  
Robin L. Cauthron, U. S. District Judge

Ronald L. Howland, U. S. Magistrate Judge  
Pat Irwin, U. S. Magistrate Judge  
Doyle W. Argo, U. S. Magistrate Judge

IT IS SO ORDERED this 17<sup>th</sup> day of April, 1991.



CHIEF JUDGE

Make CJRA  
Consequential

WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

**MINUTES OF MEETING**

**DATE:** May 7, 1991

**PLACE:** Chief Judge Ralph G. Thompson's Library

**MEMBERS PRESENT:** Ralph G. Thompson, Chief Judge  
Peter B. Bradford, Chairman  
Judy Hamilton Morse, Vice Chairman  
Stephen P. Friot  
Steven A. Novick  
Sue Wycoff  
Roy J. Davis  
Anthony M. Massad  
James G. Harlow, Jr.  
Emmanuel Edem  
Glen D. Huff  
Timothy D. Leonard, U.S. Attorney  
Ann Marshall, Resource person  
Bob Dennis, Court Clerk, Reporter  
Grant Price, Deputy Court Clerk

Peter Bradford opened the meeting and made introductory remarks.

Judge Thompson made welcoming remarks and introduced the members of the Advisory Group that were present. On behalf of the entire Court, he extended his appreciation to members for their service on the Advisory Group and gave a brief history of the caseload and evolution of the case management now being used by the Court. He also gave a synopsis of the importance of this court's selection as one of the 10 pilot districts pursuant to the Civil Justice Reform Act of 1990, and the significant role of the Advisory Group in the implementation of a Civil Justice Delay and Cost Reduction Plan. The Committee will evaluate the present practices and procedures of the Court and make its recommendations. The Court will prepare a plan based upon the recommendations and comments of the Committee. Judge Thompson said he would like to have a tentative plan in hand before the Circuit Judicial Conference meeting on July 17, 1991. A final plan will be implemented before the end of this year.

Peter Bradford asked each member to consider Sections 473(a) and 473(b) of the Act and then prepare written suggestions as to how this Court may reduce delay and cost in civil litigation. He asked for specific views on present court rules and procedures and the pros and cons of creating a mediation program in this district. Comments are to be sent to the Bob Dennis before May 21, 1991, who will then forward copies to all Advisory Group members.

Judy Morse addressed the Group and asked that each member separately consider the issues from their particular standpoint. In that way, there should be a greater variety of perspectives.

Judge Thompson said that while the foregoing work is being done by the Advisory Group, the Court will be working on a general outline of a draft plan which will incorporate the components of the present case management methods. The draft will be given to the members of the Advisory Group. From the Committee's comments and recommendations a litigation plan will then be prepared. It was pointed out that the Committee should not feel restricted in making its frank evaluations and suggestions for improvements. Funding is available for travel and cost of meetings. Funds are available for consultants etc., if the Committee should determine it necessary. Judge Thompson said that once promulgated, a bar education workshop for attorneys to acquaint them with the provisions of the Court's litigation plan might be considered.

The next meeting is scheduled for Tuesday, June 4, 1991, at 8:30 a.m. in Judge Thompson's library.

Meeting Adjourned.

**WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP**

**MINUTES OF MEETING**

**DATE:** August 20, 1991

**PLACE:** Chief Judge Ralph G. Thompson's Library

**MEMBERS PRESENT:** Ralph G. Thompson, Chief Judge  
Peter B. Bradford, Chairman  
Stephen P. Friot  
Garvin Isaacs  
Sue Wycoff  
Roy J. Davis  
Anthony M. Massad  
Steve Moore representing James G. Harlow, Jr.  
Emmanuel Edem  
Glen D. Huff  
Tom Majors representing Timothy D. Leonard, U.S. Attorney  
Ann Marshall, Resource person  
Bob Dennis, Court Clerk, Reporter  
Grant Price, Deputy Court Clerk

Peter Bradford, Chairman, called the meeting to order, made welcoming remarks and thanked the Advisory Group for its work thus far.

Judge Thompson thanked the Advisory Group for its service. He requested the Advisory Group to have its report written by October 1, 1991, thus permitting the court to prepare its plan during the month of October with full implementation by December 31, 1991. He emphasized the importance of the Advisory Group's complete independence and access to court records and personnel in making its evaluation and recommendations. He also assured the group that the court will do its best to implement any suggestions and indicated his willingness to help at any time and excused himself from the remainder of the meeting.

Peter Bradford reported on the recent meeting for the ten pilot courts sponsored by the Federal Judicial Center (FJC) in Kansas City, Missouri. He and Bob Dennis, attended the two day seminar along with most of the chief judges, court clerks, and advisory group chairmen of the other pilot courts. Chief Judge Thompson was unable to attend the seminar due to a conflicting trial.

The other nine pilot courts are the Western District of Tennessee, Southern District of California, Southern District of Texas, Northern District of Georgia, Eastern District of Pennsylvania, Utah, Delaware, and Eastern District of Wisconsin. Several courts described their overwhelming criminal caseload, and others described an absence of any ADR procedures. Statisticians from the FJC reported that the average lifespan (filing to disposition) of a civil case in the Western District of Oklahoma is 6.5 months and the average lifespan of civil cases of all the pilot courts is 13.5 months.

Mr. Bradford reminded the group that even though our court provides efficient case management, as a pilot court, the Advisory Group report must address the six principles and guidelines of litigation management and cost and delay reduction identified in Section 473(a) of the Act.

A statistical report prepared by Magistrate Judge Irwin on the disposition of cases from January 1, 1984 through June 30, 1991, including disposition by Settlement Conference, Summary Jury Trial and Court-Annexed Arbitration, was distributed and reviewed.

The group then discussed the pros and cons of the addition of a mediation program for the Western District. Mr. Bradford reported that he had recently met with the Oklahoma County Bar Association's ADR Committee concerning the mediation program of the Oklahoma County Court. Emmanuel Edem and Glen Huff agreed to join Mr. Bradford in a meeting with members of Oklahoma County Bar's mediation sub-committee and report back to the advisory group.

Anthony M. (Tony) Massad, representing lawyers who practice in the Western District's rural counties, made a report on their behalf. Generally, most rural county attorneys oppose mediation and summary jury trials. Another problem he mentioned is the practice of buying bank notes that have been transferred to the FDIC and then filing suit on notes brought in federal court instead of county courts. He suggested raising the federal jurisdictional amount from \$50,000 to \$100,000.

The proposed CJRA Attorney Questionnaire that was circulated to the advisory group prior to the meeting was discussed and suggestions made. Mr. Bradford stated that the FJC has indicated that surveys to attorneys on a case specific basis is the preferred method of ascertaining the best information. He described how our court identified approximately 200 cases wherein the lead attorneys would be surveyed. Out of 2161 cases that were terminated in statistical year 1991 (July 1, 1990 - June 30, 1991) approximately 10% of the cases were pulled (9.3%) and Advisory Group members identified lead attorneys, both plaintiff and defendant, to whom questionnaires would be sent.

The group reviewed a proposed questionnaire to parties/litigants to be included with the attorneys' questionnaire. Several suggestions were made. All agreed to the surveys and stressed the need to encourage frank responses from both attorneys and parties. A copy of the cover letter and the final draft of the surveys will be sent to all committee members. All responses should be received back to the committee shortly after Labor Day.

Mr. Bradford next described the common practice of other CJRA Advisory Groups for interviewing their judges. The group agreed that a letter to all our judges and magistrate judges inviting their views and suggestions on cost and delay in our district would be beneficial. Mr. Bradford will write to the judges and magistrate judges.

The next meeting is scheduled for Friday, September 6, 1991, at 8:00 a.m. in Judge Thompson's library.

Meeting adjourned.



WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

**SUB-COMMITTEE ON MEDIATION**

**REPORT AND MEETING MINUTES**

August 23, 1991

Peter Bradford, Chair of the Civil Justice Advisory Group, attended the August 14, 1991, meeting of the Oklahoma County Bar Alternative Dispute Resolution Committee. There he discussed the Civil Justice Reform Act of 1990, its ADR provisions, announced that the Advisory Group of the Western District of Oklahoma was interested in mediation as an additional dispute resolution procedure to be offered in federal court and requested a meeting with that groups' Mediation Committee to seek their input and recommendations. The state district courts of Oklahoma and Canadian counties were the first in the state of Oklahoma to adopt a local rule on mediation and the Oklahoma County Bar ADR-Mediation Committee was instrumental in the writing and adoption of that rule as well as ongoing program monitoring.

Subsequent to that meeting, on August 21, 1991, Glen D. Huff, Emmanuel Edem and Peter Bradford, the members of the CJAG Sub-committee on Mediation, met with members of the OCBA Mediation Committee and the attached Memorandum reflects that meeting and their recommendations. This Memorandum is to be mailed to all CJAG members prior to its next meeting. It is the recommendation of this sub-committee that mediation be recommended to the full committee for discussion and decision as an additional settlement tool to assist in delay and cost reduction and for inclusion in the Group's Report to the judges of the Western District.

Assistant to the Reporter

**WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP**

**MINUTES OF MEETING**

**DATE:** September 6, 1991

**PLACE:** Chief Judge Ralph G. Thompson's Library

**MEMBERS PRESENT:** Peter B. Bradford, Chairman  
Stephen P. Friot  
Garvin Isaacs  
Sue Wycoff  
Roy J. Davis  
Anthony M. Massad  
James G. Harlow, Jr.  
Tom Majors, Assistant U.S. Attorney  
Timothy D. Leonard, U.S. Attorney  
Steve Novick  
Ann Marshall, Resource person  
Robert Dennis, Reporter

Peter Bradford, Chairman, called the meeting to order and made introductory remarks. He announced that a committee had been organized to help draft the Advisory Group Report. That committee consists of Peter Bradford (Chair), Judy Hamilton Morse (Vice-Chair), Tom Majors (AUSA), Mike McGuire and Sue Wycoff. This group will hold a planning meeting next week.

Mr. Bradford reported that out of approximately 300 attorney questionnaires mailed out, 100 have been returned as of today and more are expected. In addition, we have received back 82 client questionnaires of the approximately 300 mailed. The Clerk's Office will compile the empirical responses in a statistical report and the written comments will be compiled and summarized by a committee consisting of Steve Friot, Roy Davis and Ann Marshall. The statistical results should be mailed out to members in approximately 10 days.

The Chair then reported that he, Glen Huff and Emmanuel Edem met with representatives of the Oklahoma County Bar ADR Subcommittee on Mediation. It was the consensus of the three attending group members that some kind of mediation program be instituted in the Western District of Oklahoma.

The meeting was then opened for discussing whether a mediation program for the Western District should be recommended by the group. The consensus of those present was that if the Court should adopt a mediation program as part of its CJRA Plan, consideration should be given to an experimental, voluntary program and that it should be available early in the litigation process, perhaps the subject of discussion at the initial Status/Scheduling Conference. Other comments and concerns stressed the need for quality mediators, availability of mediators and mediation sessions outside the metropolitan Oklahoma City area. Another suggestion was that the Court aid in creating awareness of the availability of this and other ADR programs to litigants before the Court.

This led to a discussion of all of our ADR programs in comparison to other districts. A word of caution was voiced against excessive or multiple layers of ADR processes. For example, if a case goes to mandatory arbitration, it should not also go to mandatory mediation. Further, the group agreed that although the summary jury trial might be helpful in some cases, it is an expensive procedure and should be utilized only on a voluntary basis and not be court-ordered.

The group discussed other concerns such as the wasteful cost of the current practice of having to prepare for trial when dispositive motions are pending. Also discussed was the President's Crime Bill and the Sentencing Guidelines and their impact on the courts. Additionally there was discussion on the possibility of recommending raising the jurisdictional amount in diversity cases to \$100,000.

Mr. Novick expressed concern about a lack of clear written procedures for attorneys to follow in seeking preliminary relief, TRO's, etc. He suggested that magistrate judges could be used to conduct evidentiary hearings on preliminary injunctions.

Ms. Wycoff expressed concerns about excessive frivolous pro se and prisoner litigation. She had some ideas and will make her written suggestions to the group.

Mr. Bradford announced that although the goal of the group was to have its report completed by the first of October, 1991, it now appears that the middle of October is more realistic and he will request an extension of time.

The next meeting will be scheduled after the statistical data is compiled and possibly a preliminary draft of the report completed.

Meeting adjourned.

WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

REPORT DRAFTING SUB-COMMITTEE

MINUTES OF MEETING

DATE: September 12, 1991

PLACE: Office of Peter B. Bradford

MEMBERS PRESENT: Peter B. Bradford  
Judy Hamilton Morse  
Warren D. "Tom" Majors (AUSA)  
Sue Wycoff  
Ann D. Marshall, Resource Person/Assistant  
Robert D. Dennis, Reporter

Peter Bradford announced that the Advisory Group in this District is responsible for a Report with findings and recommendations to the Court. The Judges of the Court will write the actual plan. The final Report is due to Chief Judge Thompson by October 20, 1991.

Mr. Bradford distributed a portion of a memorandum from the Judicial Conference of the United States which included the Recommended Format for Advisory Group Reports as prepared by the Administrative Office of the Courts and the Federal Judicial Center. All data collected to date for background and research for the Report has been distributed to all members of the Group. Further, Mr. Bradford stated that members of the drafting sub-committee will be delivered the compilation of the attorney and litigant surveys as soon as possible. For additional assistance, several draft reports from other districts were distributed for review and were discussed.

The content and format of the report was discussed and drafting assignments made. Initial drafts are to be returned to Robert Dennis, Reporter, by September 20, 1991, for copying, dissemination and additional comments prior to going to the full committee for final review and recommendation at the next meeting.

Assistant to the Reporter

WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP

REPORT DRAFTING SUB-COMMITTEE

MINUTES OF MEETING

DATE: September 18, 1991

PLACE: Office of the Court Clerk, Conference Room

MEMBERS PRESENT: Peter B. Bradford  
Michael G. McGuire  
Warren D. "Tom" Majors (AUSA)  
Ann D. Marshall, Resource Person/Assistant  
Robert D. Dennis, Reporter

Peter Bradford called the meeting to discuss and finalize the 6 case management topics required by the Act to be included in Reports and Plans for pilot courts such as ours. Each of the 6 requirements was thoroughly analyzed and application to our current court procedures fully discussed. Changes in discovery practice to be recommended by the Group consistent with proposed revisions to the Federal Rules of Civil Procedure were also analyzed.

This sub-committee will have its draft to the full committee prior to its October 16, 1991 meeting. Final comments and decisions for the Report will be made at that time.

Assistant to the Reporter

**WESTERN DISTRICT OF OKLAHOMA  
CIVIL JUSTICE REFORM ACT ADVISORY GROUP**

**MINUTES OF MEETING**

**DATE:** October 16, 1991

**PLACE:** Court Clerk's Office/Conference Room

**MEMBERS PRESENT:** Peter B. Bradford, Chairman  
Stephen P. Friot  
Sue Wycoff  
Anthony M. Massad  
Steven Moore for James G. Harlow, Jr.  
Tom Majors, Assistant U.S. Attorney  
Steve Novick  
Mike McGuire  
Emmanuel Edem  
Robert Dennis, Reporter  
Grant Price  
Ann Marshall, Resource Person

Peter Bradford opened the meeting by thanking everyone for their part in writing the draft of the Advisory Group Report. He stressed that he would like a final draft written by Friday, October 18th. After providing the Group an opportunity to review the draft over the weekend, he wanted to present the final report to the Chief Judge on Monday, October 21.

Discussion centered around the final version of the report and the recommendations of the Advisory Group. There was considerable talk on what the recommendation of the Group should be concerning summary jury trial. It was the general consensus of the Group that the use of the summary jury trials should be reduced because of their cost and delay when compared with other ADR techniques.

A suggestion was made that the Advisory Group recommend the jurisdictional amount for federal litigation be included to \$100,000. A general discussion ensued as to the pros and cons of increasing the jurisdictional amount and the Group finally decided it would mention in the report raising the jurisdictional amount in diversity cases.

The Advisory Group debated Local Rule 14(E) which requires a personal meeting of attorneys prior to the filing of a motion involving discovery disputes. After a lively discussion, it was decided to recommend that a face to face meeting not be required for attorneys living in different communities, but those attorneys would have to comply with the basic tenet of the rule by conferring on the telephone prior to filing a motion involving a discovery dispute. Attorneys living in the same community would still be required to have a personal meeting prior to filing any motions concerning a discovery dispute.

Meeting was adjourned.

**WESTERN DISTRICT OF OKLAHOMA**  
**CIVIL JUSTICE REFORM ACT ADVISORY GROUP**  
**ORGANIZATIONAL MEETING**  
**May 7, 1991**

**A G E N D A**

1. **WELCOMING REMARKS:** Chairman - Peter B. Bradford
2. **INTRODUCTION OF ADVISORY GROUP MEMBERS:** Judge Ralph G. Thompson
3. **GENERAL EXPLANATION OF APPOINTMENT, THE ROLE OF THE COURT AND THE ROLE OF THE MEMBERS:** Judge Ralph G. Thompson
4. **ASSIGNMENT FOR MAY 21, 1991:**

Please provide your thoughts on the following matters in written form to the Reporter for the Group, The United States District Court Clerk, Robert Dennis by May 21, 1991.

**A. LAWYER MEMBER ASSIGNMENTS:**

Based upon your experience with the rules and procedures now in place in the United States District Court in the Western District of Oklahoma please provide your thoughts on the following topics:

(1) What improvements would you suggest to the present system to better accomplish the specific considerations and principles set forth in §473(a) of the Judicial Improvements Act?

(2) Provide any specific views you have with respect to the litigation management and cost and delay reduction techniques set forth in §473(b) of the Judicial Improvements Act.

(3) Are there any changes you would suggest to the rules and procedures now in effect which would make it easier and less expensive for you to conduct your litigation practice?

(4) Provide your views on the implementation of a mediation procedure by the Court.



Civil Justice Reform Act Advisory Group  
Organizational Meeting - Agenda  
May 6, 1991  
Page 2

**B. LAY MEMBER ASSIGNMENT:**

(1) Based upon your experience with the judicial system as a party litigant, please provide any comments you may have with respect to problems you have experienced with the judicial system and how the system could be improved for the benefit of litigants.

(2) Provide your views on the implementation of a mediation procedure by the Court.

**5. QUESTIONS OR COMMENTS FROM GROUP MEMBERS**

**6. SCHEDULING OF NEXT MEETING:** Chairman - Peter B. Bradford

349.91A.JHM

CC Grant  
Amm

# DAUGHERTY, BRADFORD, FOWLER & MOSS

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

900 CITY PLACE

204 NORTH ROBINSON

OKLAHOMA CITY, OKLAHOMA 73102

(405) 232-0003

TELECOPY (405) 232-0865

PETER B. BRADFORD  
DANIEL J. FOWLER  
R. STEVEN HAUGHT  
RAY G. MOSS  
ROBERT M. PEREGRIN  
RICHARD A. RESETARITZ  
RAYMOND E. TOMPKINS

OF COUNSEL:  
PHIL E. DAUGHERTY

TIMOTHY J. BOMHOFF  
VICTORIA L. DANFORTH  
JOEL C. HALL  
SUSAN H. UTECHT

May 13, 1991

Civil Justice Advisory  
Group Members

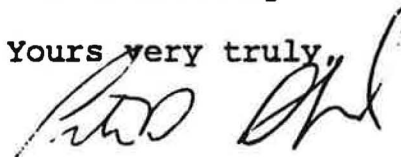
Dear Advisory Group Member:

After further review of the Judicial Improvements Act and consultation with Judge Thompson and Vice-Chairperson Morse, we are requesting each group member to supplement his/her written ideas by the addition of two additional categories.

- (1) Your thoughts on the causes of delay, if any, in litigation in the Western District of Oklahoma.
- (2) Your ideas and thoughts identifying areas of excessive cost, if any, of litigation in the Western District of Oklahoma.

In formulating your ideas on these two additional issues, you are free, of course, to confer with your colleagues concerning their experiences and knowledge in order to provide a broad base of response. Because of the added assignment, the time for submission of written responses to the original four categories and the two additional categories mentioned in this letter is being extended to June 4, 1991. We had originally scheduled a second meeting of the group on June 4, 1991, but that meeting will be postponed until we have had an opportunity to review the written responses and comments that each of you will be submitting.

Yours very truly,



Peter B. Bradford

PBB/jh

Enclosure

cc: The Honorable Ralph G. Thompson  
Robert D. Dennis

CJAG.LTR

CIVIL JUSTICE ADVISORY GROUP  
WESTERN DISTRICT OF OKLAHOMA  
ROBERT DENNIS, CLERK  
ROOM 3012C, U.S. COURTHOUSE  
OKLAHOMA CITY, OKLAHOMA 73102

July 2, 1991

Civil Justice Advisory Group

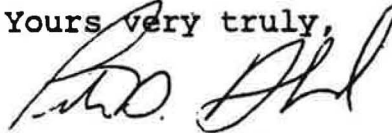
Dear Advisory Group Members:

We have received from nearly all members of the group responses to our letter of May 13, 1991. Copies of the responses are enclosed for your review and study.

Enclosed also is an important questionnaire which should be completed and returned to Bob Dennis by July 12, 1991. This will greatly assist Judge Thompson in evaluating the group's preliminary recommendations before the Tenth Circuit Judicial Conference commencing July 15, 1991.

Thank you for your assistance.

Yours very truly,



Peter B. Bradford  
Chairman  
Civil Justice Advisory Group

PBB/jh

Enclosures

CJAG.LTR

## QUESTIONNAIRE

July 2, 1991

### To All Civil Justice Advisory Group Members:

Yes      No

- |    |                                                                                                                                                                         |       |       |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------|
| 1. | Should court annexed arbitration be continued on a mandatory basis?                                                                                                     | _____ | _____ |
| 2. | Should a court annexed mediation program be instituted?                                                                                                                 | _____ | _____ |
| 3. | Should mandatory settlement conferences be continued?                                                                                                                   | _____ | _____ |
| 4. | Should court ordered summary jury trials be continued?                                                                                                                  | _____ | _____ |
| 5. | Should the court instituted a differential judicial intervention program designed to manage cases of different complexity?                                              | _____ | _____ |
| 6. | Should case management control be implemented to reduce litigation cost, for example, limitation of number and length of depositions, budgeting of expected costs, etc? | _____ | _____ |
| 7. | Should clients be required to sign applications for extension of time before filing of the application?                                                                 | _____ | _____ |

This is a preliminary survey and group members will have an opportunity to review the subjects at a later meeting.

b. Money for arbitrator fees and a court clerk staff person have been allocated to this program.

c. It is in place in our court system and counsel and many litigants have become familiar with it and many request its use.

d. It allows a decision by a neutral third party attorney arbitrator and thus differs in process and purpose from any mediation program and our settlement conference and summary jury trial as well. Its decision is intended to be non-binding but parties can and more frequently are waiving their right to trial de novo and using this program as a binding forum. I attribute this to increasing attorney and client involvement with private binding arbitration outside the courts.

e. The Federal Judicial Center has concluded that purely voluntary court-annexed arbitration programs do not work - some form of judicial mandate, either by local rule or court order, is necessary to get sufficient numbers of cases into these programs. They also conclude that these programs do provide increased options for litigants, provide procedural fairness, can reduce the cost of litigation and can reduce disposition times.

We could still identify cases for mandatory arbitration but at the status/scheduling conference give counsel the option to discuss which ADR tool is most appropriate for the case. At least the lower dollar/less complex cases can be identified and, if differential case management is to be applied, we would have a leg up.

2. Court-annexed Mediation. If instituted by our court, the following factors should, at least initially, be considered:

a. This court's definition of mediation or form of mediation program:

- pure mediation: a multi stage process requiring a highly trained and skilled mediator in which a hearing could last at least one full business day and could go longer. (see description in appendix I of our CJRA Advisory Group Report.) This kind of program/process can be found in AAA Mediation, the Dallas County and Oklahoma County programs and is similar to the Northern District of Oklahoma's settlement conferences.

- some form of abbreviated or hybrid "mediation" program, more akin to a moderated settlement conference. (District of Kansas, Southern District of California Bankruptcy Court, Western District of Washington and Western and Eastern Districts of Michigan (really more evaluation programs in Michigan)). A program could be designed to incorporate the true mediation concepts and could train mediators how to conduct the mediation in a shorter period of time- 2 1/2 to 3 hours. Some Dallas mediators could help with this.

- no formal definition or form mandated by the court. Keep process flexible as to needs of case, cost considerations, so counsel and parties can choose which format would work best for them and their case and with the training/experience of the "mediator" selected. (see Western District of Washington).

b. Mandatory and/or voluntary. I would presume that this court would like the option of being able to order parties into

settlement conference in our court, held before a well-respected judge at the end of the litigation process is truly our most liked, most successful and most often used tool for resolving disputes. I believe it has become institutionalized in our court and is accepted and expected in any case before trial. Attorneys say that resolution of outstanding summary judgment motions prior to settlement discussions with Judge Irwin would be a tremendous cost and time savings.

Judge Irwin cautions that an early settlement conference before him when adequate discovery is not done, is often not that productive in terms of actually settling the case but we all know there is a benefit in just getting the parties together early. Any mediation procedure you choose could be designed to help or address the need for an early facilitated negotiation session if the parties desire and could be an option for arbitration cases where this process would be more case appropriate.

4. The Summary Jury Trial should not be completely eliminated as an option or choice of counsel. Some attorneys tell me that it is useful for certain specific cases and have requested one when deemed appropriate. Some of our judges really like the procedure for the right case. All our current judges use it sparingly as well they should but still better analysis of a case with judge or magistrate and counsel as to case appropriateness and preparation for and structure of any particular SJT should occur. It is a process that must be used wisely and infrequently due to its high cost to litigants and should only be "court-ordered" after evaluation with counsel.

By keeping the programs we have and fine-tuning them and adding the excellent and beneficial process of mediation to the menu or repertoire we can easily satisfy congressional requirements and go a long way toward completing our CJRA plan.

cc: Robert D. Dennis, Clerk of Court  
and CJRA Reporter

SURVEY OF ANSWERS TO  
QUESTIONNAIRE

July 2, 1991

**To All Civil Justice Advisory Group Members:**

	<b>Yes</b>	<b>No</b>
1. Should court annexed arbitration be continued on a mandatory basis?	<u>7</u>	<u>2</u>
2. Should a court annexed mediation program be instituted?	<u>7</u>	<u>2</u>
3. Should mandatory settlement conferences be continued?	<u>9</u>	<u>0</u>
4. Should court ordered summary jury trials be continued?	<u>6</u>	<u>3</u>
5. Should the court instituted a differential judicial intervention program designed to manage cases of different complexity?	<u>7</u>	<u>2</u>
6. Should case management control be implemented to reduce litigation cost, for example, limitation of number and length of depositions, budgeting of expected costs, etc?	<u>4</u>	<u>5</u>
7. Should clients be required to sign applications for extension of time before filing of the application?	<u>3</u>	<u>6</u>

This is a preliminary survey and group members will have an opportunity to review the subjects at a later meeting.

**CIVIL JUSTICE ADVISORY GROUP**

*Western District of Oklahoma*

*Robert D. Dennis, Clerk*

*U.S. Courthouse, Room 3210*

*Oklahoma City, OK 73102*

July 24, 1991

Timothy D. Leonard, Esq.  
U. S. Attorney  
4434 U. S. Courthouse  
Oklahoma City, OK 73102

*Sent to  
each member*

Dear Mr. Leonard:

This is an update on our Advisory Group activities and an explanation of the scheduling of them.

Thanks to all who returned the recent questionnaire. The viewpoints have been collated and were received in time for Judge Thompson to effectively participate last week in a meeting with the other Chief Judges of the Tenth Circuit. He has also had the opportunity to solicit ideas and suggestions from the federal practice lawyers of the court who were attending the 10th Circuit Judicial Conference at Sedona, Arizona. They were asked to pass on any suggestions to any members of the Advisory Group.

Today we have received the suggested format being recommended for our report by the Federal Judicial Center.

On August 1 and 2, Judge Thompson, Court Clerk/Reporter Bob Dennis and I, as Chairman, will attend a meeting in Kansas City. The meeting is intended to provide helpful information on the efforts of the Advisory Groups and the writing of our reports. We should then have the benefit of all available supporting information and be in a position of going forward with finalizing our evaluations and recommendations in the form of our report.

I'll convene a meeting for these purposes as soon as possible after we return. In preparation, please continue to consider all matters on which our advice is being sought.

Judge Thompson has asked me to again emphasize to you that you are encouraged to interview and discuss any matters of interest with any judge of the court, magistrate, courtroom deputy, court clerk employees and anyone else who may, in your judgment, be helpful to our task. As before, all records of the court are also available upon request.

Sincerely,

*Peter Bradford*

Peter B. Bradford  
Chairman



## MEMORANDUM

TO: All Members, CJAG-Western District of Oklahoma  
FROM: Peter B. Bradford, Chairman  
DATE: August 23, 1991  
RE: Mediation

The Judicial Improvements Act of 1990, Section 473(a)(6) requires the Western District, as a Pilot District, to consider referring cases to ADR programs, ". . . including mediation, . . ."

More than 75% of the CJAG members responding to the group questionnaire of July 2, 1991 answered that a court annexed mediation program be instituted.

At the August 20, 1991 meeting of the group, Chairman Bradford reported that he had met with the ADR Committee of the OCBA in August concerning the mediation program of the Oklahoma County District Court, adopted December 1, 1990.

Group members Huff and Edem volunteered to meet with Bradford and mediation sub-committee members of the OCBA to discuss the state mediation program and possible implementation of a mediation program in the Western District.

That meeting was held August 21, 1991. Bob Raftery, a lawyer mediator and chairman of the OCBA-ADR Committee, Nancy Anderson, lawyer mediator, and Sylvia Marks Barnett, lawyer mediator and president of the Oklahoma Academy of Mediation, met with Bradford, Huff and Edem.

The OCBA mediation group recommended that mediation be considered by the Western District of Oklahoma as an additional ADR alternative. The Oklahoma County mediation program has been successful so far with a success rate of 70% in 205 cases up to May 8, 1991. It was suggested that mediation be discussed at the initial status conference under Local Rule 17 (an amendment of that Rule to include mediation would be required). If voluntary mediation was not agreed to at that time, counsel would be requested to report to the court when sufficient case evaluation had taken place to permit an informed mediation proceeding. At that point, mediation could be mandatory or voluntary. Possibly some percentage of civil cases could be sent to mediation instead of non-binding arbitration under Local Rule 43.

The group members present agreed that selection of a panel of trained mediators, the opportunity for training of mediators and the general education of the federal bar about the mediation process all would be necessary.

It was also recognized that mediation hearings could occur at any town in the District as a convenience to litigants and counsel residing at some distance from Oklahoma City.

Chairman Bradford will discuss these subjects with Magistrate Judge Blasdel and Ann Dudley Marshall and report further at the next meeting of CJAG on September 6, 1991.

PBB\MEDIATIO.MEM

**CIVIL JUSTICE ADVISORY GROUP**

*Western District of Oklahoma  
U.S. Courthouse, Room 3210  
Oklahoma City, OK 73102*

*Peter B. Bradford, Chairman*

*Robert D. Dennis, Reporter*

August 21, 1991

*Sample*

Steven B. Hearon  
OCJ-Oklahoma County Jail  
321 Park Avenue  
Oklahoma City, OK 73102

Re: STEVEN HEARON v. BERT RICHARDS ET AL, CIV-91-232-T

Dear Mr. Hearon:

Last year Congress enacted a law requiring the federal courts to study the length of time and costs of litigating civil lawsuits. Our group is seeking information from parties who have had cases before the court in the Western District of Oklahoma.

You are listed as one of the parties in the above-referenced case which was concluded in the United States District Court for the Western District of Oklahoma during the period July 1, 1990 through June 30, 1991. Chief Judge Ralph Thompson and this group request that you complete the enclosed questionnaire and return it by **September 1, 1991**.

The information obtained from each respondent will be confidential, but the combined information will be utilized in the report of our group to Chief Judge Thompson and his judicial colleagues.

We appreciate very much your time in completing the questionnaire and promptly returning it to Mr. Dennis in the enclosed self-addressed envelope.

Yours very truly,

Peter Bradford, Chairman  
Civil Justice Advisory Group

PB/cm  
Enc.

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**CIVIL JUSTICE ADVISORY GROUP QUESTIONNAIRE TO PARTY**

If possible, the group would like to have the following information from your client in the referenced case. You may obtain this information by telephone inquiry or personal conference.

1. In the referenced case, do you believe that there was excessive delay from the time the suit was filed until it was terminated?
2. If so, what do you believe were the primary causes of that delay?
3. Was the referenced case settled? If so, what procedures enabled the settlement to occur?
  - A. Settlement conference - Judge Irwin
  - B. Court annexed arbitration
  - C. Summary jury trial
  - D. Private settlement negotiations
  - E. Other (Please specify)
4. Would mediation assist in the settlement of referenced case?
5. Do you believe that in the referenced case there was excessive cost or expense? If so, what were the causes of the cost or expense, in your opinion? (For example: attorney fees, filing fees, expert witness costs, other expenses)
6. Do you have any suggestions that would improve the prompt and cost efficient resolution of federal court cases in Oklahoma City? If so, list them.

**This information, while confidential, will be of assistance to the Civil Justice Advisory Group of the Western District of Oklahoma which is required by law to review the disposition of cases in this Court. Thank you.**

**CIVIL JUSTICE ADVISORY GROUP**

*Western District of Oklahoma*

*U.S. Courthouse, Room 3210*

*Oklahoma City, OK 73102*

*Peter B. Bradford, Chairman*

*Robert D. Dennis, Reporter*

August 21, 1991

*Sample -  
Letter sent to  
all attorneys*

Kay Sewell  
U.S. Attorney's Office  
4434 U.S. Courthouse  
200 N.W. 4th St.  
Oklahoma City, OK 73102

Re: U.S. v. STANDRIDGE ET AL, CIV-89-1758-R

Dear Ms. Sewell:

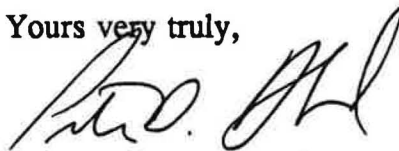
Last year Congress enacted a law requiring the federal courts to study the length of time and costs of litigating civil lawsuits. Our group is seeking information from parties who have had cases before the court in the Western District of Oklahoma.

You are listed as one of the attorneys of record in the above-referenced case which was concluded in the United States District Court for the Western District of Oklahoma during the period July 1, 1990 through June 30, 1991. Chief Judge Ralph Thompson and this group request that you complete the enclosed questionnaires and return them by September 1, 1991.

The information obtained from each respondent will be confidential, but the combined information will be utilized in the report of our group to Chief Judge Thompson and his judicial colleagues.

We appreciate very much your time in completing the questionnaires and promptly returning them to Mr. Dennis in the enclosed self-addressed envelope.

Yours very truly,



Peter Bradford, Chairman  
Civil Justice Advisory Group

PB/cm  
Enc.

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**CIVIL JUSTICE ADVISORY GROUP QUESTIONNAIRE TO ATTORNEY**

This questionnaire is being sent to legal counsel of record who participated in a civil lawsuit which was terminated within the Western District during the statistical year 1991. Please answer all questions to the best of your ability and return the completed questionnaire to Robert Dennis, Clerk of the Court, United States District Court, Western District of Oklahoma, 200 N.W. 4th Street, Room 3210, Oklahoma City, Oklahoma 73102.

Information obtained from these questionnaires will be compiled into statistical results and employed in a report to be submitted by the Civil Justice Advisory Group to the Judges of the Court in connection with their implementation of a plan pursuant to the Civil Justice Reform Act of 1990. If you have any questions, please contact either Mr. Dennis or Peter B. Bradford (405/232-0003), Chairman of the Civil Justice Advisory Group.

The term "the referenced case" means the civil lawsuit terminated during statistical year 1991 in which you were counsel. The style and case number are listed on the enclosed letter.

**I. BACKGROUND.**

- A. Years in Practice:           0-5   6-10   11-15   16-25   over 25
- B. What percentage of your practice is in Federal Court?
- C. Describe the nature of your practice in Federal Court: (e.g., personal injury, product liability, employment discrimination, labor, securities, debtor/creditor, other).

**II. ACTIVITIES IN THE REFERENCED CASE.**

- A. Approximately how many depositions were taken in the referenced case?
- B. How many days were spent in deposition in the referenced case?
- C. How many days were spent in trial, if any, in the referenced case?
- D. How many days were spent in settlement negotiations, including settlement conferences in the referenced case?

E. The time from filing of the action to disposition in the referenced case was:

- \_\_\_\_\_ too short
- \_\_\_\_\_ too long
- \_\_\_\_\_ about right.

III. COST OF LITIGATION.

A. The cost of litigation in the referenced case was:

(0 = not excessive, 5 = greatly excessive)

0 1 2 3 4 5

B. The cost of litigation in the referenced case could have been improved by:

C. In the referenced case one or more lawyers in the action conducted procedures which contributed to excessive costs. Those actions were:

D. In the referenced case one or more lawyers took actions which contributed to the reduction of excessive costs in the action as follows:

IV. DELAY.

A. In the referenced case the resolution of the action was delayed by:

- \_\_\_\_\_ lawyers
- \_\_\_\_\_ the court
- \_\_\_\_\_ litigants

B. The actions taken by the above parties which caused delay in the referenced action were as follows:

C. Delay in the referenced action could have been reduced by the following practices or procedures:

V. ALTERNATIVE DISPUTE RESOLUTION.

A. The following methods of alternative dispute resolution were employed in the referenced case:

\_\_\_\_\_ court mandated arbitration

\_\_\_\_\_ summary jury trial

\_\_\_\_\_ court ordered settlement conference

\_\_\_\_\_ other (please specify) \_\_\_\_\_

B. The alternative dispute resolution described in the preceding question was or was not effective in resolving the action?

C. Which alternative dispute resolution technique is the most effective procedure used in the Western District of Oklahoma?

D. What other form of alternative dispute resolution would have reduced costs of litigation of the referenced case or reduced delay in the referenced case?

E. Would court annexed mediation utilizing a panel of trained mediators be an effective tool in reducing costs and delay in the Western District of Oklahoma?

F. Have you participated in the mediation of any civil litigation dispute in any court or through the American Arbitration Association or other private organization? If so, was mediation of the dispute an effective way of reducing costs and delay?

G. If you participated in a court ordered settlement conference in the referenced case, how many settlement conferences were conducted? 0 1 2 3 4 5

H. Was the settlement conference productive?

I. Did settlement of the case result from the court ordered settlement conference?



- J. Was the case settled as a result of any alternative dispute resolution programs of the Western District of Oklahoma?
- K. If you participated in a court annexed arbitration proceeding in the referenced case, did it result in an award which was instrumental in causing the parties to settle the litigation?
- L. If the award did not cause settlement of the litigation, did another form of alternative dispute resolution result in settlement?
- M. Was the time and expense spent in the alternative dispute resolution program considered worthwhile in an effort to settle the dispute? If not, why not?

**VI. DISCOVERY.**

- A. In the Western District of Oklahoma, have you been involved in other actions in which you believe excessive discovery occurred. If so, what types of actions and what form of excessive discovery occurred?

**VII. TRIAL.**

- A. In the Western District of Oklahoma, is the time between filing of a complaint and trial of the case (0 = too short, 5 = too long):      0 1 2 3 4 5

**VIII. RECOMMENDATIONS AND COMMENTS.**

- A. If you believe excessive litigation costs occurred in any case in the Western District of Oklahoma in the last five years, list three factors you believe contributed most to that situation.

I. List, in order of priority, three ways to improve summary jury trials in the Western District of Oklahoma.

IX. LIST ANY ADDITIONAL RECOMMENDATIONS YOU HAVE THAT WOULD HAVE RESULTED IN A LESS COSTLY RESOLUTION OF THE DISPUTE IN THE REFERENCED CASE.

**CIVIL JUSTICE ADVISORY GROUP**

*Western District of Oklahoma  
U.S. Courthouse, Room 3210  
Oklahoma City, OK 73102*

*Peter B. Bradford, Chairman  
Robert D. Dennis, Reporter*

September 13, 1991

DEAR CIVIL JUSTICE ADVISORY GROUP MEMBER:

Enclosed are the computerized results of the questionnaires we recently sent to attorneys and parties in our district. Results to subjective questions are being compiled and will be sent to you when they become available.

Sincerely,



Robert D. Dennis  
Reporter

RDD/cm  
Enc.

Attorney Questionnaire - 110 Responses

I. BACKGROUND:

A. & B.

Years in Practice	No.	%	Avg. % Practice Fed. Crt
0-5	7	6	37%
6-10	24	22	54%
11-15	21	19	30%
16-25	47	44	42%
over 25	9	8	40%
Total	108	100	

II. ACTIVITIES IN THE REFERENCED CASE:

Question	Average Number	No.	%
A. How many depositions were taken?	4		
B. How many days were spent in deposition?	4		
C. How many days were spent in trial?	0		
D. How many days were spent in settlement negotiations?	2		
E. The time from filing to disposition was:			
Too short		3	3
Too long		8	8
About right		91	89
Total		102	100

III. COST OF LITIGATION

Question	No.	%
A. The cost of litigation was:		
not excessive	50	48
0	11	11
1	15	14
2	14	13
3	10	10
4	4	4
greatly excessive	4	4
5	4	4
Total	104	100

IV. DELAY

A. The action was delayed by:		No.	%
	lawyers	14	41
	the court	6	18
	litigants	14	41
	Total	34	100

V. ALTERNATIVE DISPUTE RESOLUTION

A. These methods were employed:		No.	%
	court mandated arbitration	12	16
	summary jury trial	2	3
	court ordered settlement conf.	33	43
	other	30	39
	Total	77	100

B. Was this effective?		No.	%
	Yes	33	69
	No	15	31
	Total	48	100

C. Which technique is most effective?		No.	%
	1. Arbitration	6	8
	2. Settlement Conference	65	92
	3. Summary Jury Trial	0	0
	4. Other	0	0
	Total	71	100

E. Would court annexed mediation utilizing a panel of trained mediators be an effective tool in reducing costs and delay?		No.	%
	Yes	46	56
	No	36	44
	Total	82	100

F. Have you participated in the mediation of any civil litigation dispute in any court?		No.	%
	Yes	59	64
	No	33	36
	Total	92	100

Was the mediation an effective way of reducing costs and delay?		No.	%
	Yes	18	60
	No	12	40
	Total	30	100

V. ALTERNATIVE DISPUTE RESOLUTION - Continued

G. How many settlement conferences were conducted?

	No.	%
0	28	45
1	21	34
2	11	18
3	2	3
4	0	0
5	0	0
Total	62	100

H. Was the settlement conference productive?

	No.	%
Yes	22	61
No	14	39
Total	36	100

I. Did settlement of the case result from the court ordered settlement conference?

	No.	%
Yes	15	24
No	48	76
Total	63	100

J. Was the case settled as a result of any alternative dispute resolution programs?

	No.	%
Yes	14	18
No	66	83
Total	80	100

K. Was the award instrumental in causing the parties to settle?

	No.	%
Yes	9	45
No	11	55
Total	20	100

L. If the award didn't cause settlement, did another form of alternative dispute resolution result in settlement?

	No.	%
Yes	4	17
No	19	83
Total	23	100

M. Was the time and expense spent in the alternative dispute resolution program worthwhile?

	No.	%
Yes	22	81
No	5	19
Total	27	100

VI. DISCOVERY

A. Have you been involved in other actions in which you believe excessive discovery occurred?

	No.	%
Yes	35	37
No	60	63
Total	95	100

V. TRIAL

A. Is the time between filing a complaint and trial of the case the case too long or too short?

	No.	%
too short	0	5
	1	17
	2	20
	3	44
	4	7
too long	5	0
Total	93	100

Party Questionnaire - 93 Responses

1. Was there excessive delay?	No.	%
Yes	6	7
No	81	93
Total	87	100
3. Was the case settled?	No.	%
Yes	59	72
No	23	28
Total	82	100
	No.	%
A. Settlement conference Judge Irwin	14	18
B. Court annexed arbitration	7	9
C. Summary jury trial	1	1
D. Private settlement negotiations	43	57
E. Other	11	14
Total	76	100
4. Would mediation assist in settlement?	No.	%
Yes	15	23
No	50	77
Total	65	100
5. Was there excessive cost or expense?	No.	%
Yes	15	19
No	62	81
Total	77	100



United States District Court

Western District of Oklahoma

United States Courthouse

200 N.W. 4th Street

Oklahoma City, Oklahoma 73102

February 4, 1991

Ralph G. Thompson  
Chief Judge

Telephone  
405-231-5153  
JTS 736-5153

*Some letter to  
each other  
member -*

Timothy D. Leonard, Esq.  
U. S. Attorney  
4434 U. S. Courthouse  
Oklahoma City, OK

**Re: Civil Justice Reform Act Advisory Group**

Dear Tim:

Sincere thanks for accepting an appointment to the Civil Justice Reform Act Advisory Group for the court.

The advisory group is a clearly outstanding one. Not only does it consist of distinguished and knowledgeable individuals, it is also balanced and representative of the categories of parties and cases coming before the court. Other members are:

Peter B. Bradford  
Roy J. Davis  
Emmanuel E. Edem  
Judy Hamilton Morse  
Glen D. Huff  
Sue Wycoff  
Michael G. McGuire  
Stephen P. Friot  
Garvin A. Isaacs  
Steven A. Novick  
Anthony M. Massad  
James G. Harlow, Chairman of the Board and CEO of  
Oklahoma Gas and Electric Company - our non-lawyer  
member.

February 4, 1991

Page 2

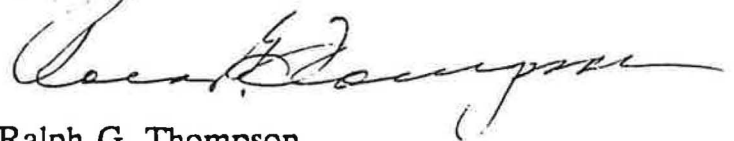
Non-voting members are Judges Thompson, West, Russell, Alley and Phillips and U. S. Magistrate Judges Howland, Cauthron and Argo. Clerk of Court Robert D. Dennis, Deputy Clerk of Court Grant Price and law clerk Ann Marshall will assist the group in supporting roles.

The purpose of the advisory group is to advise the court in its design of a revised plan for the management of civil litigation, the goal of which is to reduce both time and expense of civil litigation in the U. S. District Court. Our court is, and has been for several years, sixth in the nation in the prompt disposition of such cases. This was true even when we had the heaviest case load in the entire nation. This may be why we were selected as a pilot court for the development of such a litigation plan. From our work, and that of nine other pilot courts, a model plan for the federal courts of the nation will be developed. So, our work is important, not only for our own jurisdiction, but as it may influence the way civil cases are eventually managed by all federal district courts.

As we proceed with this project your frank and critical guidance will be greatly appreciated. In turn, I promise to make every effort to conserve your time and to proceed as efficiently as possible. At this time, the clerk is marshalling data that will be helpful in our efforts to analyze the demands of various types of litigation, identify common causes of costs and delay in litigation and other practices affecting them. Also, we will prepare a report on how the court has addressed these matters to date. You will be contacted again and furnished these and other materials that will help explain our task in greater detail and prepare you for the advisory role that is forthcoming.

Thanks again and very best regards.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ralph G. Thompson".

Ralph G. Thompson  
Chief Judge

RGT/sh

JOSEPH R. BIDEN, JR., DELAWARE, C. .AN

EDWARD M. KENNEDY, MASSACHUSETTS  
HOWARD M. METZENBAUM, OHIO  
DENNIS DeCONCINI, ARIZONA  
PATRICK J. LEAHY, VERMONT  
HOWELL HEFLIN, ALABAMA  
PAUL SIMON, ILLINOIS  
HERBERT KOHL, WISCONSIN

STROM THURMOND, SOUTH CAROLINA  
ORRIN G. HATCH, UTAH  
ALAN K. SIMPSON, WYOMING  
CHARLES E. GRASSLEY, IOWA  
ARLEN SPECTER, PENNSYLVANIA  
HANK BROWN, COLORADO

RONALD A. KLAIN, CHIEF COUNSEL  
JEFFREY J. PECK, STAFF DIRECTOR  
TERRY L. WOOTEN, MINORITY CHIEF COUNSEL  
AND STAFF DIRECTOR

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

March 27, 1991

The Honorable Ralph G. Thompson  
Chief Judge  
United States District Court  
for the Western District of Oklahoma  
U.S. Courthouse  
200 NW 4th Street  
Oklahoma City, Oklahoma 73102

RECEIVED

APR 1 1991

ROBERT D. DENNIS  
CLERK, U. S. DISTRICT COURT

BY

DEPUTY

Dear Judge Thompson:

I was very pleased to see that the Western District of Oklahoma was chosen as one of the ten pilot districts pursuant to the Civil Justice Reform Act. With your leadership and expertise, I am confident that the pilot program will be a success.

As a pilot district, you will play a crucial role in evaluating the effectiveness of the six principles outlined in the legislation. These principles, designed to help reduce costs and delays in civil litigation, were fashioned after extensive and careful deliberation.

I am also pleased to be able to report that the Dire Emergency Supplemental Appropriations Act of 1991 has been passed by Congress and will be presented to the President for signature very shortly. Included in this legislation is approximately \$7.8 million for the implementation of the Civil Justice Reform Act during the remainder of the current fiscal year. These funds will help address some of the most pressing needs of the district courts in implementing the statute, such as the payment of advisory group reporters and funding for analysis of court conditions. In accordance with the Act, the Administrative Office of the Courts will allocate the available funds to take account of the expedited implementation schedules of the pilot districts.

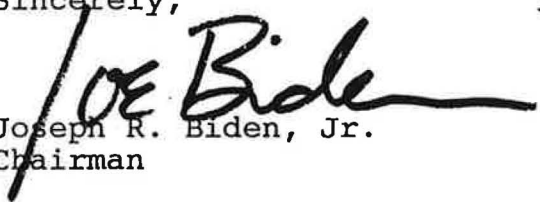
Working together with the Administrative Office, Congress has now fully funded the judiciary's supplemental request for the Civil Justice Reform Act for fiscal year 1991. It is very encouraging that, less than three months into the new Congress, this strong support for the successful implementation of the Act has been secured.

March 27, 1991  
Page 2

I have enclosed a copy of the Judicial Improvements Act of 1990, as well as a copy of the Judiciary Committee's report on the Civil Justice Reform Act. If my staff can be of additional assistance in supplying you with information or other background materials, such as the articles or data referenced in the report, please do not hesitate to contact us.

I look forward to following the implementation of the Act in the Western District of Oklahoma and stand ready to assist you in any way. As I mentioned, please feel free to contact Lisa Meyer or Scott Schell of my staff (202-224-5225) if you have any questions or comments. I wish you the best of luck in your endeavors.

Sincerely,



Joseph R. Biden, Jr.  
Chairman

cc: Robert D. Dennis, Clerk of Court (with enclosures)

Enclosures

United States District Court

Western District of Oklahoma

United States Courthouse

200 N.W. 4th Street

Oklahoma City, Oklahoma 73102

April 15, 1991

Ralph G. Thompson  
Chief Judge

Telephone  
405-231-5153  
FCS 736-5153

TO: Members of the Civil Justice Reform Act Advisory Group

RE: Notice of First Meeting

Dear Members of the Advisory Group:

The first meeting of the Advisory Group will be as follows:

Date: Tuesday, May 7, 1991

Time: 8:30 a.m.

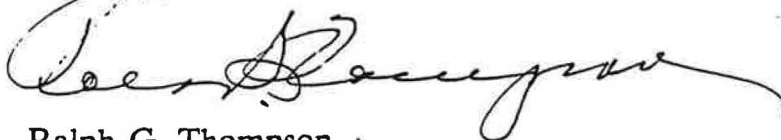
Place: Library of Chief Judge's Office  
Room 3301 U. S. Courthouse (3rd Floor)  
200 N. W. 4th Street  
Oklahoma City, OK

We are presently compiling and organizing materials which we believe will be helpful to you and plan to get them to you for review prior to the meeting.

Your Chairman, Pete Bradford, and Vice Chairman, Judy Hamilton Morse, join me in looking forward to seeing you. Every effort will be made to proceed efficiently and I believe the first meeting should be concluded in thirty minutes to one hour.

Please let us know if you can attend by calling Sharon or Joan of my office at 231-5153.

Sincerely,



Ralph G. Thompson

RGT/sh

April 25, 1991  
Page 2

conduct litigation. Also, you are to examine the extent to which costs and delays can be reduced by a better assessment of the impact of new legislation, or its lack, on the courts. Eventually, you will make your findings, develop your recommendations and submit a report to the court. The court will then develop the plan with the benefit of your recommendations.

After promulgating and implementing the plan, advisory groups are intended to meet annually thereafter to assist the court by a continued assessment of the civil and criminal dockets. This continuing assessment is intended to identify any additional appropriate actions needed to improve the initial plan.

The accompanying materials should be helpful to you in the course of your work. Although they appear to be voluminous, I believe they will be entirely manageable as the various phases of your work are reached. If time permits, it will facilitate our first meeting if you will read them in advance. It is important that you read, at least, the report found at Tab B. These materials are intended to help, and in no way to limit, your assessments and recommendations. All court records are entirely at your disposal and will be provided promptly upon request.

If you have any questions or need any additional information or assistance please call me at (405) 231-5153.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ralph G. Thompson".

Ralph G. Thompson  
Chief Judge

RGT/sh  
Enclosures



# memorandum

DATE: August 10, 1991  
TO: Chief Judges, CJRA Pilot Courts  
Advisory Group Chairs, CJRA Pilot Courts  
FROM: Barbara Meierhoefer *Barbara Meierhoefer*  
SUBJECT: Technical Assistance with Alternative Dispute Resolution

*Ann*  
*I see no need*  
*for this. What*  
*do you mean?*

Section 473(a)(6) of the Civil Justice Reform Act requires district courts to consider "authorization to refer appropriate cases to alternative dispute resolution programs that (A) have been designated for use in a district court; or (B) the court may make available, including mediation, minitrial, and summary jury trial."

The Federal Judicial Center and the Administrative Office of the United States Courts are investigating whether courts would be interested in having a group of individuals with experience in ADR programs visit the district and answer questions about ADR in general, the differences between types of programs, the experiences of other courts, and issues involving specific program design and implementation. The purpose would be to inform decisions by your court about whether to authorize ADR programs, and if so, which types of programs, design features, and implementation plans might work best in the particular district.

Please use the attached survey to let us know about your court's interest in a discussion of some aspect of ADR programs. Keep in mind that by "ADR programs," we mean any local rule that would authorize the referral of a case to a third-party neutral (other than the judge assigned to the case) for the purpose of facilitating settlement, narrowing the issues in dispute, or providing an advisory judgment.

Thank you for your assistance.

## SURVEY OF INTEREST IN RECEIVING MORE INFORMATION ABOUT OR TECHNICAL ASSISTANCE IN ADR

---

*Please check one or more of the following statements to indicate your interest in receiving more information about or technical assistance in ADR and the areas in which you would like further information.*

- We do not foresee any need for technical assistance on ADR.
- We do not need technical assistance on ADR at this time, but may be interested at some future time.
- We are interested in general information about what ADR programs can be expected to accomplish and the differences among types of programs
- We are interested in particular types of ADR programs and would like information about the experiences other courts have had with these specific programs.

Please list the programs of interest:

- We have decided to experiment with a particular type(s) of ADR and would like technical assistance on program design, implementation, and administration.

Please list the programs you are designing:

Please use the back of this page if you have any questions or wish to make additional comments about technical assistance in ADR.

Your District: \_\_\_\_\_

Your Name: \_\_\_\_\_

Please return this form to:  
Barbara Meierhoefer • Federal Judicial Center  
1520 H Street, N.W. • Washington D.C. 20005 • FTS or 202 633-6326



MEMO TO: Chief Judge Ralph G. Thompson  
FROM: Ann Dudley Marshall, Law Clerk *ADM*  
assigned to Arbitration and ADR  
DATE: August 13, 1991  
RE: Memo regarding technical assistance with ADR from the FJC

Generally I agree with you that we do not need assistance. However, depending on the type of mediation program either recommended by the Advisory Group and/or desired by our Judges, I might at least be interested in talking (by telephone would probably be sufficient) with someone with more technical expertise than I in actual design and administration of mediation programs to answer some questions I might have. I would not want to foreclose this opportunity. Therefore I would recommend filling out the Survey as attached.

You should also be advised that Bob Dennis has put the new ADR liaison in the AO's Court Administration Division in touch with me to give her a list of attorneys and other court personnel in our district who are good spokespeople for our court's ADR programs. They want to ask them to be speakers in panel discussions or seminars in various districts who request help. Obviously these two efforts are related. I have not yet put this list in final form awaiting the return of Judge Argo for suggestions of attorneys he would recommend to speak on the Summary Jury Trial. Any attorney so recommended will be contacted as to their willingness to be included. If you have any specific recommendations, please let me know.

If you need anything further, please do not hesitate to ask.

✓ cc: Bob Dennis

*Bob -  
F.X.I.  
Ann Marshall*

## SURVEY OF INTEREST IN RECEIVING MORE INFORMATION ABOUT OR TECHNICAL ASSISTANCE IN ADR

---

*Please check one or more of the following statements to indicate your interest in receiving more information about or technical assistance in ADR and the areas in which you would like further information.*

- We do not foresee any need for technical assistance on ADR.
- We do not need technical assistance on ADR at this time, but may be interested at some future time.
- We are interested in general information about what ADR programs can be expected to accomplish and the differences among types of programs
- We are interested in particular types of ADR programs and would like information about the experiences other courts have had with these specific programs.

Please list the programs of interest:

- are considering might
- We ~~have decided to~~ experiment with a particular type(s) of ADR and ~~would like~~ technical assistance on program design, implementation, and administration.

Please list the programs you are designing:

Mediation

Please use the back of this page if you have any questions or wish to make additional comments about technical assistance in ADR.

Your District: Western District of Oklahoma

Your Name: Chief Judge Ralph G. Thompson

Please return this form to:  
Barbara Meierhoefer • Federal Judicial Center  
1520 H Street, N.W. • Washington D.C. 20005 • FTS or 202 633-6326

---

# DAUGHERTY, BRADFORD, FOWLER & MOSS

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OF COUNSEL:  
PHIL E. DAUGHERTY

TIMOTHY J. BOMHOFF  
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SUSAN H. UTECHT

PETER B. BRADFORD  
DANIEL J. FOWLER  
R. STEVEN HAUGHT  
RAY G. MOSS  
ROBERT M. PEREGRIN  
RICHARD A. RESETARITZ  
RAYMOND E. TOMPKINS

August 13, 1991

Dear Civil Justice Advisory  
Group Member:

The next meeting of the Group will be held on Tuesday, August 20, 1991, at 8:00 a.m. in Judge Ralph Thompson's library on the third floor of the Federal Courthouse. I will report briefly on a recent meeting of the ten pilot districts held in Kansas City last week and provide some comparative data for our district with other pilot districts. We will then take up several specific projects designed to provide current information about the causes of delay and excessive costs, if any, which may exist in the Western District of Oklahoma.

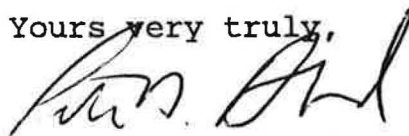
First, we will finalize the draft of the attached questionnaire which will then be sent to lawyers and litigants in approximately 200 civil actions terminated in this district in 1990.

Next, we will designate subcommittees to consider (1) interviews of judges; (2) possible addition of mediation to ADR; and (3) other methods of reducing costs and delay.

Our goal is to conclude our investigative work by early September, draft a report by mid-September and submit a final report of our group to the Court by October 1, 1991. As you know, pilot districts are required to have in place a specific plan by December 31, 1991.

The meeting should conclude by 10:00 a.m. Please review the attached material and join us in moving forward on this project next Tuesday.

Yours very truly,



Peter B. Bradford, Chairman  
Civil Justice Advisory Group

PBB/jh

Enclosure  
CJAG2.LTR

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

CIVIL JUSTICE ADVISORY GROUP QUESTIONNAIRE

This questionnaire is being sent to legal counsel of record who participated in a civil lawsuit which was terminated within the Western District during the calendar year 1990. Please answer all questions to the best of your ability and return the completed questionnaire to Robert Dennis, Clerk of the Court, United States District Court, Western District of Oklahoma, 200 N.W. 4th Street, Room 3012C, Oklahoma City, Oklahoma 73102.

Information obtained from these questionnaires will be compiled into statistical results and employed in a report to be submitted by the Civil Justice Advisory Group to the Judges of the Court in connection with their implementation of a plan pursuant to the Civil Justice Reform Act of 1990. If you have any questions, please contact either Mr. Dennis or Peter B. Bradford (405/232-0003), Chairman of the Civil Justice Advisory Group.

The term "the referenced case" means the civil lawsuit terminated during 1990 in which you were counsel. The style and case number are listed on the attached sheet.

I. BACKGROUND.

- A. Years in Practice: 0-5    6-10    11-15    16-25    over 25
- B. What percentage of your practice is in Federal Court?
- C. Describe the nature of your practice in Federal Court: (e.g., personal injury, product liability, employment discrimination, labor, securities, debtor/creditor, other).

II. ACTIVITIES IN THE REFERENCED CASE.

- A. Approximately how many depositions were taken in the referenced case?
- B. How many days were spent in deposition in the referenced case?
- C. How many days were spent in trial, if any, in the referenced case?

D. How many days were spent in settlement negotiations, including settlement conferences in the referenced case?

E. The time for filing of the action to disposition in the referenced case was:

\_\_\_\_\_ too short  
\_\_\_\_\_ too long  
\_\_\_\_\_ about right.

III. COST OF LITIGATION.

A. The cost of litigation in the referenced case was:  
(0 = not excessive, 5 = greatly excessive)  
0 1 2 3 4 5

B. The cost of litigation in the referenced case could have been improved by:

C. In the referenced case one or more lawyers in the action conducted procedures which contributed to excessive costs. Those actions were:

D. In the referenced case one or more lawyers took actions which contributed to the reduction of excessive costs in the action as follows:

IV. DELAY.

A. In the referenced case the resolution of the action was delayed by:

\_\_\_\_\_ lawyers  
\_\_\_\_\_ the court  
\_\_\_\_\_ litigants

B. The actions taken by the above parties which caused delay in the referenced action were as follows:

C. Delay in the referenced action could have been reduced by the following practices or procedures:

V. ALTERNATIVE DISPUTE RESOLUTION.

- A. The following methods of alternative dispute resolution were employed in the referenced case:
- court mandated arbitration
  - summary jury trial
  - court ordered settlement conference
  - other (please specify) \_\_\_\_\_
- B. The alternative dispute resolution described in the preceding question was or was not effective in resolving the action?
- C. Which alternative dispute resolution technique is the most effective procedure used in the Western District of Oklahoma?
- D. What other form of alternative dispute resolution would have reduced costs of litigation of the referenced case or reduced delay in the referenced case?
- E. Would court annexed mediation utilizing a panel of trained mediators be an effective tool in reducing costs and delay in the Western District of Oklahoma?
- F. Have you participated in the mediation of any civil litigation dispute in any court or through the American Arbitration Association or other private organization? If so, was mediation of the dispute an effective way of reducing costs and delay?
- G. If you participated in a court ordered settlement conference in the referenced case, how many settlement conferences were conducted?    0    1    2    3    4    5
- H. Was the settlement conference productive?
- I. Did settlement of the case result from the court ordered settlement conference?

- J. Was the case settled as a result of any alternative dispute resolution program of the Western District of Oklahoma?
- K. If you participated in a court annexed arbitration proceeding in the referenced case, did it result in an award which was instrumental in causing the parties to settle the litigation?
- L. If the award did not cause settlement of the litigation, did another form of alternative dispute resolution result in settlement?
- M. Was the time and expense spent in the alternative dispute resolution program considered worthwhile in an effort to settle the dispute? If not, why not?

VI. DISCOVERY.

- A. In the Western District of Oklahoma, have you been involved in other actions in which you believe excessive discovery occurred. If so, what types of actions and what form of excessive discovery occurred?

VII. TRIAL.

- A. In the Western District of Oklahoma, is the time between filing of a complaint and trial of the case (0 = too short, 5 = too long): 0 1 2 3 4 5

VIII. RECOMMENDATIONS AND COMMENTS.

- A. If you believe excessive litigation costs occurred in any case in the Western District of Oklahoma in the last five years, list three factors you believe contributed most to that situation.
- B. List, in order of priority, three improvements you believe would successfully reduce the cost of litigation.
- C. List, in order of priority, three factors which you believe contribute most to the cost of litigation in the Western District of Oklahoma.

- D. List, in order of priority, three improvements you believe would effectively shorten the duration of litigation from filing to resolution.
  - E. List, in order of priority, three ways to improve pretrial discovery in the Western District of Oklahoma.
  - F. List, in order of priority, three ways to improve status conferences in the Western District of Oklahoma.
  - G. List, in order of priority, three ways to improve settlement conferences in the Western District of Oklahoma.
  - H. List, in order of priority, three ways to improve court mandated arbitration in the Western District of Oklahoma.
  - I. List, in order of priority, three ways to improve summary jury trial in the Western District of Oklahoma.
- IX. LIST ANY ADDITIONAL RECOMMENDATIONS YOU HAVE THAT WOULD HAVE RESULTED IN A LESS COSTLY RESOLUTION OF THE DISPUTE IN THE REFERENCED CASE.

CJAG.QUS



## **CIVIL JUSTICE ADVISORY GROUP**

**Western District of Oklahoma  
U.S. Courthouse, Room 3210  
Oklahoma City, OK 73102**

*Peter B. Bradford, Chairman*

*Robert D. Dennis, Reporter*

August 28, 1991

SAMPLE - LETTER SENT TO ALL  
JUDGES IN THE WESTERN DISTRICT  
OF OKLAHOMA INCLUDING BANKRUPTCY  
AND MAGISTRATE JUDGES --

Honorable Frederick Daugherty  
United States District Court  
Western District of Oklahoma  
United States Courthouse, Room 5102  
Oklahoma City, OK 73102

Dear Judge Daugherty:

Pursuant to the Judicial Improvements Act of 1990, Judge Thompson has appointed this Group to prepare a report to the Court on the causes of excessive cost and delay, if any, attending civil litigation in this district.

The Group has solicited suggestions from lawyers in more than 100 cases terminated in this district in statistical year 1991.

We welcome any comments or suggestions from the judicial officers of this district. You may address these to the Group in care of Bob Dennis.

You are also welcome to attend any further meetings of the Group. The next scheduled meeting is Friday, September 6, 1991 at 8:00 a.m. in Judge Thompson's library.

Respectfully yours,

Peter B. Bradford  
Chairman

PBB/cm  
Enc.

**CIVIL JUSTICE ADVISORY GROUP**

*Western District of Oklahoma  
U.S. Courthouse, Room 3210  
Oklahoma City, OK 73102*

*Peter B. Bradford, Chairman  
Robert D. Dennis, Reporter*

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August 28, 1991

DEAR CIVIL JUSTICE ADVISORY GROUP MEMBER:

Our next meeting will be at 8:00 a.m. on Friday, September 6, 1991, in Judge Thompson's library. The agenda will include the following:

1. Review of questionnaire responses from lawyers and parties;
2. Discussion of mediation as an additional ADR technique (see attached memo);
3. Comments from judicial officers of the District (see attached letter);
4. Appointment of sub-committee to draft group report to Judge Thompson;
5. Any additional input from the group.

Please attend if at all possible.

Yours truly,

*Peter Bradford*

Peter B. Bradford *epi*  
Chairman

PBB/cm  
Enc.

# DAUGHERTY, BRADFORD, FOWLER & MOSS

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900 CITY PLACE

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October 3, 1991

PETER B. BRADFORD  
DANIEL J. FOWLER  
R. STEVEN HAUGHT  
RAY G. MOSS  
ROBERT M. PEREGRIN  
RICHARD A. RESEARITZ  
RAYMOND E. TOMPKINS

OF COUNSEL:  
PHIL E. DAUGHERTY

TIMOTHY J. BOMHOFF  
VICTORIA L. DANFORTH  
JOEL C. HALL  
SUSAN H. UTECHT

Civil Justice Advisory Group

Re: Advisory Group Report

Dear Civil Justice Advisory  
Group Member:

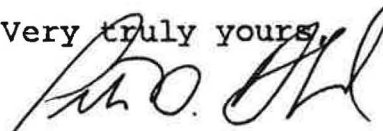
Each of you should receive today a rough draft of a proposed report of our group to the Judges of this District. Since only a few of us have been involved in drafting the report, we believe it is extremely important that each of you carefully study the report and be prepared to provide your criticism, input and additions. We have scheduled a meeting for Wednesday, October 16, 1991, at 8:30 a.m. in the conference room of the U.S. District Court Clerk, now on the first floor of the Federal Building in Oklahoma City.

Since each of our names will be on the report and all of us were selected to provide our distinctive input, it would be most helpful if you could plan to attend our meeting. If for any reason you are unable to attend, I would appreciate written comments from you by October 15, 1991.

My proposal is that we review the draft of the report together and make those revisions and additions that the group believes is appropriate on October 16, 1991. Then the report will be retyped, assembled, appendices added and submitted to Judge Thompson, as promised, by October 20, 1991.

This is the culmination of our initial effort of the group and I look forward to seeing each of you on October 16, 1991.

Very truly yours,



Peter B. Bradford  
Chairman

PBB/jh

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA  
UNITED STATES COURTHOUSE  
OKLAHOMA CITY, OKLAHOMA 73102

PAT IRWIN  
UNITED STATES MAGISTRATE

(405) 231-5483

Peter B. Bradford  
DAUGHERTY, BRADFORD, FOWLER & MOSS  
900 City Place  
204 North Robinson  
Oklahoma City, OK 73102

October 10, 1991

RE: Advisory Group Report

Dear Pete:

Enclosed is my copy of the proposed Report with some suggested revisions written or attached to it. Additionally, I apologize because the information you requested and that I gave your legal assistant may not have "bridged the communication gap" and I need to mention some possible corrections you may wish to make.

I am sorry that I will be unable to attend the meeting on the 16th as I will be out of town for the week with my husband on a trip planned a year ago. Please let me know if you need anything prior to next Wednesday. I will be happy to assist in any way. Carrie, Bob Dennis' secretary, will have the clean copies of the graphs to insert into the final version of that portion of the report.

In regard to the information you requested, on page 52 where you mention that Local Rule 17 was adopted on June 14, 1982 - that is an incorrect statement. That date is the earliest version of that local rule I could find but it has been similar to Federal Rule 16 for a long time. It did undergo major revision on 5-20-83 when we adopted the Deadline Schedule procedure. It changed to include the language "within 120 days of filing the complaint" with the major overhaul of all the local rules effective July 15, 1985. Therefore, the date you want here is probably May 20, 1983, as amended July 15, 1985 to include actual reference to Federal Rule 16.

Also systematic differential treatment concerning prisoner cases, bankruptcy and other administrative appeals should be discussed in this section as well since our procedures there do fall into that category. See our original state of the court Report in the red book.

Next, note on page 54, under "setting early firm trial dates" -the 9-13 month date is not the date set normally at a Status Conference. Rather that timing is the amount of time it takes a civil case in our court from its at-issue date (answer filed) until it goes to trial. We have ranged from 9 months in 1991, 11 months in 1990 to 13 months in previous years from at-issue to trial. Status Conferences are usually held soon after the at-issue date (within 20-30 days unless certain motions are filed). For

typical case, the judges usually give for scheduling purposes between 60 to 120 days for discovery, thereby causing an initial trial month setting 90 to 180 days out from the scheduling conference. Due to the many requests for extensions, trials are not actually held until the 9-13 month time as is shown by the stats above. Of course more complicated litigation with specialized needs do get longer settings. Note - the judges, with few exceptions, set trial months, not specific trial dates as you have discussed due to uncertainty of criminal trials. Your page 55 discovery discussion may need adjustment to the above information. Sorry this got so garbled to your assistant.

On page 67 where you address Early Neutral Evaluation, please be advised that this is the baby of Judge Schwarzer's court - Northern District of California and, as Director of the Federal Judicial Center, he appears to be actively involved in court improvements under the Act. The program in San Francisco has a large panel of subject matter experts serving virtually pro bono during its experimental period and selection is accomplished like their arbitration program with the deputy court clerk picking one (unlike our arbitration program). Further our arbitration program was designed to be flexible and has often acted as a evaluation of the case. A new mediation program could achieve the same results. Our court and its bar is so much smaller that to find subject matter expertise without conflict of interest would be hard.

You may want to add to the cost and delay section discussion or analysis based on the strong comments of our Advisory Group and Survey responses concerning clear cost escalation due to non-resolution of pending dispositive motions running into trial preparation deadlines as well as cost implications of too numerous improperly reviewed cases for summary jury trial.

Please let me know if I can be of any further assistance.

Sincerely,

  
Ann Dudley Marshall, Law Clerk  
CJAG Resource Person

## **CIVIL JUSTICE ADVISORY GROUP**

*Western District of Oklahoma  
U.S. Courthouse, Room 3210  
Oklahoma City, OK 73102*

*Peter B. Bradford, Chairman*

*Robert D. Dennis, Reporter*

---

October 21, 1991

The Honorable Ralph G. Thompson  
Chief Judge, U.S. District Court  
Western District of Oklahoma  
200 N.W. 4th Street  
Oklahoma City, OK 73102

Dear Judge Thompson:

We are pleased to submit to you and your colleagues this report of the Advisory Group of the United States District Court of the Western District of Oklahoma, a pilot court under the Civil Justice Reform Act of 1990.

The Advisory Group which you selected represents a broad base of litigants and practitioners in this Court, with a good balance of the range of parties in interest of the types of litigation who practice before the Court. All of the group members have been active and each brings unique contributions based on his or her experiences and areas of practice and business activity.

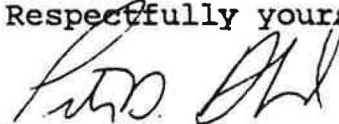
We began our work last spring and met periodically as a committee-of-the-whole as well as in subcommittees formed to review particular areas of interest. We have obtained the views of each member of the group, both verbally and in writing, concerning the various issues posed by the Act. We have also solicited through direct mailings of questionnaires comments and data from lawyers and litigants who have been engaged in litigation in this District within the last twelve months. We have also met with support staff of the Court who have been most helpful in providing statistical information and data generated by the record keeping staff of the Court.

It is our belief that this report and the information and data obtained in support of the recommendations made represent an objective consensus of the views of this Advisory Group on the recommendations made in the report, with a view to reducing expense and delay in civil litigation in the federal courts. We invite your comments and questions concerning the report. The group members would be happy to meet with you or other court members concerning particular features of our report in order to assist the Court in developing the model plan of this pilot court.

The Honorable Ralph G. Thompson  
Page 2  
October 21, 1991

Additional copies of the report may be obtained from Robert D. Dennis, Clerk of the United States District Court for the Western District of Oklahoma, 1st Floor, United States Courthouse, Oklahoma City, Oklahoma, 73102.

Respectfully yours,



Peter B. Bradford  
Chairman

PBB/jh

THOMPSON.LTR

# DAUGHERTY, BRADFORD, FOWLER & MOSS

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

900 CITY PLACE

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OKLAHOMA CITY, OKLAHOMA 73102

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October 22, 1991

PETER B. BRADFORD  
DANIEL J. FOWLER  
R. STEVEN HAUGHT  
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ROBERT M. PEREGRIN  
RICHARD A. RESEARITZ  
RAYMOND E. TOMPKINS

OF COUNSEL:  
PHIL E. DAUGHERTY

TIMOTHY J. BOMHOFF  
VICTORIA L. DANFORTH  
JOEL C. HALL  
SUSAN H. UTECHT

Civil Justice Advisory Group  
Western District of Oklahoma

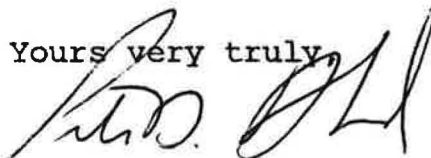
Re: Report of the Civil Justice Advisory Group for the  
Western District of Oklahoma

Dear Advisory Group Member:

I am attaching for each of you a copy of the final report of our group submitted to Chief Judge Ralph Thompson on Monday, October 21, 1991. First I want to thank each and everyone of you for your time and effort in providing opinions, insight and valuable contributions to this report. We all recognize that our federal court system is working quite well when compared with many other federal districts in the United States. With a good system in place, we could only seek to review what was working well and to add suggestions that might make a good operation even better. It is likely that Judge Thompson and the other judges of the district may want further input from us as time goes by concerning our recommendations and features of the proposed plan which they will be drafting.

It was my pleasure to work with such a distinguished committee of people and to become acquainted with a number of you that I had not known before. Thanks once again for all your hard work and the valuable contributions which you have made. I know that Judge Thompson and his colleagues will appreciate what we have done and hopefully they will value our conclusions and recommendations as they adopt the final plan before the end of the year.

Yours very truly,



Peter B. Bradford

PBB/jh

Enclosure  
CJAG6.LTR



## **NEWS RELEASE**

**SOURCE: Peter B. Bradford**  
Daugherty, Bradford, Fowler & Moss  
900 City Place  
204 North Robinson  
Oklahoma City, OK 73102  
(405) 232-0003

**DATE OF RELEASE: October 23, 1991**

### **FOR IMMEDIATE RELEASE:**

The Civil Justice Advisory Group appointed by Chief Judge Ralph G. Thompson of the Oklahoma City Federal Court today presented Judge Thompson its report made pursuant to the Civil Justice Reform Act of 1990, the Biden Bill. The Biden Bill required each federal district court in the United States to conduct a study through an advisory group appointed by the Court to determine if excessive costs and undue delay existed in federal court civil litigation in each district. In February of 1991, Judge Thompson appointed a 13 person advisory group chaired by Peter B. Bradford of Oklahoma City to conduct the study and submit the report to the Court. The report presented today will be reviewed by Judge Thompson and the other federal district judges before they prepare a plan designed to reduce costs and delay in federal court.

The Western District of Oklahoma, situated in Oklahoma City, has been selected as one of the ten pilot districts in the United States for the adoption of a plan for its district. The Oklahoma City court must have their plan in place by December 31, 1991. In addition to Mr. Bradford, the other members of the advisory group are U.S. Attorney Timothy D. Leonard, Judy Hamilton Morse, Roy J. Davis, Emmanuel Edem, Glen D. Huff, Sue Wycoff, Michael G. McGuire, Stephen P. Friot and Garvin A. Issacs, all of Oklahoma City, Anthony M. Massad of Frederick, Oklahoma and James G. Harlow, President and Chief Executive Officer of Oklahoma Gas & Electric Company of Oklahoma City as well as Stephen A. Novick of Oklahoma City.

The report of the advisory group concluded that the Oklahoma City federal court is among the most prompt and efficient in the United States and that no major changes in the court's present system will be required. The group did recommend that the Court adopt a mediation plan and certain other steps designed to reduce expense and delay in federal litigation. The final plan adopted by the Western District will serve as a model for other federal district courts throughout the United States in an effort to provide justice to all with the least cost and delay.



## NOTICE OKLAHOMA BAR FOUNDATION NEW TRUSTEES

No petitions having been submitted to place a member of the Foundation in nomination for the position of trustee, the following who were nominated by the Board of Trustees Nominating Committee have been elected for three year terms:

Elsie Cox Draper, Tulsa  
Brian Hermanson\*, Ponca City  
Dan Little, Madill

The Board of Governors of the Oklahoma Bar Association has appointed the following to serve three year terms:

Jap W. Blankenship\*, Oklahoma City  
William R. Burkett, Oklahoma City  
Jerry Tubb, Oklahoma City  
Virgil Upchurch\*, Anadarko

Under the Bylaws of the Foundation, the President Elect of the Oklahoma Bar Association serves as a Trustee for that year and for the year while holding the office of President, therefore serving a two year term:

Bob Rabon, Hugo

\*Serving a second term.

## NOTICE

The United States District Court For the Western District of Oklahoma announces the promulgation of its Civil Justice Expense and Delay Reduction Plan by which all civil litigation in the Court will be governed, effective December 31, 1991.

The Plan makes important new requirements in the management of civil cases, from the date of filing through time of trial, with which all counsel and litigants must comply.

Copies of the Plan may be obtained in the office of the Clerk of Court, Room 1210, U.S. Courthouse, 200 N.W. 4th Street, Oklahoma City, Oklahoma, 73102.

Ralph G. Thompson  
United States District Judge